



Warwickshire

Wildlife and Planning Guidance: Responding to Planning Applications

This Leaflet is one of a series of 4 Wildlife and Planning Guidance Leaflets and is intended to provide useful information to assist you to campaign effectively for wildlife within your areas.

We would be pleased to receive any feedback on the Leaflets at the address below.

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The Planning system involves making decisions about the future of our cities, towns and countryside. It is vital to balance the needs of development with maintaining a resilient natural environment for both people and wildlife.

A healthy natural environment that is rich in wildlife provides many benefits to local communities. Wildlife and green spaces in and around our towns and villages add to our quality of life.

New development that is done properly can benefit wildlife, typically by creating new habitats or providing resources to manage previously neglected wildlife sites. However, when done badly, development can have a negative effect on important habitats and species.

1. Planning Applications:

In England we operate under a 'planned system'. This means that all decisions on planning applications in an area are principally informed by the policies and supporting information set out in what is now referred to as the Local Plan in the context of the National Planning Policy Framework (NPPF) - unless there is a very good reason not to do so.



2. What We Do:

Warwickshire Wildlife Trust works hard to influence planning decisions and the policies which guide them, to ensure that all planning proposals make a positive contribution towards the protection and enhancement of wildlife and wild places.

We do this by responding to:

Development Plans - Campaigning to ensure that the protection wildlife, protection and enhancement of habitat and progress towards the Wildlife Trust's Living Landscape Vision is integral to the policies of all planning documents.

Planning Applications – Responding to planning applications to ensure that developments secure positive outcomes for wildlife.

We focus our resources on responding to applications where we believe the impacts on, or opportunities for, wildlife will be the greatest. This includes:

- Major residential, commercial or infrastructure schemes;
- Applications affecting nationally or locally designated wildlife sites; and
- Applications affecting Wildlife Trust reserves

We recognise that there are many other applications that will have an effect on wildlife and so we endeavour to support any individuals or community groups who want to stand up for wildlife in their areas.

This guidance is intended to provide useful information to assist you to campaign effectively for wildlife within your areas.

3. Useful Facts: See 15. References

Planning permission is only needed for works that meet the statutory definition of 'development' in Section 55 of the Town and Country Planning Act 1990 (a).

Land management or vegetation clearance **does not** generally constitute development but permission **is** required for:

- Felling or management of Trees with Tree Preservation Orders. (Contact your local authority to see if any trees in your area have TPOs); and (b)
- Removing a Hedgerow covered by the Hedgerow Regulations 1997. (c)

All Planning Applications need to accord with national and local plan policies. This includes policies that require protection and enhancements for wildlife.

The planning system deals only with '**material considerations**' or planning matters. In Wildlife terms this means:

- Statutory or non-statutory wildlife sites;(d)
- Species protected by law; and (e)
- Priority (rare or declining) species and habitats listed in national or local biodiversity plans. (f)

Greenbelt is a planning designation intended to prevent urban sprawl. (a, b) Land designated as green belt does not specifically mean that a site has wildlife value.

