



Suffolk and Norfolk  
Biodiversity Partnerships



Association of Local Government Ecologists



## Proceedings of Fourth Annual Seminar on Planning and Biodiversity 11 September 2008

*Organised by the Norfolk and Suffolk Biodiversity Partnerships in collaboration  
with the Association of Local Government Ecologists (ALGE)*

*Hosted by South Norfolk Council, Long Stratton*

### Summary

The 2008 seminar was a great success with more than 50 participants from a range of organisations including the majority of Norfolk and Suffolk Local Authorities, the Wildlife Trusts, Suffolk and Norfolk Biological Record Centres, RSPB, Natural England, Environment Agency and the Broads Authority. The aims of the seminar were to provide an overview of the latest national developments and best practice for incorporating biodiversity into planning; to explore the implications of the NERC Act 2006, the 1 App standard application form and the new validation process; to explore the scope for a Biodiversity Supplementary Planning Document and to foster exchange of experience between local authority planning departments.

Mike Oxford (ALGE) described the new ALGE Biodiversity Planning Toolkit and explained how to ensure statutory compliance is achieved. Louise Oliver explained the role of Natural England with regard to Protected Species and Development Control; Martin Horlock and Sam Neal demonstrated how important SBRC and NBRC are in informing the development control process; and Simone Bullion, Trudy Seagon and John Hiskett explained the role of Suffolk and Norfolk Wildlife Trusts in the planning process. Lessons learnt from the introduction of the 1 App process and the Validation Checklist to Suffolk local authorities were shared by Sue Hooton and Heather Webb described an innovative move by Mid-Bedfordshire Council to introduce a Green Roof tax.

Participants rated the seminar overall as 'good to excellent' with expectations being more than met. People expressed enthusiasm to repeat the seminar in 2009 and provided valuable ideas for inclusion.

## **Update and review of evolving best practice for biodiversity in development control and forward planning**

**Mike Oxford, Association of Local Government Ecologists (ALGE)**

ALGE are taking the lead on a web-based Biodiversity Planning toolkit. It is hoped that all Forward Planning and Development Control departments will use the kit when it's launched in early 2009. The kit will contain a range of fact sheets covering habitats, species and survey requirements amongst others.

The researcher will be able to click on, for example, a barn conversion, and the important features and species will appear. The ALGE planning portal currently allows a researcher to look at a typical house in a 3-D format – the new website will be similar. Click [here](#) to view this site.

Comprehensive information and features will be available on the site:

1. Species likely to be present
2. Photo images
3. Relevant legislation
4. Relevant policy
5. Valid applications
6. Survey requirements
7. Key tasks for lawful planning consent
8. Seasonal issues
9. Protection and enhancement
10. Case studies
11. Species licensing issues
12. Useful model conditions
13. Sources of advice
14. Biodiversity during construction

With regard to validation requirements, the Killian Pretty review was started in March 2008, a high level review of the planning application process. Click [here](#) for further information.

### ***Natural Environment and Rural Communities (NERC) Act 2006***

The Act specifies that all 900 public bodies must have regard for biodiversity. There was a judicial review of the Act in February 2008 following a planning application by Thurrock Thames Gateway Development Corporation to build Royal Mail distribution warehouses and car parks on a huge area of marshland. Buglife, the invertebrate conservation trust, forced the review and, following an unsympathetic result, has gone to appeal. The outcome is awaited.

### ***Annual Monitoring reports***

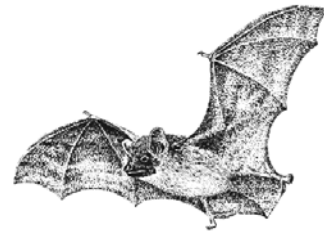
These reports relate to ODPM Core output indicator No 8 and require information on changes in priority habitats and species. The requirements were updated in February 2008 with the purpose of showing losses or additions to biodiversity habitat.

A **Community Infrastructure Levy** has been introduced, which will replace 'Planning Gain'. The Levy is placed upon landowners and developers with the aim of putting resources into the community, benefiting habitat networks or green infrastructure schemes. Click [here](#) to download the Community Infrastructure Levy leaflet (pdf).

**Green infrastructure ALGE conference – 12 November 2008 in Liverpool.** Click [here](#) to download information on the conference (pdf)

## **Development Control and Protected Species: The Role of Natural England** Louise Oliver, Natural England

The planning system has a key role to play in achieving biodiversity gains, but the issue of protected species vs. developers deadlines is a hard one to solve. Relevant wildlife legislation includes the Wildlife & Countryside Act 1981, the Protection of Badgers Act 1992, the Conservation (Natural habitats etc) regulations 1994 (Habitats regs) which relate to European protected species such as Great crested newt, bats and dormice, and the Natural Environment and Rural Communities (NERC) Act 2006.



PPS 9 and Legal Circular 06/05 give a clear steer as to which species are protected, what needs to be done, what information should be provided and by whom.

