



# **When is an Ecological Assessment Required?**

**February 2014**

# Shropshire Council Natural Environment Development Guidance Note 1

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## 1. Introduction

- 1.1 This document is the first in a series explaining the approach and procedures to be followed in order to ensure sufficient survey, protection, mitigation and enhancement where biodiversity may be affected by proposed development.
- 1.2 In particular this document aims to give clear and concise advice to developers and members of the public on when a planning application should be accompanied by an ecological assessment.
- 1.3 Guidance note 1 should be read in conjunction with other guidance notes in the series. All the available titles are given in Appendix 1 and can be found at [www.Shropshire.gov.uk](http://www.Shropshire.gov.uk)

## 2. Why carry out an Ecological Assessment?

- 2.1 The local planning authority (LPA) has a statutory duty to consider the conservation, protection and enhancement of biodiversity when determining a planning application. The presence of European Protected Species, UK Protected Species, internationally, nationally or locally designated sites and priority habitats and species on or adjacent to a development site are material considerations within the planning process. The LPA must also consider the development in relation to its positive or negative impacts on environmental networks and priority landscape-scale areas for biodiversity.
- 2.2 In order for the potential impacts of a development to be understood it is necessary first to survey the proposed development site. This initial survey should identify any nature conservation features (listed in 2.1 above), which may be affected by the development, and should identify any further surveys which need to be undertaken. The initial survey and any additional detailed surveys form the ecological assessment.
- 2.3 The ecological assessment should be carried out at the very beginning of the process, prior to site design, so that the presence of sensitive species and habitats can be taken into account during the site design stage, allowing avoidance measures or the need for mitigation to be determined. If residual biodiversity loss will be inevitable, details of proposed biodiversity offsetting/compensation will be required. If important biodiversity features or sites are present (e.g. Ramsar, SAC, SSSI or European Protected Species), alternative locations for the development should be sought. If no suitable alternatives can be found, evidence should be provided of the alternative sites considered and the imperative reasons behind the final site selection.
- 2.4 **If an ecological assessment is necessary, it must be submitted with the planning application. It will allow the Local Planning Authority to assess the biodiversity or geological impacts of the proposed development before making a planning decision. The ecological assessment must be clear enough to allow the Local Planning Authority to understand the particular avoidance, mitigation and compensation measures proposed**

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**as part of the development scheme. It should also describe the proposed biodiversity enhancements.**

### **3. Legislation and Guidance**

- 3.1 A range of EU and UK legislation offers protection to biodiversity and geodiversity and also gives structure to the way in which Local Planning Authorities should have regard to biodiversity during the planning process
- 3.2 The following EU Directives are relevant to protected species and habitats and also to designated sites:
- The EC Habitats Directive (92/43/EEC)
  - The EC Birds Directive (79/409/EEC)
  - EU Water Framework Directive (2000/60/EC)
- 3.3 The following UK legislation is relevant to protected species and habitats and to nationally designated sites:
- The Conservation of Species and Habitats Regulations 2010 (as amended)
  - The Wildlife and Countryside Act 1981 (as amended)
  - The Protection of Badgers Act 1992
  - The Natural Environment and Rural Communities Act 2006
  - The Countryside and Rights of Way Act 2000
- 3.4 The following UK government guidance is relevant to biodiversity
- National Planning Policy Framework 2012
  - ODPM Government Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impacts within the Planning System
- 3.5 The following local information is also a material consideration:
- Locally designated sites e.g. County Wildlife Sites and Local Geological Sites (previously called Regionally Important Geological Sites, RIGS),
  - Priority species and habitats identified under Section 41 of the NERC Act 2006 (also known as UKBAP species and habitats) and those identified as important by the Shropshire Biodiversity Partnership in the Shropshire Biodiversity Action Plan.