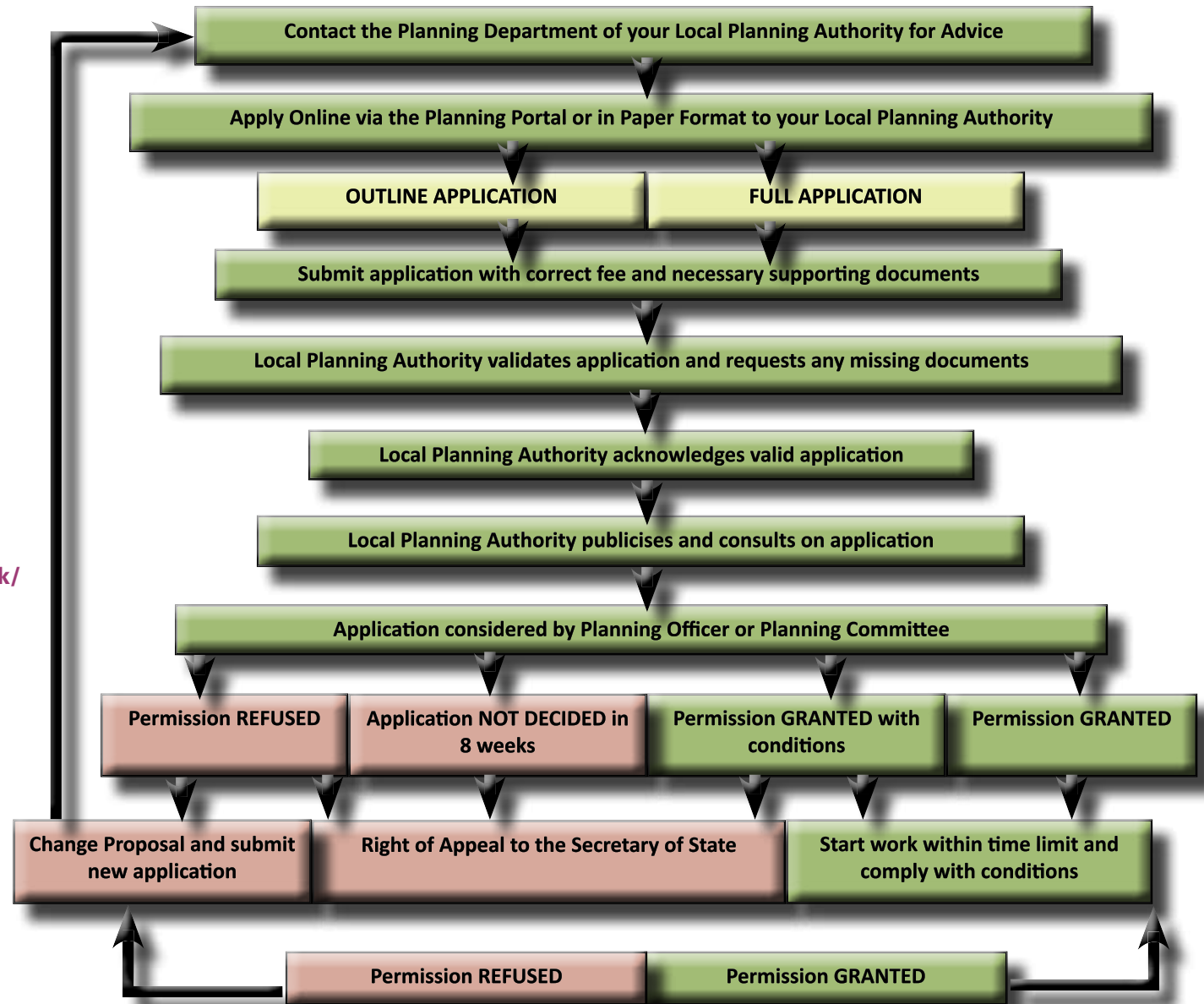
Planning application forms, guides and further information specific to your local planning process can be obtained from your local Council's website.

4. What happens to an application after it is submitted?

1. The LPA publicises the application by advertising in the local newspaper and posting planning notices close to the site.
2. The public and statutory consultees have **21 days** to comment on the application. Statutory consultees with an interest in environmental matters include Natural England, the Environment Agency and the Forestry Commission.
3. When deciding whether a planning application is in line with its Development Plan, the LPA will consider:
 - the number, size, layout, siting and external appearance of buildings;
 - the infrastructure available e.g. roads and water supply and proposed means of access;
 - any landscaping requirements;
 - the proposed use of the development;and
 - the likely impact on the surrounding area including wildlife.
4. Minor planning applications, where there is no conflict with Council policies and few objections have been received, are usually decided by '**delegated**' authority solely by a senior planning officer at the LPA after taking into account any comments received.
5. Otherwise, a Planning Officer will present a recommended decision to a **Planning Committee** made up of elected Councillors. **You are allowed to attend these meetings and, in many cases, are also entitled to speak briefly to make your views known.**
6. Only the elected Councillors can vote on the planning application itself. They do not always follow the Planning Officer's advice.
7. Councillors or Planning Officers cannot refuse a planning proposal simply because many people oppose it. If an application is refused - or granted subject to conditions that decision must be based on the approved plans and policies of the LPA's Development Plan.
8. The key considerations will be whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.
9. Once a decision has been reached, the LPA must give either a summary of its reasons for granting permission, or detailed reasons for a refusal.
10. If an application is Refused or Granted subject to conditions or planning obligation in the form of a Section 106 Agreement the applicant will be told in writing. They then have the right to Appeal.

The Planning Portal have produced a flowchart that gives an overview of the decision-making process.

<http://planningguidance.planningportal.gov.uk/>





5. What To Look For:

The **National Planning Policy Framework (NPPF)**, Government policy that all local authorities conform to, **(b)** states that:

“Planning Policies and Decisions should be based on up-to-date information on the natural environment and other characteristics of the area”.