### **Natural England's present role**

- Respond to requests at pre-app stage
- Assess impact, provide advice when consulted by LPA
- Respond to enquires during application period
- Occasionally attend site or office meetings and provide further advice
- Post determination, issuing mitigation licences for European protected species, when appropriate.

### **Natural England's future role**

- Concentrating on opportunities / risks for the environment
- Focussing on opportunities for input into forward planning and front loading e.g. LDFs, green infrastructure plans, wind farms
- Commenting when NE is a statutory consultee e.g. in the case of SSSIs

### *Why the change in focus?*

Natural England now has a wider remit with more responsibilities, competing priorities and reduced staff resources.

Local authorities have statutory responsibilities, but 1APP and validation checklists should enable applicants and DC staff to identify when surveys are needed.

### *Managing the change*

- Production of detailed guidance for LPAs which will enable them to make decisions on common applications such as barn conversions
- Provide standing advice
- Appointment of account manager for each LPA
- Improvements to NE's website

### *Norfolk & Suffolk Government team contacts*

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## **Informing the Development Control process: the role of Biological Record Centres Martin Horlock, SBRC and Sam Neal, NBRC**

Record centres should be the first port of call for developments. They hold records of flora, fauna, habitats and sites in each county and provide a valuable resource for research and planning work.

The record centres are funded by Natural England, County Councils and district and borough councils. Charging for enquiries and services also brings in income. Service level agreements ensure that partners and relevant authorities can access the relevant biological information on County Wildlife Sites, protected and notable species records.

### ***More than just Newts!***



The record centres can provide a wide range of information. Examples include: Biodiversity Action Plan species, national and European Protected species, Red Data Book species, locally scarce species, locally common but nationally scarce species (such as hares, newts and stag beetles).

Information on protected sites includes designated sites (such as SSSIs), non-statutory sites (such as County Wildlife Sites and Roadside Nature Reserves), international and European protected sites and sites relating to geodiversity (RIGS). Information on habitats includes monitoring, ecological networks, green infrastructure and identifying priorities for action.

### *1APP validation checklist*

All necessary information on species, sites etc. is available at record centres.

### *Opportunity mapping*

The East of England Biodiversity forum has produced a regional map; each county is producing their own map. The aim is to identify appropriate sites for creation / restoration of habitats and to help with forward planning i.e. A11 route.

### *Ecological networks*

This term is used in planning guidance and means creating core areas and networks for key habitats by looking at existing use. The driver for these networks is strategic planning and the need to react to climate change.

## **Sam Neal**

### *South Norwich to Wymondham habitat mapping project*

The BAP process at a county level is meant to identify local action that will help to meet national (and some local) priorities and targets.

The aim of this project is to map each of Norfolk's 24 terrestrial and freshwater habitats and 11 marine; such as coastal and floodplain grazing marsh, reedbeds and lowland heathland. The difficulty is in finding the data, although lowland and mixed deciduous woodland have been completed with the help of Forestry Commission maps and Breckland mapping has been completed.

The opportunity mapping is needed because Norfolk is a potential growth point and there is high ecological potential across the county. The process will identify existing mapping and other sources of information. The platform is GIS using aerial photos, OS Mastermap and datasets from other organisations, such as RSPB.

The result will be a one-stop shop for habitats and species information for the county, providing an essential resource for consultants, planners and others.

## **The role of the Wildlife Trusts in the planning process**

### **Simone Bullion (SWT) and John Hiskett (NWT)**

#### *Wildlife Trusts and development control consultations*

- Respond to **all** consultations relating to County Wildlife Sites (CWS). Together with SSSIs, these are the key components of green infrastructure mapping.
- Respond to consultations relating to BAP habitats – these are often/usually SSSIs or CWS, but for some BAP habitats, such as Coastal grazing marsh, there are large areas outside of designated sites.
- Respond to major developments.
- Suffolk responds to all protected species issues; however, there is a limited response in Norfolk due to lack of time.

#### *Impact of development on Norfolk CWS 2000-2006*

There were 49 applications with potential to impact directly or indirectly on CWS. Of these, 8 applications gained consent which resulted in damage to a CWS, for example, loss of species-rich grassland.



#### Examples:

- Encroachment onto Suffolk Brecks grassland where retrospective planning permission was given.
- Lack of buffering habitats impacting on CWS through fly tipping, gardens right up to boundaries, the impact of night lighting on bats.
- Planning conditions not being enforced. For example, a small golf course was built on a CWS. A condition of permission was looking after part of site for wildlife, but it's become overgrown, and after 6 years of following up nothing has happened.

There's been a significant increase in the number of pre-application stage consultations. It's difficult to deal with these as they usually involve a phone call with no documentation. SWT will have to leave these to planning officers in the future. The bulk of enquiries are about bats, great crested newts and reptiles – slow worm, common lizard, grass snake and adder.