### **4. What is an ‘Ecological Assessment?’**

- 4.1 An ecological assessment is made up of a number of stages:
- Extended Phase 1 habitat survey, habitat map and target notes on any significant biodiversity or geological features +
  - A desk study of historical species records and local, regional or national wildlife designated sites (usually up to 1 to 2 km from the site boundary)+
  - Supplementary detailed surveys (phase 2 habitat surveys, protected or priority species or geological features as appropriate to the site) +

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- Evaluation of the importance of biodiversity or geological features present at a local, regional, national, international level +
- Analysis of the direct and indirect impacts of the development (during construction, working area, additional infrastructure and post construction) +
- Proposed avoidance, mitigation or compensation measures, including method statements where appropriate +
- Legal implications such as the need for European Protected Species Mitigation Licences or other licences (e.g. whiteclawed crayfish, badgers) +
- Proposed biodiversity or geodiversity enhancement measures.

The Ecological Assessment should be carried out by a qualified and experienced ecologist with the relevant protected species licenses. The Ecological Assessment should be submitted to the Local Planning Authority prior to a planning decision being made.

### 5. Extended Phase 1 Habitat Survey

- 5.1 An extended phase 1 habitat survey is carried out using a standardised technique to identify and map all the habitat types present on a site and to identify, through target notes, key features and those with the potential to support protected or priority species.
- 5.2 An extended phase 1 habitat survey can be carried out at any time of year, although spring and summer are optimum, and should be achievable in a single visit (depending on the size of the area to be surveyed).
- 5.3 The outcome of an extended phase 1 habitat survey should be a habitat map of the site with target notes on important features and recommendations from the surveyor on what detailed surveys for protected or priority species, habitats and geological features are required.

### 6. Detailed surveys for protected or priority species, habitats or geological features

- 6.1 Species surveys are aimed at identifying the presence of a protected or priority species on a site and to provide evidence of:
- the population size,
  - how the species uses the site,
  - what time of year it is present and
  - how the proposed development will impact on the protected species.
- 6.2 Phase 2 habitat surveys may be required when a site is botanically rich or complex. These must be undertaken by a botanical specialist, and may require additional visits at a different time of year or fine scale mapping of the habitats on the site.
- 6.3 The level of detail, timing and methods used for surveys will differ depending upon the target species or habitat. For example, bats, Great Crested Newts, Water Voles, Otters, birds, Owls, Badgers, woodland and meadows all have

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different ecology and so also require different survey techniques. For many species and habitats there is formal guidance on how, when and by whom a survey may be carried out. **The ecologist employed by the applicant or their agent should always work to the relevant recognised survey and mitigation guidelines and should give an evidence based justification for any deviation from these guidelines.**

- 6.4 For some protected species a survey can only be carried out by an appropriately licensed ecologist. Natural England issues European Protected Species survey licences for species such as bats, Great Crested Newts, Dormice and Otters. Licences may also be needed for some forms of survey work for species protected under the Wildlife and Countryside Act 1981. Surveys of these species by unlicensed ecologists are unlikely to be acceptable and could be illegal. Applicants or their agents should always check that the ecologist employed has the relevant protected species survey licences by asking for their licence number, which can be checked by contacting Natural England (0845 601 4523).
- 6.5 Even surveys for species which do not require a survey licence from Natural England should only be carried out by appropriately trained and experienced ecologists. Applicants or their agents are advised to choose an experienced consultant ecologist, seek references and seek a number of quotes. Further advice may be sought from Shropshire Council Natural Environment Team.

## 7. Pre-application Advice

- 7.1 Shropshire Council encourages potential applicants to discuss their development proposals in advance of submitting an application. This will help to ensure that all biodiversity and geodiversity related factors are considered and that the appropriate level and quality of supporting information is submitted with the application, avoiding potentially long delays.
- 7.2 Shropshire Council has recently formalised the procedure for requesting advice, including introducing a range of charges with effect from 1<sup>st</sup> April 2011. Potential applicants are advised to consult the 'pre-application advice' page on the Council's website via the following link:  
<http://www.shropshire.gov.uk/planning.nsf/open/9375E723F5A38FAD80257583004FE0D5>
- 7.3 When formal pre-application advice is sought using the established mechanism, Shropshire Council's ecologists will provide site specific advice on the need for an ecological assessment and the potential need for further detailed surveys.

