

Identifying requirements for Biodiversity & Geological Conservation as part of your planning application

Guidance note (August 2015)

A decorative graphic at the bottom of the page consisting of three overlapping, curved bands of green. The top band is a medium green, the middle band is a lighter green, and the bottom band is a very light green. The curves are concave up, creating a sense of a rising horizon or a stylized landscape.

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About this document

This document is based on guidance from the British Standard BS4202; *Biodiversity — Code of practice for planning and development*.

By checking your proposal against the requirements detailed in this document, it will help ensure that your application is valid with regards to biodiversity and geological conservation. This primarily means that you will have provided, where required, sufficient and up-to-date information to determine the application lawfully and in accordance with relevant planning policy.

When is ecological information required?

Central Bedfordshire Council (CBC) has a duty to consider the conservation of biodiversity when determining a planning application. The presence of a protected species is a material consideration.

This includes having regard to the safeguarding of species protected under:

- The Wildlife and Countryside Act 1981,
- The Conservation of Habitats and Species Regulations 2010, as amended or the Badgers Act 1992.

There are two scenarios where additional ecological information is required. These are where:

- 1) The proposal could impact on species that are protected or listed in the Bedfordshire & Luton Biodiversity Action Plan (BAP); or
- 2) Where the proposal could impact on habitats or sites that are either Priority (BAP) Habitats or Habitats Listed in the Bedfordshire and Luton Biodiversity Action Plan or identified for Geological Conservation

What is required in both these instances is detailed in this document.

Ensuring that ecological information provided is adequate

All information accompanying an application should be prepared and presented so that it is fit to inform the decision-making process. As such it should be:

1. Appropriate for the purpose intended and obtained using appropriate scientific methods of ecological investigation and study.
2. Sufficient in terms of:
 - a) The scope of study;
 - b) Identifying the habitats likely to be affected;
 - c) Identifying the species likely to be affected;
 - d) Consideration of the ecological processes upon which habitats and species and system function are dependent;
 - e) Coverage of a sufficiently wide area of study appropriate for the requirements of the species or feature of interest, including connected systems (e.g. downstream);

- f) Undertaken over a sufficient period of time and at an appropriate time of year to reveal sufficient details of populations or habitat characteristics;
- g) Being sufficiently up to date (e.g. not normally more than two/three years old, or as stipulated in good practice guidance); and
- h) The identification of risks, e.g. spread of pathogens or invasive non-native species.

PLEASE NOTE :

The shelf life of any given survey depends on the type of survey undertaken and whether environmental conditions within the study area were “normal” or unusual at the time undertaken (e.g. extreme weather), or are likely to have changed or remained the same. The greater the recent change, the greater the need for up-to-date information.

The ecological information should be understandable by non specialists (i.e. include a non-technical summary), be substantiated throughout with clear evidence, be true and accurate, and follow good practice guidelines.

Annex A details a trigger list which identifies situations where biodiversity is likely to be affected by development and, where relevant, information should be submitted with the application. Part 1 with respect to protected species and species of principal importance whilst Part 2 covers designated sites, priority habitats and features of biodiversity importance, and features of geological conservation importance. These should generally include applications likely to affect:

- a. Internationally and nationally designated statutory sites;
- b. European and nationally protected species;
- c. non-statutory designated sites;
- d. Priority habitats and species; and
- e. Significant populations of national or local Red List or notable species.

Annex B provides a guide to the process the council should use to validate a planning application using the biodiversity and geodiversity conservation requirements. Where an applicant has been advised during pre-application discussions, or have themselves identified that they need to provide information on biodiversity with their planning application, they should ensure that what is submitted is sufficient to enable the decision-maker to validate and register the application.

NOTE: Failure to provide all the information required might mean an application is not “valid” and is not considered or determined.

Where such information is not submitted, or is insufficient, the decision-maker should first consider any argument put forward formally by the applicant that such information is not required in their particular case. If the applicant’s argument is accepted, no further information should be required. If, however, further information is required, the decision-maker should delay validation and registration for a specified period to allow time for the identified information to be provided, and then, if this is not provided or is still not sufficient:

- a. suggest the applicant withdraws the application;
- b. judge that the application is not valid and decline to register it; or
- c. register the application and then refuse it on the grounds that there is insufficient information to make a lawful determination.

