

# Appendix 1

## Legislation & Policy

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### The Environment Act 2021

The Environment Act 2021 places a requirement on the Secretary of State to make regulations setting out long-term targets for air quality, water, biodiversity, resource efficiency and waste reduction. It also requires the Government to produce an Environmental Improvement Plan, to report on progress towards its goals annually, to meet the targets that are set in relation to the improvement of the natural environment and to produce remedial plans should this not be achieved.

In relation to water quality, the Act places new duties on the Government, Environment Agency and sewerage undertakers to reduce the frequency and harm of discharges from storm overflows on the environment, and for monitoring the quality of watercourses affected by those overflows.

It also includes a requirement for an independent Office for Environmental Protection (OEP) to be established, with responsibilities for monitoring and reporting on progress against environmental improvement plans and targets. The OEP will also have investigation and enforcement powers against public authorities failing to comply with environmental law when exercising their functions.

The Act makes provisions for 10% biodiversity gain to become a condition of planning permission in England, through amendments to the Town and Country Planning Act 1990. This will be measured through a biodiversity metric to be published by the Secretary of State. The Act also establishes Biodiversity Net Gain as a requirement for Nationally Significant Infrastructure Projects (NSIPs).

The Act also strengthens the biodiversity duty placed on public authorities through amendments to the Natural Environment and Rural Communities Act 2006 Section 40, requiring such authorities to not only conserve but also enhance biodiversity when exercising their functions. Public authorities will also be required to publish summary reports of actions taken under Section 40 at least every five years.

The Act provides the legal basis for the creation of Local Nature Recovery Strategies (LNRSs) for England (including specifying their content), and the preparation and publication of species conservation strategies and protected sites strategies.

It also creates a new legal vehicle known as a 'Conservation Covenant' which is a voluntary, legally binding private agreement between landowners and responsible bodies (the latter designated by the Secretary of State) which conserve the natural or heritage features of the land, enabling long-term conservation. Conservation Covenants are designed to 'run with the land' when it is sold or passed on and are intended to eventually become a primary mechanism for the delivery of Biodiversity Net Gain (BNG).

The Act provides new powers for the Government to amend in future Regulation 9 and Part 6 of the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations') – but "only if satisfied that the regulations do not reduce the level of environmental protection provided by the Habitats Regulations".

Several aspects of protected species licencing have also been adjusted by the Act. These include the removal of several inconsistencies between the Habitats Regulations and the Wildlife & Countryside Act 1981 (as amended), ensuring that licences issued under the former piece of legislation also apply under

the latter, and making it now possible for licences to be issued under Section 16(3) of the Wildlife & Countryside Act 1981 (as amended) for purposes of overriding public interest. The maximum term of a licence that can be issued by Natural England has also been extended from 2 to 5 years.

All biodiversity-related commitments and requirements (as set out in Part 6 of the Act) will come into force upon the adoption of secondary legislation and regulations, following a period of consultation. Timescales are to be confirmed, but this is currently expected to be around late 2023.

### **The Conservation of Habitats and Species Regulations 2017 (as amended)**

The Conservation of Habitats and Species Regulations 2017 (as amended) (known as the “Habitats Regulations”) were originally drawn up to transpose the European Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the “Habitats Directive”) into UK legislation. Following the UK’s exit from the European Union, the Habitats Regulations – as amended by Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 – remain in force until such a time as they are superseded by new or updated domestic legislation.

The Habitats Regulations provide for the designation of both Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) in the UK, which previously formed part of the Natura 2000 network of protected areas across Europe and are now part of the UK’s “National Sites Network”. New National Sites may be designated under the Regulations.

The Regulations also prohibit certain actions relating to European Protected Species (EPS), which include *inter alia* Hazel Dormouse *Muscardinus avellanarius*, Great Crested Newt *Triturus cristatus*, European Otter *Lutra lutra* and all native species of bat.

Further information on SPAs, SACs and European Protected Species is provided in the relevant sub-sections of this Appendix.

### **Wildlife & Countryside Act 1981 (as amended)**

The Wildlife and Countryside Act 1981 is the principal mechanism for the legislative protection of wildlife in Great Britain. Various amendments have occurred since the original enactment. Certain species of bird, animal and plant (including all of the European Protected Species listed above) are afforded protection under Schedules 1, 5 and 8 of the Act. Reference is made to the various Schedules and Parts of this Act (**Table A1.1**) in the section of this Appendix dealing with Legally Protected Species. The Act also contains measures for the protection of the countryside, National Parks, Sites of Special Scientific Interest (SSSIs) and public rights of way as well as preventing the establishment of invasive non-native species that may be detrimental to native wildlife.