It is important that the Local Authority has enough ecological information to be able to consider any impacts on protected and priority species and habitats, or any opportunities for enhancing biodiversity features.

Ecological information about the site is usually presented in an **Ecological Appraisal**. This is compiled by an Ecological Consultant and should be no more than 2-3 years old.

The **Ecological Appraisal** should be available with the application on the Local Authority Website.

Many large development schemes automatically require an **Ecological Assessment** but many smaller sites do not.

*Get Involved...
Check to see if an Ecological Appraisal has been undertaken.*

If not, ask your Local Authority to request an Ecological Appraisal if you believe a proposal could impact on your local wildlife.

6. What Should an Ecological Appraisal Contain?

- Information about the ecologists carrying out the appraisal - are they accredited by a professional body such as the **Chartered Institute of Ecology and Environmental Management (CIEEM)**. **(g)**
- **Desk Top Studies** which review data for designated sites and historical records of local species and habitats.
- An **initial habitat survey** which includes scoping for protected and priority species.
- **Detailed Protected Species Surveys** where recommended in the initial habitat survey.
- **Survey Timings** – When was the survey undertaken? For most species, surveys should be done in the main periods of activity (Mar – Sep)**(e)**.
- A summary of **impacts** on wildlife.
- Recommendations for **avoidance** and **mitigation** to address impacts on wildlife **(see the Mitigation Hierarchy)**.
- **Measures** for achieving benefits for wildlife.

7. Addressing Impacts:

The **National Planning Policy Framework** (NPPF) requires local authorities to conserve and enhance biodiversity. Where an impact on wildlife is observed, the local authority must ensure that sufficient measures have been included to address these issues.

Paragraph 118 of the NPPF sets out how impacts on wildlife should be addressed. This is commonly known as the **Mitigation Hierarchy** and requires impacts to be:

Avoided – Can the impact be prevented by re-arranging the layout or retaining important habitats?

Mitigated – Where it is not possible to avoid, can the impact be minimised through the design or additional measures such as habitat buffers or corridors?

Compensated – Should only be included as a last resort where impacts cannot be avoided or mitigated. Compensation should be at least proportionate to the impacts observed.

Where the above **Mitigation Hierarchy** cannot be satisfied, planning permission should be refused.

*Get Involved...
Check to see if impacts on wildlife have been addressed. Has the mitigation hierarchy been followed?*

If not, ask the planning officer to review how it has been applied in the application.

8. Initial Preparation:

Before Commenting on a planning application be sure to check the following:

Make a note of the Planning Application Number- If you don't know the number, ensure you have the address of the site or property.

Be aware of the Deadline for responses – Check the consultation period for applications. Local Authorities allow 21 days for comments. If they arrive after this they may not be given due consideration.

Review the application and supporting documentation – These can be found on the Local Authority Website. If this is not possible contact the case officer to view the application and supporting documents at the council offices.

Review the Ecological Appraisal - Cross reference with the landscaping proposals to check for inconsistencies.

Check for Responses from the Wildlife Trust - These can sometimes be found on the Local Authority website and can help to identify the key issues. Other consultees on wildlife matters are Natural England, the Environment Agency and Warwickshire County Council's Ecological Services team.

9. Responding to Wildlife Issues:

Ecological issues are likely to vary for each application but some of the more common issues are outlined below:

- Is the application supported by an Ecological Appraisal and does it contain appropriate, up-to-date ecological information?
- Does the development impact on a protected or priority habitat or designated Wildlife Site directly through habitat loss?
- Is the site special for migratory birds or used seasonally by other wildlife?
- Does the development affect protected or priority species through disturbance, noise, hours of operation, or lighting?
- Does the development maintain suitable habitat and corridors for wildlife (such as hedgerows, watercourses and green spaces)?
- Have wildlife mitigation and compensation measures been included in accordance with the Mitigation Hierarchy?
- Are there any outstanding impacts on Wildlife?
- Can planning conditions or planning obligations be added to the planning decision notice to safeguard the wildlife interest or any required mitigation and compensation measures?
- Has the local authority taken account of any identified wildlife impacts in their report to the Planning Committee? They have a duty to do this under section 40 of the Natural Environment and Rural Communities Act 2006 (NERC)? **(b)**

10. Recommendations for Wildlife:

The **National Planning Policy Framework** (NPPF) requires planning decisions to **minimise** impacts and, where possible, **improve** conditions for wildlife.