The process described in Annex B recognises that, in the first instance, an application is likely to be validated by administration staff when CBC first receives an application.

The council will be able to check and verify information provided by applicants against their own data as part of the validation exercise (where they have access to GIS alert maps), for instance by checking the location of proposed development to establish whether it is near any types of designated sites specified in their local requirements checklist.

The Bedfordshire & Luton Biodiversity Recording & Monitoring Centre may also be able to provide invaluable information for this purpose.

Contact Details;

Office address

BRMC

c/o The Wildlife Trust

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Part 1: Local Requirements for Protected Species, UK Priority Species and Species Listed in the Bedfordshire and Luton Biodiversity Action Plan

Where a proposed development is likely to affect protected species, the applicant must submit a **Protected Species Survey and Assessment**.

If the application involves any of the development proposals shown in **Table 1** (Column 1), a protected species survey and assessment must be submitted with the application. Exceptions to when a survey and assessment may not be required are also explained in this table.

The survey should be undertaken and prepared by competent persons with suitable qualifications and experience. It must be carried out at an appropriate time and month of year, in suitable weather conditions and using nationally recognised survey guidelines and methods where available¹.

The survey may be informed by the results of a search for ecological data from a local environmental records centre. The survey must be to an appropriate level of scope and detail and must:

- Record which species are present and identify their numbers (may be approximate);
- Map their distribution and use of the area, site, structure or feature (e.g. for feeding, shelter, breeding).

The **Assessment** must identify and describe potential development impacts likely to harm the protected species and/or their habitats identified by the survey (these should include both direct and indirect effects both during construction and afterwards). Where harm is likely, evidence must be submitted to show:

- How alternative designs or locations have been considered;
- How adverse effects will be avoided wherever possible;
- How unavoidable impacts will be mitigated or reduced;
- How impacts that cannot be avoided or mitigated will be compensated.

In addition, proposals are to be encouraged that will enhance, restore or add to features or habitats used by protected species. The Assessment should also give an indication of how species numbers are likely to change, if at all, after development e.g. whether there will be a net loss or gain.

The information provided in response to the above requirements are consistent with those required for an application to Natural England for a European Protected Species Licence. A protected species survey and assessment may form part of a wider Ecological Assessment and/or part of an Environmental Impact Assessment.

¹ Further information on appropriate survey methods can be found in *Guidance on Survey Methodology* published by the Chartered Institute of Ecology and Environmental Management.

Table 1: Local Requirement for Protected Species, UK BAP Species of Principal Importance (Priority Species): Criteria and Indicative Thresholds (Trigger List) for when a Survey and Assessment is Required

Column 1 Proposals for Development that will trigger a protected species survey	Bats	Barn Owls	Breeding Birds	Gt. Crested Newts	Otters	Dormouse	Water Vole	Badger	Reptiles	Amphibians	Schedule 8 Plants & Fungi	Rare Arable plants ²	Other BAP Species
<p>Proposed development which includes the modification conversion demolition or removal of buildings and structures (especially roof voids) involving the following:</p> <ul style="list-style-type: none"> all agricultural buildings (e.g. farmhouses and barns) particularly of traditional brick or stone construction and/or with exposed wooden beams greater than 20cm thick; all buildings with weather boarding and/or hanging tiles that are within 200m of woodland and/or water pre-1960 detached buildings and structures within 200m of woodland and/or water; pre-1914 buildings within 400m of woodland and/or water; pre-1914 buildings with gable ends or slate roofs, regardless of location; all tunnels, mines, kilns, ice-houses, adits, military fortifications, air raid shelters, cellars and similar underground ducts and structures; All bridge structures (especially over water and wet ground). 	✓	✓	✓										
Proposals involving lighting of churches and listed buildings or flood lighting of green space within 50m of woodland, water, field hedgerows or lines of trees with obvious connectivity to woodland or water.	✓	✓	✓			✓							
Proposals affecting woodland, or field hedgerows and/or lines of trees with obvious connectivity to woodland or water bodies.	✓		✓			✓		✓			✓	✓	
<p>Proposed tree work (felling or lopping) and/or development affecting:</p> <ul style="list-style-type: none"> old and veteran trees that are older than 100 years; 	✓	✓	✓										