## 8. Can Protected Species Surveys be a Condition of Planning Permission?

- 8.1 Shropshire Council follows UK Government Guidance within the ODPM Government Circular 06/2005: Biodiversity and Geological Conservation –

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Statutory Obligations and their Impact within the Planning System which states that:

'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.'

- 8.2 Shropshire Council, therefore, does not condition protected species surveys and would not consider doing so for any scheduled development works. In the case of emergency works Shropshire Council Natural Environment Team should be contacted for advice before a planning application is made.

### **9. When does a Development Require an Ecological Assessment?**

- 9.1 Shropshire Council uses a 'trigger list' (see Table 1) to indicate when an ecological assessment is required to accompany a planning application.
- 9.2 The intention is for the 'trigger list' to be simple to use (for applicants, developers, householders, planning officers and validation team staff), it identifies the types and locations of development with the most risk of affecting biodiversity and geodiversity, and only seeks an ecological assessment when there is a reasonable risk of a protected species or habitat being present on the site.
- 9.3 No simple 'trigger list' is ever going to be perfect and there may be some cases where Shropshire Council Ecologists recommend that an ecological assessment or detailed species or habitat surveys be undertaken even though the planning application may not seem to meet any of the triggers. Shropshire Council Ecologists have access to historical protected species data for the county and also to habitat data, either of which may indicate the need for further consideration of species and habitats, including priority or threatened species groups not listed in Table 1 below e.g. invertebrates.
- 9.4 The best way for applicants and their agents to be sure that the required ecological information is submitted with the planning application, and to avoid the potential for long delays, is to seek formal Pre-application Advice from Shropshire Council using the process described in section 7 above.
- 9.5 We have tried to keep the 'trigger list' as simple as possible, but biodiversity is a complex subject. If an applicant or their agent is unsure as to whether a proposed development meets one or more of the triggers, then clarification can be sought from Shropshire Council's Natural Environment Team. For a development specific, detailed response, the planning department should be

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contacted for written formal Pre-application Advice using the process outlined in section 7 above.



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**Table 1: Shropshire requirements for Protected Species: Criteria and indicative thresholds ('trigger list') for when an ecological assessment or detailed surveys are required**

Proposals for Development That Will Trigger an Ecological assessment or Protected Species Survey	Species and biodiversity/geodiversity features most likely To Be Affected And For Which A Survey Will Be Required											
	Extended Phase 1 Habitat Survey	Bats	Barn Owl	Breeding Birds	Great Crested Newt	Otter	Dormouse	White Clawed Crayfish	Water Vole	Badger	Reptiles	Plants, or Phase 2 habitat survey
<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"> <li>▪ 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; *1</li> <li>▪ all buildings with weather boarding and/or hanging tiles that are within 200m of woodland and/or water; *1</li> <li>▪ pre-1960 detached buildings and structures within 200m of woodland and/or water; *1</li> <li>▪ pre-1914 buildings within 400m of woodland and/or water *1</li> <li>▪ pre-1914 buildings with gable ends or slate roofs, regardless of location; *1</li> <li>▪ all tunnels, mines, kilns, ice-houses, adits, military fortifications, air raid shelters, cellars and similar underground ducts, structures and caves; *1</li> <li>▪ all bridge structures, aqueducts and viaducts (especially over water and wet ground).*1</li> </ul>		•	•	•								
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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. *1		•	•	•		•						
Proposals affecting woodland, or field hedgerows and/or lines of trees with obvious connectivity to woodland or water bodies	•	•		•			•			•	•	