There are many ways in which features for wildlife can be incorporated into the development to either mitigate and compensate for impacts or to enhance the habitats on site for wildlife overall. For example:

- Retaining or creating habitat buffers alongside valued habitat features;
- Designing flood basins as wildlife ponds;
- Creating new wildflower grassland on public open spaces;
- New native tree or woodland planting which will also screen the development; and
- Planting gaps in existing hedgerows and planting new hedgerows.

Smaller schemes, or proposals in urban areas where space is limited, can still provide opportunities to improve conditions for wildlife.

For all schemes you can try recommending the following improvements:

- *Bird and bats boxes on trees and buildings;*
- *habitat piles for reptiles, invertebrates and hedgehogs; and*
- *wildflower seeding on grass verges.*

11. Things To Consider When Writing A Response:

- ✓ A written response (letter or email) will be more effective than a telephone call;
- ✓ Address your letter to the **Case Officer** and state the **Application Number**;
- ✓ Be clear about whether you are Commenting on, Objecting to or Supporting the application;
- ✓ Keep your letter brief, calm and polite. **Avoid** using emotive language;
- ✓ Include information and dated records about **important habitats and wildlife** which have been found at the site;
- ✓ Attach **supporting evidence** such as photographs (with dates) if necessary;
- ✓ Base your letter on **planning issues** rather than your personal opinion;
- ✓ It may be more appropriate to Object on grounds other than wildlife, if these are more likely to affect the decision. Find out from the Planning Officer what the main issues are;
- ✓ Include any relevant policies from the **Local Plan** or **national legislation**;
- ✓ State how the Application could be **changed** to address your Objections;
- ✓ If **Mitigation** would be possible, suggest how it could be done i.e. how the impact of the development on local wildlife could be reduced by enhancing opportunities for biodiversity. Could **Conditions** be added to the Planning Application to reduce or avoid harm to the local environment and wildlife?;
- ✓ All letters of representation are available to view by anyone. If you make **anonymous comments**, they will not normally be taken into consideration. All letters will be available to view at your local Council Office, but many Councils also publish letters online. You don't need to sign with your normal signature if you're worried about privacy.
- ✓ **Petitions** can be useful to demonstrate the strength of public feeling, but more weight is given to individually written letters. Avoid using generic letter templates too, as these may be treated in the same way as a petition; each person should express their own views.

Try to avoid:

- ✗ Including any information you are unsure about;
- ✗ Making any unsubstantiated criticism of the Applicant or the Council;
- ✗ Exaggerating your claims;
- ✗ Unrelated information; or
- ✗ Mentioning issues which are not considered to be Planning Matters (e.g. property values, incidence of crime, etc.).



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12. Developer Contributions:

In addition to any Conditions attached to a Permission, Developers may be asked to contribute to development in a number of ways:

- Community Infrastructure Levy
- Planning Obligations in the form of section 106 agreements
- Section 278 highway agreements.

Planning Obligations are used by LPAs when approving applications to mitigate the impact of unacceptable development.

Obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind.

13. Planning Appeals:

If you have submitted comments to your Local Planning Authority, they will write and tell you if an **Appeal** is submitted and keep you informed of the timetable of events. Keep an eye on deadlines – these are more rigorously adhered to in **Appeals**.

There are three types of **Appeal** process and each one has different methods for public participation:

Written Representations where the all matters are put in writing to the Inspector and they make a decision based on this information;

Informal Hearing where the main parties sit round a table and discuss the issues. You may attend and speak if you register to do so with the Inspectorate;and

Public Inquiry which is the most formal process, where the main parties involved present their cases to the Inspector, and have the opportunity to cross-examine the expert witnesses. You may attend and speak if you register to do so with the Inspectorate. In some circumstances, you may be able to question an expert witness, but you must then be prepared to be questioned yourself.

The Planning Inspectorate website contains lots of really useful guidance on how to take part in appeals:

<https://www.gov.uk/government/organisations/planning-inspectorate>

14. What you can do to encourage habitat creation and enhancement in new developments:

Habitat Creation & Enhancement

Habitats such as ancient woodland have developed over hundreds, if not thousands, of years, making re-creation impossible. However, with the ongoing loss of habitats and species in our towns and countryside, it is vital that we take opportunities for habitat creation and enhancement in and around new developments.

Green space is important for people as well as wildlife and with careful planning, can be a valuable wildlife habitat.