**Table A1.1: Relevant Schedules of the Wildlife & Countryside Act 1981 (as amended)**

<b>Schedule</b>	<b>Protected Species</b>
Schedule 1 Part 1	Protects listed birds through special penalties at all times
Schedule 1 Part 2	Protects listed birds through special penalties during the close season
Schedule 5 Section 9.1 (killing/injuring)	Protects listed animals from intentional killing or injuring
Schedule 5 Section 9.1 (taking)	Protects listed animals from taking

Schedule 5 Section 9.2	Protects listed animals from being possessed or controlled (live or dead)
Schedule 5 Section 9.4a	Protects listed animals from intentional damage or destruction to any structure or place used for shelter or protection
Schedule 5 Section 9.4b	Protects listed animals from intentional disturbance while occupying a structure or place used for shelter or protection
Schedule 5 Section 9.5a	Protects listed animals from being sold, offered for sale or being held or transported for sale either live or dead, whole or part
Schedule 5 Section 9.5b	Protects listed animals from being published or advertised as being for sale
Schedule 8	Protects listed plants from: intentional picking, uprooting or destruction (Section 13 1a); selling, offering for sale, possessing or transporting for the purpose of sale (live or dead, part or derivative) (Section 13 2a); advertising (any of these) for buying or selling (Section 13 2b).
Schedule 9	Prohibits the release of species listed in the Schedule into the wild.
Schedule 9a	Allows environmental authorities to issue species control orders to landowners, obliging them to control/eradicate invasive and/or non-native species.

Further information on legally protected species, designated wildlife sites and invasive non-native species is provided in the relevant sub-sections of this Appendix.

### **Countryside & Rights of Way Act 2000**

Many of the provisions of the Countryside and Rights of Way (CRoW) Act 2000 have been incorporated as amendments into the Wildlife and Countryside Act (1981) and some provisions have now been superseded by later legislation such as The Natural Environment and Rural Communities Act (2006).

The most relevant changes provided by the CRoW Act include the added protection given to SSSIs and other important sites for nature conservation. Importantly, under the Act it became a criminal offence to "recklessly disturb" Schedule 1 nesting birds and species protected under Schedule 5 of the Wildlife and Countryside Act. It also enabled heavier penalties on conviction of wildlife offences.

### **The Natural Environment and Rural Communities Act 2006**

The Natural Environment and Rural Communities (NERC) Act 2006 was intended to raise the profile of biodiversity amongst all public authorities (including local authorities, and statutory undertakers) and to make biodiversity an integral part of policy and decision-making processes. The NERC Act also improved wildlife protection by amending the Wildlife and Countryside Act 1981.

Section 40 (S40) of the Act places a 'Biodiversity Duty' on all public bodies to have regard to the conservation of biodiversity when carrying out their normal functions. This includes giving consideration to the restoration and enhancement of species and habitats.

Section 41 (S41) of the Act requires the Secretary of State to publish a list of habitats and species which are of Principal Importance for the conservation of biodiversity in England. This was published in 2007 and is commonly referred to as the "S41 list". Public authorities have a responsibility to give specific consideration to the S41 list when exercising their normal functions. For planning authorities,

consideration for Species and Habitats of Principal Importance will be exercised through the planning and development control processes. Further information on Species and Habitats of Principal Importance is provided in the relevant sub-sections of this Appendix.

## **The Water Environment Regulations 2017**

Currently, the overriding legislation relating to freshwater is the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017. The Regulations set out objectives to deliver a better water environment based upon achieving a 'good status' for freshwater bodies. The concept of 'good status' is a more rigorous measure of environmental quality than previous measures, which now takes into account not just the chemical status but also the ecological health and the extent of artificial physical modification to rivers.

The Regulations are based upon the concept of protecting water through the management of river basin districts (RBDs) and require the implementation of River Basin Management Plans (RBMPs). Regulation 33 requires public bodies to 'have regard' to the RBMP when making planning decisions, for example through the granting of planning permission with appropriate planning conditions and/or obligations. These could require measures to be implemented (e.g. Sustainable Urban Drainage Systems (SUDS), grey water recycling etc.) or funds to be provided for habitat enhancement schemes.