² Identified as Important Arable Plants by Plantlife

Column 1 Proposals for Development that will trigger a protected species survey	Bats	Barn Owls	Breeding Birds	Gt. Crested Newts	Otters	Dormouse	Water Vole	Badger	Reptiles	Amphibians	Schedule 8 Plants & Fungi	Rare Arable plants ²	Other BAP Species
<ul style="list-style-type: none"> trees with obvious holes, cracks or cavities, trees with a girth greater than 1m at chest height; 	✓	✓	✓										
Proposals affecting gravel pits or quarries and natural cliff faces, crevices or caves.	✓		✓	✓					✓				
Major or Large proposals within 500*m of a pond/moat or Minor and Householder proposals within 100*m of pond/moat. ^{3, 4}				✓			✓			✓			
Proposals affecting or within 200m of rivers, streams, lakes, or other aquatic habitats such as reed bed, grazing marsh and fen.	✓		✓		✓		✓		✓	✓	✓		✓
Proposals affecting 'derelict' land (brownfield sites), allotments and railway land.			✓	✓				✓	✓	✓			✓
Proposals affecting farmland or field margins.			✓									✓	✓
Proposed development affecting any buildings, structures, feature or locations where protected species or species of Principal Importance (BAP) are known to be present. ⁵	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

³ Note: A Large proposal is one that is more than 10 dwellings or more than 0.5 hectares or for non-residential development is more than 1000m² floor area or more than 1 hectare

⁴ Distances may be amended to suit local circumstance on the advice of the local Natural England team and/or Local Biodiversity Partnership

⁵ Confirmed as present by either a data search (for instance via the local environmental records centre) or as notified to the developer by the local planning authority, and/or by Natural England, the Environment Agency or other nature conservation organisation.

Optimal survey times

For certain species and habitats surveys can be carried out at any time of year, but for other species, particular times of year are required to give the most reliable results, as indicated in Table 2.

Surveys conducted outside of optimal times may be unreliable. For certain species (e.g. Great-crested Newt) surveys over the winter period are unlikely to yield any useful information. Similarly negative results gained outside the optimal period should not be interpreted as absence of a species and further survey work maybe required during the optimal survey season. This is especially important where existing surveys and records show the species has been found previously on site or in the surrounding area. An application may not be valid until survey information is gathered from an optimum time of year.

Species surveys are also very weather dependent so it may be necessary to delay a survey or to carry out more than one survey if the weather is not suitable, e.g. heavy rain is not good for surveying for otters, as it washes away their spraint (droppings). Likewise bat surveys carried out in wet or cold weather may not yield accurate results.

Absence of evidence of a species does not necessarily mean that the species is not there, nor that its habitat is not protected (e.g. a bat roost is protected whether any bats are present or not).

Bedfordshire and Luton Biodiversity Recording and Monitoring Centre may have useful existing information and records.

Competent ecologists should carry out any surveys. Where surveys involve disturbance, capture or handling of a protected species, then only a licensed person can undertake such surveys (e.g. issued by Natural England). Surveys should follow published national or local methodologies. Further details may be found at www.cieem.net