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Proposed tree work (felling or lopping) and/or development affecting: <ul style="list-style-type: none"> <li>▪ old and veteran trees that are older than 100 years;</li> <li>▪ trees with obvious holes, cracks or cavities,</li> <li>▪ trees with a girth greater than 1m at chest height;</li> </ul>			•	•								
Proposals affecting gravel pits or quarries and natural cliff faces and rock outcrops with crevices, caves or swallets.			•	•							•	•
Major proposals within 500m of a pond or Minor proposals within 250m of pond  (Note: A major proposal is one that is more than 10 dwellings <u>or</u> more than 0.5 hectare or for non-residential development is more than 1000m <sup>2</sup> floor area or more than 1 hectare)	• (*2)				•							
Proposals affecting or within 30m of rivers, streams, canals, lakes, or other aquatic habitats.	• (*3)			•		•		•	•			•
Proposals affecting 'derelict' land (brownfield sites), allotments and railway land.	•			•						•	•	•
Proposals affecting previously undeveloped (Greenfield) land with the exception of domestic gardens and in some cases intensively farmed arable land (see proposals affecting trees and hedges above)	•			•						•	•	•
Proposed development affecting any buildings, structures, feature or locations where <u>protected or priority species or habitats are known to be present</u> (type of survey required decided on a case by case basis)*4.	•	•	•	•	•	•	•	•	•	•	•	•
Proposed development on, adjacent to or otherwise affecting internationally, nationally or locally designated biodiversity or geodiversity sites (type of survey required decided on a case by case basis). *5	•	•	•	•	•	•	•	•	•	•	•	•
Proposals affecting quarries, pits, cliffs, river sections, outcrops, mines, caves, tunnels, cuttings, and mine dumps.	Geological survey and assessment											
On the request of Natural England, Environment Agency, Forestry Commission, Shropshire Wildlife Trust or Shropshire Council. 6*	•	•	•	•	•	•	•	•	•	•	•	•

\*1 In these situations protected species surveys will be sought by Shropshire Council in support of Listed Building Consent applications as well as planning applications

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\*2 An extended phase 1 habitat survey will be required where the pond itself will be affected or lost due to the proposed development

\*3 An extended phase 1 habitat survey will be required where the river or aquatic habitat will be directly affected by the development (such as proposed culverting or diverting of water courses) or where there are likely to be significant indirect effects (such as proposed outflows into rivers)

\*4 Confirmed as present (or to have been present in the past) by either a data search from the Shropshire Ecological Data Network or as notified to the developer by the local planning authority, and/or by Natural England, the Environment Agency or other nature conservation organisation or local expert.

\*5 These include SACs, Ramsar sites, SSSIs, Local Nature Reserves, county Wildlife Sites and Local Geological Sites (Regionally Important Geological Sites). See [www.magic.gov](http://www.magic.gov) for international and national sites, Shropshire Wildlife Trust for Wildlife Sites and Natural Environment Team, Shropshire Council for Local Geological Sites

\*6 In order to simplify Table 1, a number of less commonly encountered species and habitats have been omitted, but on particular sites these may be a material consideration. These may be identified during the extended phase 1 survey or through consultee responses and will have to be considered in the ecological assessment or before a planning decision is made.

### 10. When is an Ecological Assessment Not Required?

- 10.1 In some cases where there has been formal consultation by the applicant at the pre-application stage, Shropshire Council may state in writing that no ecological assessment or protected species surveys are required. This is dependent on an appropriate level of detail being provided by the applicant at the pre-application advice stage.
- 10.2 If it is clear that no biodiversity or geodiversity features 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 or features are absent (e.g. this might be in the form of a letter or brief report from a suitably qualified and experienced person, or a relevant local nature conservation organisation, or a survey in line with the relevant species guidance or photographs).
- 10.3 If it is clear that the development proposal will not affect any biodiversity or geodiversity features present, then only limited information needs to be submitted. This information should, however, (i) demonstrate that there will be no significant effect on such features and (ii) include a statement acknowledging that the applicant is aware that it is a criminal offence to disturb or destroy protected species or protected sites should they subsequently be found.
- 10.4 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 or habitats shown in Table 1 above e.g. those that are likely to be affected by a particular activity. Applicants should seek pre-application advice from Shropshire Council and make clear which species are included in the report and which are not because exceptions apply.
- 10.5 Shropshire Council will seek biodiversity enhancements of the proposed development site, where appropriate, through planning conditions even in situations where no ecological assessment or protected species surveys have been deemed necessary, as required by NPPF (paragraphs 109, 118, 157).