Depending on the site, a range of habitats can be created. If habitats exist on site or nearby, it is usually best to add to those habitats to increase connectivity and viability of existing resources. Wildlife areas must be properly managed to realise the desired result and expert advice should be sought in order to design the best practical management regimes.

Areas should be fully surveyed beforehand to make sure good intentions, such as tree planting, do not damage/destroy remnant habitats.

At an early stage contact the Planning Officer responsible for the Application at your LPA to ensure that opportunities for habitat creation and enhancement will be taken and offer your suggestions on the sorts of habitats that would be beneficial.

Seek advice over the best options for the specific proposal and find out who can best advise the developer.

Woodland

To be of optimum value for wildlife, it is important that only native trees and shrubs of local provenance are used. Native species support more insect species than non-native species, which, in turn, provide a greater diversity of food for small mammals and birds. Ground plants such as bluebell and primrose can also be introduced. All species chosen should be locally native and grown from seed of local provenance.

Wetland and Watercourses

There are many opportunities for wetland creation, especially in relation to rivers, streams and ditches but also when dealing with surface water run-off before it enters the watercourse. Floodplains should not be built on and this is, in any case, contrary to Environment Agency and Government policy. Many of our watercourses have been artificially straightened, widened, and deepened.

Site re-developments can provide opportunities to restore the channel dimensions and alignment to a more natural condition and appearance, e.g. through bed and bank re-profiling, meander restoration etc. It should, however, be noted that such works generally require consent from the Environment Agency and they should always be consulted.

Buffer zones between developments and watercourses should always be left (these should not be less than 20m either side of a watercourse to ensure that an adequate corridor for wildlife is maintained). Access should be planned to minimise disturbance to wildlife and optimise people's enjoyment of wildlife.

Wetland habitats that can be created include reed bed, wet woodland, marsh and ponds.

Always use species of local provenance.

Wildflower Rich Grassland

'Wild' grassland can be sown on areas such as road verges, roundabouts, edges of sports fields and other open areas as an alternative to the less wildlife-friendly mown grass. Different wildflower/ grass seed mixes need to be chosen depending on whether the soil is alkaline, neutral or acid and the degree of 'wetness'.

A key to success is soil of **poor fertility**. Do not apply fertilisers as this will merely encourage fast growth of dominant grasses, nettle and other aggressive plants, and create a management problem for the future.

Species-Specific Habitat Creation

Certain features can be incorporated which are of benefit to specific species, for example:

- **Bats** - bat hibernacula and breeding sites;
- **White-Clawed Crayfish** - creation of ARK refuge sites;
- **Great Crested Newts** - pond creation and artificial refugia;
- **Otters** - artificial log pile and underground holts and cover (may require permission from the Environment Agency);
- **Reptiles** - artificial hibernacula and refugia; and
- **Water Vole** - construction of new rhynes & watercourses, bank creation & management.

15. References:

- a. **Planning Practice Guidance** (online) available at <http://planningguidance.planningportal.gov.uk/>
- b. **National Planning Policy Framework** (online) available at <http://www.gov.uk/government/publications/national-planning-policy-framework>
- c. **Natural England – Hedgerow Regulations** (online) available at <http://www.gov.uk/countryside-hedgerows-regulation-and-management>
- d. **Natural England – Designations** (online) available at <http://www.gov.uk/protected-or-designated-areas>
- e. **Natural England – Protected Species** (online) available at <http://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>
- f. **Natural England – Priority Habitats and Species** (Online) available at <http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>
- g. **CIEEM** (Online) available at <http://www.cieem.net/>



16. Useful Contacts:

Warwickshire Wildlife Trust – For planning and wildlife queries in Warwickshire, Coventry and Solihull
enquiries@wkwtr.org.uk 024 7630 2912

Ecological Services, Warwickshire County Council – For Wildlife and planning queries in Stratford, Warwick, Rugby and Coventry
planningecology@warwickshire.gov.uk 01926 418060

Warwickshire Biological Records Centre – For records of protected species and non-statutory Wildlife sites in Warwickshire, Coventry and Solihull
wbrc@warwickshire.gov.uk 01926 418060

Habitat Biodiversity Audit.
hba@warwickshire.gov.uk 01926 412197

Natural England - For queries regarding planning and protected species or applications affecting Sites of Special Scientific Interest
enquiries@naturalengland.org.uk 0845 600 3078

For further information on Wildlife and the planning system – please refer to **Natural England's Standing Advice**
<http://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>