The Regulations also affect planning policy through the implementation of Programmes of Measures for each river basin district. This involves bringing together funding from various sources and co-ordination of the activities of organisations with an interest in the use of land and water, including developers.

## **SITES DESIGNATED FOR THE CONSERVATION OF NATURE**

There is a hierarchy of nature conservation sites which is based on the level of statutory (legal) protection and the administrative level of importance. Other features of nature conservation interest outside designated sites may also be a material consideration in the determination of planning applications.

### **Nature Conservation in Areas Outside Designated Sites**

Various other features exist outside designated sites that are important for the conservation of nature and which are a material consideration in the planning system.

#### *Habitats of Principal Importance in England*

Fifty-six habitat types have been identified as Habitats of Principal Importance for the conservation of biodiversity in England under Section 41 of the NERC Act 2006. Although these habitats are not legally protected, the NPPF, Government Circular 06/05, good practice guidance and the NERC Act place a clear responsibility on planning authorities to further the conservation of these habitats. They can be a material consideration in planning decisions, and so developers are advised to take reasonable measures to avoid or mitigate impacts to prevent their net loss and to enhance them where possible. Additional guidance to developers is typically provided in local level planning policy.

The S41 list also includes species as explained below under 'Species of Principal Importance in England'.

### *Networks of Natural Habitats*

Networks of natural habitats link sites of biodiversity importance and provide routes or stepping stones for the migration, dispersal and genetic exchange of species in the wider environment. Examples include rivers with their banks, traditional field boundary systems (such as hedgerows), ponds and small woods. Local planning authorities are encouraged through the NPPF to maintain networks by avoiding or repairing the fragmentation and isolation of natural habitats through planning, policies and development control.

### *Hedgerows*

Hedgerows can act as wildlife corridors that are essential for migration, dispersal and genetic exchange of wild species. Hedgerows that qualify as a Habitat of Principal Importance under S41 of the NERC Act 2006 are a material consideration in the planning system.

Under the Hedgerow Regulations 1997, it is an offence to remove a hedgerow classed as 'important' under the criteria set out by the Regulations without submitting a notice to the Local Planning Authority and waiting for their decision. The Regulations are aimed at countryside hedges and do not apply to hedges around private dwellings or where planning permission has been granted for a project that includes hedge removal. Hedgerows that satisfy wildlife, archaeological, historical or landscape criteria qualify as 'important' under the Regulations. If a hedgerow is not important, the Local Planning Authority may not prevent its removal; however, Local Planning Authorities are required under the Regulations to protect and retain important hedgerows unless satisfied that the circumstances justify their removal.

### *Tree Preservation Orders*

Tree Preservation Orders (TPOs) may be declared under the Town and Country Planning Act 1990 and the Town and Country Planning (Trees) Regulations 1999 to protect individual trees and woodlands from development and cutting. TPOs are primarily put in place to preserve amenity or for landscape conservation reasons. The importance of trees as wildlife habitat may be taken into account, but alone is not sufficient to warrant a TPO. For this reason, TPOs do not fit comfortably under the remit of nature conservation and are generally dealt with by an arboricultural consultant rather than an ecologist. Further guidance on TPOs in relation to development is available from the Department for Communities and Local Government.

### *Ancient Woodland & Veteran Trees*

Ancient woodlands are defined as areas continuously wooded since at least 1600 AD. Even an ancient wood which has been replanted may still have remnants of ancient woodland wildlife and historical features and has potential to be restored. Ancient woodland is not a statutory designation and does not provide legal protection, but local authorities are advised under the NPPF and National Planning Practice Guidance (NPPG) not to grant planning permission for any development that would result in the loss or deterioration of ancient woodland, ancient trees or veteran trees unless there are 'wholly exceptional reasons' and 'a suitable compensation strategy in place'. Local Planning Authorities must take into account Natural England and the Forestry Commission's *Standing Advice for Ancient Woodland and Veteran Trees*, available on the [www.gov.uk](http://www.gov.uk) website.

### *Surface & Ground Waters*

Surface waters (including flowing and standing water) and ground water can directly and indirectly impact upon the conservation of nature.

Guidance on pollution prevention is hosted on the Government's website and focuses on regulatory requirements. This covers topics including the prevention of pollution if you are a business, managing business and commercial waste, oil storage, working on or near water, and managing water on land. Careful planning and the application of these guidelines can help reduce the risk of construction and maintenance work causing pollution to surface and ground waters. Some activities with the potential to impact watercourses or groundwater may require consent under the Water Resources Act 1991.