Table 2: Ecological Survey Seasons

Species		Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Badgers		Optimal											
Bats (Hibernation Roosts)		Optimal	Optimal	Optimal	Completed								
Bats (Summer Roosts)		Completed	Completed	Completed	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Completed	Completed	Completed
Bats (Foraging/Commuting)		Completed	Completed	Completed	Optimal	Completed	Completed						
Birds (Breeding)		Completed	Completed	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Completed	Completed	Completed	Completed
Birds (Over Wintering)		Optimal	Optimal	Completed	Optimal	Optimal							
Dormice		Completed	Completed	Completed	Completed	Optimal	Optimal	Optimal	Optimal	Optimal	Completed	Completed	Completed
Great-crested Newts	Terrestrial	Completed	Completed	Optimal	Completed	Completed							
	Aquatic	Completed	Optimal	Optimal	Optimal	Optimal	Optimal	Completed	Completed	Completed	Completed	Completed	Completed
Invertebrates		Completed	Completed	Completed	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Completed	Completed	Completed
Natterjack Toads		Completed	Completed	Completed	Optimal	Optimal	Completed						
Otters		Optimal											
Reptiles		Completed	Completed	Optimal	Completed	Completed	Completed						
Water Voles		Completed	Completed	Optimal	Completed	Completed							
White-clawed Crayfish		Completed	Completed	Completed	Completed	Completed	Completed	Optimal	Optimal	Optimal	Completed	Completed	Completed
Habitats/Vegetation		Optimal											

Key:

- Optimal time to survey
- Survey can be completed

Exceptions for when a full species survey and assessment may not be required

The following represent situations where a full species survey and assessment may not be required:

- a. Following consultation by the applicant at the pre-application stage, CBC has stated in writing that no protected species surveys and assessments are required.
- b. If it is clear that no protected species are present, despite the guidance in the above table indicating that they are likely, the applicant should provide evidence with the planning application to demonstrate that such species are absent (e.g. this might be in the form of a brief report from a suitably qualified and experienced person, or a relevant local nature conservation organisation).
- c. If it is clear that the development proposal will not affect any protected species present, then only limited information needs to be submitted. This information should, however, (i) demonstrate that there will be no significant effect on any protected species present and (ii) include a statement acknowledging that the applicant is aware that it is a criminal offence to disturb or harm protected species should they subsequently be found or disturbed.

In some situations, it may be appropriate for an applicant to provide a protected species survey and report for only one or a few of the species shown in the Table above e.g. those that are likely to be affected by a particular activity. Applicants should make clear which species are included in the report and which are not because exceptions apply. In all cases exceptions should be agreed in writing but the Council Ecologist.

Part 2: Local Requirements for Designated Sites, Priority (BAP) Habitats, Habitats Listed in the Bedfordshire and Luton Biodiversity Action Plan and Geological Conservation

Central Bedfordshire Council (CBC) has a duty to consider the conservation of biodiversity when determining a planning application; this includes having regard to the safeguarding of designated sites and priority habitats. Where a proposed development is likely to affect such a site, habitat or geological feature, the applicant must submit an **Ecological/Geological Survey and Assessment**.

If the application is likely to affect any of the designated sites, priority habitats or biodiversity features listed in **Table 3** or geological features listed in **Table 4**, a survey and assessment for the relevant feature must be submitted with the application. Exceptions to when a survey and assessment may not be required are also explained in these tables. The **Survey** should be undertaken and prepared by competent persons with suitable qualifications and experience and must be carried out at an appropriate time and month of year, in suitable weather conditions and using nationally recognised survey guidelines/methods where available⁶. The survey may be informed by the results of a search for ecological or geological data from a local environmental records centre. The survey must be to an appropriate level of scope and detail and must:

- Record which habitats and features are present on and where appropriate around the site;
- Identify the extent/area/length present;
- Map their distribution on site and/or in the surrounding area shown on an appropriate scale plan.

The **Assessment** should identify and describe potential development impacts likely to harm designated sites, priority habitats, other listed biodiversity features or geological features (these should include both direct and indirect effects both during construction and afterwards). Where harm is likely, evidence must be submitted to show:

- How alternative designs or locations have been considered;
- How adverse effects will be avoided wherever possible;
- How unavoidable impacts will be mitigated or reduced;
- How impacts that cannot be avoided or mitigated will be compensated.

In addition, proposals are to be encouraged that will enhance, restore or add to designated sites priority habitats, other biodiversity features or geological features. The Assessment should give an indication of likely change in the area (hectares) of priority habitat on the site after development e.g. whether there will be a net loss or gain. An ecological/geological survey and assessment may form part of a wider Environmental Impact Assessment. Figure 1 shows a Biodiversity Checklist to guide applicants in considering biodiversity on a site.