#### *PPS9 guidance impact*

Surveys must be carried out where there's a high likelihood of a protected species being present. 'Conditioning' a survey may lead to applications which cannot be implemented. This is not good practice; if protected species are found, mitigation must take place.

#### *Suffolk's environment – towards sustainable development 2006-07 summary*

234 planning applications affected known or potential bat roosts – 230 were approved. Barn conversions are 60% likely to affect bats. Pre-decision surveys only in 19 cases. 54 applications approved with 'conditions'.

Bat Conservation Trust reported that 2/3 of all reported criminal offences involving bats are due to building and development. Example: a barn conversion in Buckinghamshire took place when a bat roost was present. Consent was given and the developer was later convicted of a criminal offence on the basis of misleading advice from the LA.

The main issues are:

- Inadequate assessment
- Conditioning of survey *after* permission granted
- Failure to follow up planning conditions

#### **Solutions – actions by Local Authorities**

- Adhere to national and local biodiversity guidance (PPS9, NERC Act 2006)
- Employ ecologist or contract ecological expertise
- Monitor conditions and planning obligations
- Use Section 106 agreements

Wildlife Trusts can help by working with planning authorities, responding to LDFs, following up cases where damage has occurred and highlighting Good Practice.

#### **Wildlife Trust role in strategic planning**

Assist LAs in securing robust ecological evidence base

Will do desktop assessment of ecological records

Surveys of land bid sites - Suffolk has worked with every district on this

Appraisal of broad areas for development

Evaluation of ecological networks

Worked with Waveney DC 2008, SCDC next year on biodiversity audit, have helped MSDC extensively.

A great deal of ecological advice and help is available from organisations that are not paid for their services. It may be worth councils thinking about providing funding.

## **Tools for ensuring statutory compliance, a development control scenario Mike Oxford**

'Using the ALGE Biodiversity Validation Requirements Template and the Biodiversity Supplementary Planning Document Template'

Slides shown of various developments, audience asked if any protected species were likely to be present, and if so, which ones.

### **Relevant legislation**

- **PPS9**. Click [here](#) to visit Communities and Local Government website:
- **1994 Habitat Regulations updated 2007**. Click [here](#) to visit Natural England website
- **PAS 2010 – Planning to halt the loss of biodiversity**. Click [here](#) for BSI website
- **Supplementary Planning Documents for biodiversity, where available**
- **Circular 06/2005**. Click [here](#) to visit the Communities and Local Government website
- **Natural Environment and Rural Communities (NERC) Act 2006**. Click [here](#) to visit Defra website. (The Wildlife Trusts have produced a clear simple guide to the obligations of public bodies under this Act. Click [here](#) to visit the WT website where the leaflet can be freely downloaded. Hard copies are available from Scott Perkin or Gen Broad.)

A biodiversity / geodiversity question was introduced into the UK planning application form for the first time in April 08 on 1App. This will only work if the question is added to the validation process; ALGE is working on the validation checklist.

### **Exercise**

Groups were asked to evaluate an application to convert an old water mill to office and residential use. The ALGE template was used to assess the application at different times of year.

ALGE is working on a Supplementary Planning Document template which can be customised by counties.

## **Case study: Using the ALGE Validation Checklist in Suffolk Sue Hooton, Suffolk County Council**

Suffolk County Council (SCC) was involved in ALGE's pilot study in 2006. The Suffolk Biodiversity Partnership Planning group included Natural England, Suffolk Wildlife Trust (SWT) and Forest Heath District Council. A checklist for bio- and geodiversity was drawn up. All SCC applications are checked against the validation checklist.



Photo: Darren Tansley

### **Timescale**

Sep 07 – district and borough councils advised that 1App on the way

Oct 07 – LA biodiversity roadshows by SBRC, SWT, and SCC

Nov 07 – industry seminar at Mid-Suffolk DC.

Spring 08 – 1App consultation

There's now full coverage in Suffolk with 1App checklists. Support is provided by Suffolk Biodiversity Partnership; SBRC data, planning group support for districts, Wildlife Trust and Natural England consultation and a biodiversity SPD is being developed. Forest Heath Council is the only district in Suffolk to employ an ecologist; others may need ecological expertise.

### **Case Study: Bedfordshire's Green Infrastructure Roof Tax** **Heather Webb, Bedfordshire and Luton Biodiversity Partnership**

Mid-Bedfordshire Council has a Green Infrastructure with five themes, one of which biodiversity. Mapping is to parish level in some cases.



The Council has made a charge on developments to support the new Green Infrastructure; this applies to all dwellings and all applications. The charge is £1529 on average for each dwelling, of which £770.54 is for biodiversity.

The development industry seems prepared to pay the charge; this view was supported by Mike Oxford.

The funds will go into a central pot which will be managed by a board and overseen by a dedicated group.

## List of Participants

Participant		Position	Organisation	Email address
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