### *Water Resources Act (WRA) 1991*

Under the WRA there is strict regulation of discharges (including sediment, chemicals, nutrients) to rivers, lakes, estuaries and groundwaters. It also aims to ensure that polluters cover the costs associated with pollution incidents.

## **SPECIES PROTECTION**

### **Legally Protected Species**

The species listed in the following subsections are protected by law in England. When preparing a planning application, it is essential to determine the presence or likely absence of legally protected species and the extent to which they may be affected by a proposed development. This can best be achieved by undertaking surveys early in the planning process. Avoidance and/or mitigation measures may be required to address any predicted impacts upon protected species and may necessitate a licence. The Government website offers standing advice from Natural England and DEFRA which can be applied to planning applications that affect protected species.

#### *European Badger*

The Protection of Badgers Act 1992 offers considerable protection to both Badgers and Badger setts. This legislation was enacted to protect the European Badger *Meles meles* against baiting and not as a means of species recovery as it is common in England. It is an offence to cruelly treat, kill or take Badgers, but it is also illegal to intentionally or recklessly damage or disturb a Badger sett while it indicates signs of current use by a Badger.

The Government website contains information to help developers and their proponents avoid sett disturbance and to identify setts that are in current use. It is important to maintain adequate foraging territory in development proposals affecting Badgers as the destruction or severance of large areas of foraging territory could also be taken to include habitat loss. Licences to disturb Badgers and their setts in respect of development may be issued by Natural England provided provisions are made to minimise disturbance.

#### *Bats*

There are 18 species of bat in the UK, seven of which are Species of Principal Importance in England. All bats and bat roosts are protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). Bats are also a European Protected Species protected under the Habitats Regulations 2017 (as amended). It is an offence to:

- Intentionally or deliberately kill, injure or capture bats;

- Intentionally, deliberately or recklessly disturb bats in such a way as to be likely to significantly affect the ability of any significant group of bats to survive, breed, or rear or nurture their young or the local distribution of or abundance of a species of bat;
- Intentionally, or recklessly damage, destroy or obstruct any place used for shelter or protection (i.e. bat roosts) or intentionally or recklessly disturb a bat whilst it is occupying such a place;
- Damage or destroy a breeding site or resting place of a bat; and
- Possess, sell or transport a bat, or anything derived from it.

Development proposals affecting bats or their roosts require a European Protected Species mitigation licence from Natural England.

### *Birds*

49 species of bird are listed as Species of Principal Importance in England. All wild birds are protected under the Wildlife and Countryside Act 1981 (as amended), making it an offence, with certain exceptions (e.g. game birds), to intentionally kill, injure or take any wild bird and to take, damage or destroy their nests or eggs.

Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) affords extra protection for certain species and applies harsher penalties for offences. Any intentional or reckless disturbance of a Schedule 1 bird, whilst it is nesting or rearing dependent young, constitutes an offence.

Regulation 10 of the Conservation of Habitats and Species Regulations 2017 (as amended) requires appropriate authorities and conservation bodies, in the exercise of their functions, to take such steps that they consider appropriate in order to secure “*the preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds in the United Kingdom, including by means of the upkeep, management and creation of such habitat (...)*”.

### *Hazel Dormouse*

The Hazel Dormouse *Muscardinus avellanarius* is a Species of Principal Importance in England. It is legally protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and is afforded significant further protection as a European Protected Species under the Habitats Regulations 2017 (as amended). Collectively, this legislation makes it an offence to:

- Intentionally or deliberately kill, injure or capture Dormice;
- Intentionally, deliberately or recklessly disturb Dormice in such a way as to be likely to significantly affect the ability of any significant group of Dormice to survive, breed, or rear or nurture their young or the local distribution of or abundance of the species;
- Intentionally or recklessly damage, destroy or obstruct access to places used by Dormice for shelter or protection (whether occupied or not) or intentionally or recklessly disturb a Dormouse whilst it is occupying such a place;
- Damage or destroy a breeding site or resting place of a Dormouse;
- Possess or transport a Dormouse (or any part thereof) unless under licence; and
- Sell or exchange Dormice.

Development proposals affecting the Dormouse require a European Protected Species mitigation licence from Natural England.