⁶ Further information on appropriate survey methods can be found in *Guidance on Survey Methodology* published by the Chartered Institute of Ecology and Environmental Management.

Table 3: Local Requirements for Designated Sites and Priority Habitats and Habitats Listed in the Bedfordshire and Luton Biodiversity Action Plan: Criteria (Trigger List) for When a Survey and Assessment are Required

DESIGNATED SITES (as shown on the Council's Development Plan Proposals Map)
Internationally; Special Protection Area (SPA) Special Area of Conservation (SAC)
 Ramsar Site
Nationally; Site of Special Scientific Interest (SSSI) National Nature Reserve (NNR)
Regional and local; County Wildlife Sites (CWS) Local Nature Reserve (LNR)

PRIORITY HABITATS (Habitats of Principal Importance for Biodiversity under S.41 of the NERC

Act 2006) (BAP)

- Arable field margins
- Coastal and floodplain grazing marsh
- Hedgerows
- Lowland calcareous grassland
- Lowland dry acid grassland
- Lowland fens
- Lowland heathland
- Lowland meadows
- Lowland mixed deciduous woodland (both ancient and secondary)
- Open mosaic habitats on previously developed land
- Ponds
- Purple moor-grass and rush pastures
- Reedbeds
- Rivers
- Traditional orchards
- Wet woodland
- Wood-pasture and parkland

. LOCAL CHARACTER BAP HABITATS

(as identified by the Local Biodiversity Partnership - see paragraph 84 ODPM Circular 06/2005))

- Urban / Built Environment (e.g. parks, gardens, allotments, road verges and railway embankments)

Exceptions When a Full Survey and Assessment May Not Be Required

International and National Sites: A survey and assessment will not be required where the applicant is able to provide copies of pre-application correspondence with Natural England, where the latter confirms in writing that they are satisfied that the proposed development will not affect any statutory sites designated for their national or international importance.

Regional and Local Sites and Priority Habitats: A survey and assessment will not be required where the applicant is able to provide copies of pre-application correspondence with the Local Planning Authority's ecologist that they are satisfied that the proposed development will not affect any regional or local sites designated for their local nature conservation importance or any other priority habitats or listed features.

Table 4: Local requirements for designated geodiversity sites and features.
Criteria (Trigger List) for when a Survey and Assessment are Required

DESIGNATED SITES (as shown on the Council's Development Plan Proposals Map)
Nationally; Site of Special Scientific Interest (SSSI) National Nature Reserve (NNR)
Regional and local; Local Geological Sites (LGS) Local Nature Reserve (LNR)

Exposure of Extensive Sites

- Active quarries and pits
- Disused quarries and pits
- Coastal cliffs and foreshore
- River and stream sections
- Inland outcrops
- Exposure underground mines and tunnels
- Extensive buried interest
- Road, rail and canal cuttings

Integrity Site

- Static (fossil) geomorphological
- Active process geomorphological
- Caves
- Karst

Finite Site

- Finite mineral, fossil or other geological
- Mine dumps
- Finite underground mines and tunnels
- Finite buried interest

Exceptions When a Full Survey and Assessment May Not Be Required

International and National Sites: A survey and report will not be required where the applicant is able to provide copies of pre-application correspondence with Natural England, where the latter confirms in writing that they are satisfied that the proposed development will not affect any statutory sites designated for their national importance.

Regional and Local Sites: A survey and report will not be required where the applicant is able to provide copies of pre-application correspondence with appropriate local geological experts that they are satisfied that the proposed development will not affect any regional or local sites designated for their local nature conservation importance.

