

Land between Tamworth Road and Fivefield Road, Keresley, Coventry

Appendix 6.3: Planning Policy and Legislation

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1. Planning Policy Context

National Planning Policy

- 1.1 Chapter 15 of the National Planning Policy Framework (NPPF, 2018) (Department for Communities and Local Government (DCLG), July 2018) advocates a presumption by Local Planning Authorities (LPAs) in favour of sustainable development that enhances the natural environment by avoiding, adequately mitigating or compensating for 'significant harm to biodiversity', and which delivers net gains for biodiversity (paragraphs 170d, 174b and 175).
- 1.2 The national planning practice guidance (NPPG) provides further guidance in relation to biodiversity and ecosystems (DCLG, 2016). This includes information on statutory requirements relating to biodiversity, guidance on gathering and valuing ecology and how to avoid, mitigate and, if necessary, compensate for ecology when preparing a planning application to ensure that no significant effects arise.
- 1.3 The Office of the Deputy Prime Minister (ODPM) Circular 06/2005 'Biodiversity and Geological Conservation' contains further guidance in respect of biodiversity conservation and its impact within the planning system (ODPM, 2005). This document covers areas including internationally and nationally designated sites, habitats and species outside of designated sites, and protected species. Circular 06/2005 therefore affords indirect policy protection to ecological features of value (statutory and non-statutory designated sites, certain habitats and protected/notable species).
- 1.4 In addition to the requirements of the NPPF, Circular 06/2005 and NPPG, Natural England, as the statutory nature conservation organisation for England, provides specific 'Standing Advice' regarding various protected species as 'material considerations'. This advice contains details on potentially significant impacts and recommended survey effort to support planning applications.
- 1.5 In relation to Environmental Impact Assessment (EIA) and assessment of significant effects, the CIEEM guidance (2018) highlights that: "*A significant effect does not necessarily equate to an effect so severe that consent for the project should be refused planning permission. For example, many projects with significant negative ecological effects have been lawfully permitted following EIA procedures*".

Local Planning Policy

- 1.6 Local planning policy is given in the Coventry City Council Local Plan, formally adopted on the 06 December 2017. Policies relevant to the protecting biodiversity are Policy GE1: Green



Infrastructure; and Policy GE3: Biodiversity, Geological, Landscape and Archaeological Conservation.

- 1.7 Policy GE1: Green Infrastructure includes at point 2 a section that states “*New development proposals should make provision for green infrastructure to ensure that such development is integrated into the landscape and contributes to improvements in connectivity and public access, biodiversity, landscape conservation, design, archaeology and recreation.*”; and
- 1.8 Policy GE3: Biodiversity, Geological, Landscape and Archaeological Conservation sets out the general protection of habitats and species by stating “*Sites of Special Scientific Interest (SSSIs), Local Nature Reserves (LNRs), Ancient Woodlands, Local Wildlife and Geological Sites will be protected and enhanced. Proposals for development on other sites, having biodiversity or geological conservation value, will be permitted provided that they protect, enhance and/or restore habitat biodiversity. Development proposals will be expected to ensure that they:*
- a) *lead to a net gain of biodiversity, where appropriate, by means of an approved ecological assessment of existing site features and development impacts;*
 - b) *protect or enhance biodiversity assets and secure their long term management and maintenance;*
 - c) *avoid negative impacts on existing biodiversity; and*
 - d) *preserve species which are legally protected, in decline, are rare within Coventry or which are covered by national, regional or local Biodiversity Action Plans.”*

Biodiversity Policy

- 1.9 The Post-2010 Biodiversity Framework (Joint Nature Conservation Committee (JNCC; 2012) and Biodiversity 2020 (Department for the Environment, Food and Rural Affairs (DEFRA; 2011) were implemented in 2012 and 2011 respectively and are the biodiversity policies for the UK and England respectively, superseding the UK Biodiversity Action Plan (BAP).
- 1.10 These policies aim to deliver a more strategic, holistic landscape-scale approach to nature conservation, wildlife, and people's health and wellbeing from accessing nature, places, and climate change resilience. The policies make provision for large, national strategic Nature Improvement Areas within which nature conservation efforts can be co-ordinated and targeted, and monitor the enhancement of biodiversity through a series of monitored Priority Species and Priority Habitats (“biodiversity indicators”).
- 1.11 These biodiversity indicators are based upon the list of Habitats and Species of Principal Importance for Nature Conservation required by Section 41 of the Natural Environment & Rural Communities Act 2006.



2. Legislation

- 2.1 The Conservation of Habitats and Species Regulations 2017 enacts, within the UK, EU Council Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Fauna and Flora (as amended) and Directive 2009/147/EC on the Conservation of Wild Birds. These Regulations provide for the designation and protection of statutory designated wildlife sites of European value ('European sites'), and the protection of a number of rare and vulnerable species in a European context ('European Protected Species'). European sites, including Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar Sites are recommended for designation in the UK by the Joint Nature Conservation Committee (JNCC).
- 2.2 The Wildlife and Countryside Act 1981 (as amended, principally by the Countryside and Rights of Way Act 2000 and the Natural Environment and Rural Communities (NERC) Act 2006) enshrines the protection of statutory designated wildlife sites of national importance (Sites of Special Scientific Interest; SSSIs) in England and Wales. The Act also sets out varying degrees of protection and offences with regard to native species and their habitats that are rare and vulnerable in a national context. The Act also provides for the control, management and offences in respect of invasive non-native species. Sites of national importance (SSSIs and National Nature Reserves; NNRs), are designated by Natural England under the Act and are protected from any development that may destroy or negatively affect them, either directly or indirectly.
- 2.3 Section 40 of the NERC Act 2006 places a statutory duty on LPAs to consider the effects upon biodiversity when exercising their functions in England and Wales. In addition, Section 41 of the Act makes provision for a list of habitats and species of principal importance for the conservation of biodiversity.
- 2.4 In addition, the Animal Welfare Act 2006 further protects wild animals from unnecessary suffering when under the control of man and combines with the Wild Mammals (Protection) Act 1996, which protects wild mammals from intentional cruelty.
- 2.5 The Protection of Badgers Act 1992 (as amended) affords protection specifically to badgers and their setts.
- 2.6 Finally, 'important' hedgerows, for which there are specific ecological criteria, are protected from removal (uprooting or otherwise destroying) by the Hedgerow Regulations 1997.