### *Water Vole*

The Water Vole *Arvicola terrestris* is a Species of Principal Importance in England. The legal protection for Water Voles was increased in 2008 to fully cover the species under Section 5 of the Wildlife and Countryside Act 1981 (as amended). The legislation makes it an offence to:

- Intentionally or deliberately (but not recklessly) kill, injure or take Water Voles;
- Intentionally, deliberately or recklessly damage, destroy or obstruct access to any structure or place used by Water Voles for shelter or protection;
- Intentionally, deliberately or recklessly disturb Water Voles whilst they occupy a structure or place used for that purpose;
- Sell Water Voles or offer or expose for sale or transport for sale; and
- Possess or control live or dead Water Voles or derivatives.

Developers who wish to maintain, build on or alter areas used by Water Voles must ensure that unnecessary damage is avoided and all reasonable steps are taken to minimise impacts on Water Voles and their burrows. The Wildlife and Countryside Act provides a defence against the offences listed above, provided the action is the incidental result of an otherwise lawful operation and could not reasonably have been avoided.

A licence to displace Water Voles must be obtained from Natural England before conducting any activities involving displacement operations (this is different to a conservation licence, which is required for survey methods that involve disturbing Water Voles or their burrows, or capturing them). To obtain a displacement licence, it is necessary to demonstrate that the activity/activities will result in a conservation benefit for Water Voles.

## **PLANNING POLICY & GUIDANCE**

This section set out the main planning policy and government guidance that relates to the conservation of nature at all levels of government.

### **National Level**

#### *National Planning Policy Framework 2023*

The National Planning Policy Framework (NPPF) 2023 sets out the Government's planning policies for England and how these should be applied in local-level policy and decision making. The NPPF has a clear "presumption in favour of sustainable development" (paragraph 11), with economic, social and environmental objectives. This presumption does not apply where a plan or project has failed the 'appropriate assessment' test under the Habitats Regulations (paragraph 182).

Section 15 of the NPPF provides guidance on conserving and enhancing the natural environment through the planning system, as summarised below.

Firstly, planning policies and decisions should contribute to and enhance the natural and local environment by applying the following key principles:

- protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; and
- preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

Section 15 also requires planning policies and decisions to limit the impact of artificial light pollution on nature conservation.

Secondly, when determining planning applications, local planning authorities should apply the following key principles:

- if significant harm resulting from a development cannot be avoided, adequately mitigated or (as a last resort) compensated for, then planning permission should be refused;
- proposed development that is likely to have an adverse effect on a SSSI (either individually or in combination with other developments) should normally be refused;
- planning permission should normally be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and ancient or veteran trees, unless there are 'wholly exceptional reasons' and a suitable compensation strategy exists; and
- development whose primary objective is to conserve or enhance biodiversity should be supported, while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

In the case of SSSIs and irreplaceable habitats, exceptions may be made if it can be clearly demonstrated that the benefits of the development, in that location, clearly outweigh the costs in terms of loss or adverse impacts.

Section 15 specifies that listed or proposed Ramsar sites, potential European sites, and sites identified or required as compensatory measures for adverse effects on designated/listed or potential/proposed European and Ramsar sites should be given the same protection as designated European sites.

Section 15 includes the following text on air quality:

- Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality

Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas;

- Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications; and
- Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

The NPPF also sets out principles for plan-making, including the allocation of land with the least environmental or amenity value, and taking a strategic approach to maintaining and enhancing networks of habitats and green infrastructure by identifying, mapping and safeguarding components of local wildlife-rich habitats, wider ecological networks, wildlife corridors and stepping stones, and those areas identified by national and local partnerships for habitat management, enhancement, restoration or creation.

#### *Government Circular 06/05: Biodiversity and Geological Conservation*

The Government produced Circular 06/05 to provide guidance on the application of the law to the conservation of nature. Although the document is in the process of being updated, Paragraphs 98 and 99 remain relevant as they set out the following principles and obligations:

- The presence of protected species is a material consideration when determining a development proposal;
- Local authorities should consult with Natural England before granting permission, and consider imposing planning conditions or obligations to secure the long-term protection of the species;
- The presence of protected species, and the extent to which they may be affected by the proposed development, must be established before permission is granted;
- Given 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.

#### *MHCLG Planning Practice Guidance*

Revised and updated Planning Practice Guidance (PPG) was launched by the Department for Communities and Local Government (now the Ministry of Housing, Communities and Local Government, MHCLG) as a web-based tool in March 2014 to accompany the NPPF. The webpages are set out in a Q&A format. The PPG consolidates and supersedes existing guidance on a range of planning-related topics, clarifies some of the statements made in the NPPF, and provides links to relevant legislation and other sources of advice.

