

Wildlife records submitted by members of the public in response to a planning application

Leicestershire and Rutland Environmental Records Centre, September 2015

Local Planning Authorities (LPAs) and Leicestershire and Rutland Environmental Records Centre (LRERC) frequently receive reports from the public of wildlife sightings on land that is subject to a planning application. The purpose of this note is to:

- give guidance to planners, their advisors, applicants, ecological consultants and wildlife recorders on how to deal with these reports in the planning process;
- provide advice to members of the public on how to ensure their records are a 'material consideration' in the planning process;
- provide information on the main species and habitats that are a 'material consideration'.

Validation of records received from members of the public

Records sent in by members of the public who are not acknowledged naturalists must be validated before the records can be used by planners and their advisors. An 'acknowledged naturalist' is one of the following:

- a County Recorder
- an ecologist/naturalist employed in a relevant field by an independent Local Authority, Wildlife Trust, Ecological Consultancy, University, Environment Agency, Natural England, etc.
- an ecologist/naturalist who is a full member of CIEEM³ (the Chartered Institute of Ecology and Environmental Management)
- a recorder who regularly submits validated natural history records of this group of species to LRERC or another similar organisation.

LRERC give advice on wildlife matters to all LPAs in Leicestershire and Rutland EXCEPT Charnwood and Leicester City. LRERC either validate the record themselves or ask a local expert to help. Factors used in validation include how common it is in the County or the UK, the time of year it was seen, and the habitat in which it was seen.

To validate a wildlife sighting, LRERC need to know 'who, where and when'. The approximate date and place it was seen, and who saw it, needs to be submitted. LRERC will need a clear photograph (e.g. of the great crested newt) or specimen/sample (e.g. of a plant or invertebrate, or some bat droppings). It is helpful to include something in the photograph that gives an idea of scale, such as a ruler or coin. Alternatively, the person submitting the record can provide evidence of validation.

The reason for validation is to ensure that identification of species is correct, and to eliminate spurious reports of species seen on contentious application sites. Published guidance¹ on material planning considerations says: 'Generally, greater weight is attached to issues raised which are supported by evidence rather than solely by assertion.'

Site visits to check habitats and locations of records

Sometimes, LRERC will recommend that the applicants' ecologists re-visit the site or adjacent land to assess it further. Permission to visit land outside the planning application boundary will be needed from the owner; the LPA, LRERC or ecological consultants have no right of access. If the landowner withholds permission, the record may not be validated.

If a person submits a record from their own land (for example, a great crested newt in a garden pond) that needs to be checked by an expert, the record will not be considered valid unless the applicant's ecologist is allowed to survey the land; this can be under supervision if required. In this context, 'reasonable' means within a short time period, e.g. a fortnight, and at a time of day that is suitable for survey – e.g. a report of bats emerging from a property can only be checked out at dusk.

Ecology surveys

Planning applications that could have an impact on wildlife sites, species and habitats in Leicestershire and Rutland should be accompanied by an independent ecology report, the scope of which should follow advice published by LRERC and the LPAs – see references² below. Full reports are not always needed; e.g. it may only be necessary to provide a bat and great crested newt report. Ecology reports are read by LRERC on behalf of the LPAs to assess competence, professionalism and scope.

Surveys must be done by experts, who are usually members of CIEEM³. Some surveys should only be done by ecologists who have a Protected Species survey licence from Natural England⁴.

LRERC do not do these surveys themselves; the applicant commissions them. LRERC cannot make site visits unless they need to assess important habitats or they feel it is needed for their understanding of the site.

Material planning considerations

LPAs must take impacts on wildlife into account when making planning decisions - biodiversity is a 'material consideration'¹. They can refuse applications that cause significant harm to biodiversity, or can set planning conditions that mitigate or compensate for the harm - e.g. by creating new habitats.

The weight of the material consideration depends on the significance of the affected habitat or species in a national or county-wide context, and the severity of the impact. **The presence of a species protected by law⁵ is always a material consideration, but does not mean that a planning application is automatically refused.** National guidance on this is in ODPM Circular 06/2005⁶. Protected species include Great Crested Newts, Otters, Water Voles, White-clawed Crayfish, Barn Owls, all species of Bats, and Badgers.

The presence of a species that is a conservation priority in the UK's Biodiversity Action Plan (UKBAP⁵) or on the RSPB's 'Birds of Conservation Concern'⁸ list is not material unless it is a significant population in the context of the UK; a local Biodiversity Action Plan (LBAP⁷) species carries less weight. Impacts on nationally important Sites of Special Scientific Interest (SSSIs⁸) and UKBAP Priority Habitat⁹ carry more weight than impacts on locally important sites and habitats^{7&10}.

If mitigation to reduce the severity of the impact can be agreed, the weight of the material consideration also reduces.

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References and further information

1. Planning Aid England - Material Planning Considerations <http://www.rtpi.org.uk/media/686895/Material-Planning-Considerations.pdf>
2. Local Validation requirements http://www.leics.gov.uk/local_validation_requirements.pdf
LRERC guidance notes (available from LRERC: planningecology@leics.gov.uk)
 - Bat Survey Protocol (Nov 2014)
 - Bats and Lighting (Nov 2014)
 - Bird Surveys (Nov 2014)
 - Great Crested Newt Survey Protocol (Nov 2014)
 - Habitat Survey and Local Wildlife Site assessment protocol (Nov 2014)
 - Surveys and mitigation for invertebrates (Nov 2014)
3. CIEEM Members' Directory <http://www.cieem.net/members-directory>
4. Natural England – Wildlife licences <https://www.gov.uk/guidance/wildlife-licences>
5. Joint Nature Conservation Committee's Species Conservation Designations (Protected and UKBAP, etc.) <http://jncc.defra.gov.uk/page-5331>
6. Government Circular: Biodiversity And Geological Conservation – Statutory Obligations And Their Impact Within The Planning System <https://www.gov.uk/government/publications/biodiversity-and-geological-conservation-circular-06-2005>
7. Leicester, Leicestershire and Rutland Biodiversity Action Plan <http://www.lrwt.org.uk/what-we-do/biodiversity-action-plan/>
8. Birds of Conservation Concern 3 (RSPB 2009) http://www.rspb.org.uk/Images/BoCC_tcm9-217852.pdf
9. Sites of Special Scientific Interest <https://www.gov.uk/guidance/protected-or-designated-areas> and <https://designatedsites.naturalengland.org.uk/>
10. UK Biodiversity Action Plan: priority habitats <http://jncc.defra.gov.uk/page-5706>
11. Guidelines for the selection of Local Wildlife Sites in Leicester, Leicestershire and Rutland (LCC, 2011) http://www.leics.gov.uk/lws_guidelines.pdf