### 11. What to do next

- 11.1 Once it is clear that a development meets one or more of the triggers in Table 1 above it is important to engage an ecological consultant to undertake the work prior to the site design, and certainly before submitting the planning application. Early engagement of an ecologist can help to minimise delays.
- 11.2 The ecological assessment, including any necessary protected species surveys, will need to be submitted with the planning application. Shropshire Council cannot make ecological survey work a condition of planning permission as discussed in section 8 above and Shropshire Council cannot legally make a planning decision without the necessary survey work having been completed and assessed.

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- 11.3 As some surveys can only be carried out at certain times of year, identifying the need for surveys early on in the development process should help to avoid delays. Timing restrictions for protected species surveys are discussed further in *Shropshire Council Natural Environment Development Guidance Note 2: Survey and Mitigation Timing*.
- 11.4 Shropshire Council commits to only requiring an ecological assessment and detailed surveys when it is reasonably likely that an important nature conservation or geological feature may be present and may be impacted by the proposed development.
- 11.5 Where an ecological assessment identifies the need for mitigation, European Protected Species mitigation licences, precautionary methods of working, mitigation or compensation measures, then proposals for these must be provided along with the planning application submission. Further guidance on mitigation and compensation is provided in *Shropshire Council Natural Environment Development Guidance Note 5: Avoidance, Mitigation, Compensation and Enhancements for Protected Species and Habitats*.
- 11.6 A list of all *Shropshire Council Natural Environment Development Guidance Notes* is provided in Appendix 1 which will help applicants and their agents to identify other guidance notes which will be of use depending on the details of the proposed development.

### Appendix 1: Shropshire Council Natural Environment Development Guidance Notes

- Guidance Note 1: When is an Ecological Assessment Required?
- Guidance Note 2: Ecological Survey Timing
- Guidance Note 3: Ecological Reports – Format, Content, Quality and When to Consult the Shropshire Ecological Data Network
- Guidance Note 4: Habitat Regulation Assessment
- Guidance Note 5: Ecological Mitigation, Compensation and Enhancements
- Guidance Note 6: European Protected Species: The 3 Tests
- Guidance Note 7: Trees and Development
- Guidance Note 8: Landscape and Visual Impact Assessments
- Guidance Note 9: Ecology and non-planning consents (Listed Building Consent, Permitted Development Rights etc).
- Guidance Note 10: Ecology and Renewable Energy
- Guidance Note 11: Ecology and Building Control
- Guidance Note 12: Environmental Networks in Shropshire
- Guidance Note 13: Development within the River Clun Catchment

## Appendix 2: Useful Contacts

### Shropshire Council

Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Tel: 0345 678 9000 (Customer Service)

Email: [Customer.service@Shropshire.gov.uk](mailto:Customer.service@Shropshire.gov.uk)

Relevant webpages at [www.Shropshire.gov.uk/planning.nsf](http://www.Shropshire.gov.uk/planning.nsf)

#### Natural Environment Team (Trees and Ecology)

Tel: (01743) 252584 / 252564

Email: [Biodiversity.Planning@Shropshire.gov.uk](mailto:Biodiversity.Planning@Shropshire.gov.uk) (ecology)

Email: [Natural.environment@Shropshire.gov.uk](mailto:Natural.environment@Shropshire.gov.uk) (trees)

### Institute of Environmental Managers (IEEM)

Website: <http://www.ieem.net/>

### Natural England (Telford Office)

Natural England, Parkside Court, Hall Park Way, Telford, TF3 4LR

Tel: 0300 060 0676

### Natural England (Wildlife Survey and Development Mitigation Licensing) Bristol

Wildlife Licensing Unit, Natural England, First Floor, Temple Quay House, 2 The Square, Bristol, BS1 6EB

Tel: 0845 601 4523 (local rate)