The Guidance outlines a number of important principles in relation to nature conservation and biodiversity, including the need to integrate biodiversity into all stages of the planning process and to consider opportunities to enhance biodiversity and contribute to the Government's commitments and targets set out in *Biodiversity 2020: A strategy for England's wildlife and ecosystem services*.

The guidance also requires that “an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate”, and recommends that “local planning authorities should only require ecological surveys where clearly justified, for example if they consider there is a reasonable likelihood of a protected species being present and affected by development.”

#### *Other guidance*

In addition to the Planning Practice Guidance, various other forms of guidance and standards are available in relation to biodiversity and the development process. Of particular note is *British Standard BS42020:2013 Biodiversity – Code of practice for planning and development*, published in August 2013, which replaces *Planning to Halt the Loss of Biodiversity (PAS 2010): Biodiversity conservation standards for planning in the United Kingdom*.

This document is designed to complement the NPPF and is aimed at organisations concerned with ecological issues throughout the planning process, including local authorities, developers, planners and ecological consultants. It sets out step-by-step recommendations on how to incorporate biodiversity considerations at all stages of the planning process, with a focus on the provision of consistent, high quality and appropriate ecological information, effective decision making, and high standards of professional conduct and competence.

#### **Regional Level**

Regional plans (such as the South East Plan Regional Spatial Strategy) have been revoked, but some specific policies have been saved. The only policy saved from the South East Plan is Policy NRM6, which relates to the Thames Basin Heaths Special Protection Area (TBH SPA).

#### **Local Level**

Local planning policy for the area is set by Wokingham Borough Council. While the existing relevant document is the Adopted Core Strategy: Development Plan Document (January 2010), these proposals will be assessed against the policies of the emerging Local Plan, the Draft Local Plan Public Consultation Feb 2020 – Mar 2020. Although Wokingham Borough Council are consulting on the Revised Growth Strategy due to the loss of the Grazeley garden town proposals from earlier version of the Local Plan, the majority of policies are not impacted by this loss.

The following policies are considered to be of most relevance to the potential development at the Site:

- NE1 – Biodiversity and Nature Conservation. This policy provides protection for sites designated as of importance for nature conservation at an international, national and local level as identified on the Policies Map. It also provides protection for habitats, or species of principle importance for nature conservation in England, ancient or veteran trees or features of the landscape that are of major importance to wild flora and a fauna. It sets out the requirement for development proposals to deliver a minimum of 10% net gain for biodiversity. The policy sets out the criteria, in relation to biodiversity, under which development will be permitted.
- NE2 - Thames Basin Heaths Special Protection Area. Development which alone or in combination is likely to have a significant effects on the ecological integrity of Thames Basin Heaths Special Protection Area will be required to demonstrate that adequate

measures to avoid and mitigate any potential adverse effects are delivered. The policy also sets out the SANG provision.

- NE3 – Trees, woodland and hedgerows. This policy requires development to protect trees and hedgerows and details measures to be undertaken should the proposals result in loss or damage to trees, woodland or hedgerows.
- NE4 – Development and existing trees, woodland and hedgerows. Development proposals that may affect a tree, woodland or hedgerow should:
  - a) Assess the health of all trees, woodland and hedgerows affected, including describing and assessing their value and the potential impact of the development on them as part of an Arboricultural Impact Assessment
  - b) Incorporate existing woodland, trees and hedgerows and ensure integration into the public realm within a suitable landscape setting,
  - c) Ensure the layout of new developments provide sufficient space to enable trees to grow and thrive, including maintaining adequate root protection areas and limiting excessive shading to residential properties.
  - d) Ensure appropriate tree protection measures are in place prior to development commencing on site as part of an Arboricultural Method Statement, including a Tree Constraints Plan and Tree Protection Plan and actively monitor tree protection throughout the construction process.

#### *Thames Basin Heaths Special Protection Area Delivery Framework*

The Thames Basin Heaths (TBH) Special Protection Area (SPA) Delivery Framework is published by the Thames Basin Heaths Joint Strategic Partnership Board (of which Wokingham Borough Council is part) to set out measures to ensure future development within the vicinity of the TBH SPA does not impact upon the integrity of the Site.

The document ultimately sets out to ensure that new development is compliant with the Habitats Regulations, such that it will not have a significant impact on the SPA when delivered, either alone or in combination with other projects in the area, through combination of Suitable Alternative Natural Greenspace (SANG) delivery and access management.