ANNEX B

Biodiversity Checklist.	Strategic sites inc. commercial	Site up to 10 homes	Plot - householder
Has an ecological appraisal been carried out and constraints and opportunities considered? Important to use suitably qualified ecological consultants. (refer to www.cieem.net for professional directory)	EIA	Phase 1 survey Protected species surveys	Desk Study Protected species surveys
Have Biodiversity Opportunity Networks been addressed?	Is land identified within a biodiversity opportunity network – if so what enhancement has been proposed?	Is a biodiversity opportunity network nearby and can it be connected to the development?	Is a biodiversity opportunity network nearby and can it be connected to the development?
Is there any Protected species interest on/near the site?	Woodlands, large trees, other habitats; Retention/mitigation Are licences required?	Large trees, badger setts, wetlands; Retention/mitigation Are licences required?	Large trees/bats in loft/old buildings; Retention/mitigation Are licences required?
Are there any Important Hedgerows on site? See Hedgerow Regulations 1997.	Permission to remove must be obtained from LPA	Permission to remove must be obtained from LPA	Permission to remove must be obtained from LPA
Are any habitats/species of principal importance identified?	Protection/enhancement	Protection/enhancement	Protection/enhancement
What ecological enhancements are proposed in accordance with the NPPF?	Habitat creation & wider species opportunities, use of native species	Species and habitat opportunities Planting native species	Species focus, bird/bat boxes, wildlife refugia
Production and implementation of a maintenance and management plan	Site wide landscape management, adoption	Management company	Householder care / management of an area
What future management/stakeholder involvement does the site have?	Wildlife Trust, GST, local conservation groups	Local conservation groups, individual.	Individual householder care / management of an area

The following outlines recommended procedures for Council staff to ensure biodiversity and geological conservation issues are addressed adequately in the validation of planning applications.

Application Received

Initial Checks (see note a)

Check 1: Has the applicant answered 'yes' to questions (a), (b) and (c) of the *Biodiversity and Geological Conservation question* on the standard application form?

Check 2: Has the applicant indicated with reference to Tables 1, 2 and 3 in the Local Requirements what, if any, *Protected & BAP Species, Designated Sites, Priority & BAP Habitats and Geological Features* could potentially be affected?

Check 3: Is CBC satisfied with the responses provided by the applicant? (see note b)

Check 4: Has the applicant submitted all necessary surveys and assessments specified in the Local Requirements (e.g. triggered by a 'yes' to any question in Tables 1, 2 or 3)? (see note c)

Check 5: Has the applicant claimed that exceptions apply – as explained in Tables 1, 2 or 3?

Check 6: Is CBC satisfied that exceptions do apply?

Initial Determination

Check 7: Do surveys and assessments submitted contain sufficient information to describe features present, to assess potential impacts and to propose adequate mitigation, compensation and enhancement? (see note e)

Final Determination The application can be determined taking account of information submitted and any other data required to evaluate the potential effects of the proposed development on biodiversity and geological conservation (see note f).

Note (a) It is intended that the initial checks should be a quick, coarse filter to 'strain out' the applications that obviously lack the key information on biodiversity/geological conservation required. Administrative staff are expected to carry out these initial checks.

Note (b) Where the applicant has answered 'No' to all parts of the biodiversity/geology question on the standard application form, CBC should, wherever possible, seek to confirm the validity of these responses by referring to its own '*environmental evidence base*' (e.g. on CBC's GIS or via the Bedfordshire and Luton Biodiversity Recording and Monitoring Centre)

Note (c) Where an applicant meets any of the criteria in Tables 1, 2 or 3, they must also provide relevant surveys and assessments for the application to be valid.

Note (d) It may be necessary to delay validation of an application where an applicant claims that exceptions apply (e.g. they do not need to submit a survey and assessment) while further checks are carried out to confirm that features specified in the requirements are not present or likely to be affected

Note (e) In consultation with consultees, CBC should confirm that the applicant's response to Tables 1, 2 and 3 are accurate.

As part of the initial determination of the application, CBC should also ensure that any surveys and assessments submitted contain all of the details required. Their content should be checked for accuracy and comprehensiveness.

These further checks should be undertaken by the planning case officer responsible for the application supported by CBC's ecologist/ecological advisor. It is unlikely that a planning case officer will be able to complete these further checks without consultation to professional ecological expertise e.g. CBC ecologist or statutory consultee.

Note (f) CBC should determine the application against national and local planning policies and following consultation with relevant stakeholders, and with reference to its own environmental evidence base.



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