

Dover District Council Local Requirements

Biodiversity and Geological Conservation

PART I: PROTECTED and PRIORITY SPECIES

Updated May 2013

Context

The local planning authority has a duty to consider the conservation of biodiversity when determining a planning application or consent; this includes having regard to the safeguard of species protected under the Wildlife and Countryside Act 1981, the Conservation of Habitats and Species Regulations 2010, and the Badgers Act 1992. In addition, under s.40 of the Natural Environment & Rural Communities (NERC) Act 2006, local authorities have a duty to have regard for the conservation of biodiversity in the exercise of all of their functions. Reference is made in s.41 to a list of species maintained by Defra which are of principal importance for the conservation of biodiversity, here referred to as priority species. Where a proposed development is likely to affect protected or priority species, the applicant must submit a Protected and Priority Species Survey and Assessment.

On 22 February 2011 Natural England produced Standing Advice For Protected Species and it is recommended that advice is accessed through the following link in addition to the information that follows.

<http://www.naturalengland.org.uk/ourwork/planningtransportlocalgov/spatialplanning/standingadvice/default.aspx>

As of 2013 this standing advice is being revised and any amended advice should be referred to after the revision.

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 in writing 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 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 available*. The survey may be informed by the results of a search for ecological data from the Kent and Medway Biological 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 Development Licence. A protected species survey and assessment may form part of a wider Ecological Assessment and/or part of an Environmental Impact Assessment.

Further information on appropriate survey and assessment methodologies can be found at:

- the Chartered Institute of Ecology and Environmental Management
<http://www.cieem.net>
- Bat Conservation Trust
<http://www.bats.org.uk>
- Natural England
<http://www.naturalengland.org.uk>

TABLE 1

Dover Requirement for Protected Species: Criteria and Indicative Triggers for when a Survey and Assessment is Required

<p>Column 1</p> <p>Proposals for Development That Will Trigger a Protected Species Survey</p>	Bats	Barn Owls	Breeding Birds	Gt. Crested Newts	Otters	Dormouse	Water Vole	Badger	Reptiles	Amphibians	Plants	UK or Kent Biodiversity Action Plan	Migrating Birds
<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 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, aqueducts and viaducts (especially over water and wet ground). 	●	●	●										
<p>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.</p>	●	●	●										
<p>Proposals affecting woodland, or field hedgerows and/or lines of trees with obvious connectivity to woodland or water bodies.</p>	●		●			●		●			●	●	
<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; ▪ 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 and rock outcrops with crevices, caves or deneholes (bats).	●	●						●	●				
Major proposals within 500*m of a pond or Minor proposals within 100*m of pond (Note: A major proposals is one that is more than 10 dwellings or more than 0.5 hectares or for non-residential development is more than 1000m ² floor area or more than 1 hectare)			●						●				
Proposals affecting or within 200*m of rivers, streams, canals, lakes, or other aquatic habitats.	●	●		●	●			●	●				
Proposals affecting 'derelict' land , previously developed land (brownfield sites), allotments and railway land.			●	●			●	●	●				
Proposals for Wind Turbines	●	●							●				
Proposed development affecting any buildings, structures, feature or locations where protected species are known to be present **.	As records and scoping reports indicate												
* Distances may be amended to suit local circumstance on the advice of the local Natural England team and/or Local Biodiversity Partnership ** 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.	Bats	Barn Owls	Breeding Birds	Great Crested Newt	Otters	Dormouse	Water Vole	Badgers	Reptiles	Amphibians	Plants	UK or Kent Biodiversity Action Plan Priority species	Migrating Birds

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

- a. Following consultation by the applicant at the pre-application stage, the LPA 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 letter or 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 affect 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.

PART II: DESIGNATED SITES; PRIORITY HABITATS AND GEOLOGICAL CONSERVATION

Context

The local planning authority has a duty to consider the conservation of biodiversity when determining a planning application or consent; this includes having regard to the safeguard of sites designated under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats etc) Regulations 1994 and local sites or geological features designated in accordance with Planning Policy Statement 9. In addition, under s.40 of the Natural Environment & Rural Communities (NERC) Act 2006 local authorities have a duty to have regard for the conservation of biodiversity in the exercise of all of their functions. Reference is made in s.41 to a list of habitats maintained by Defra which are of principal importance for the conservation of biodiversity, here referred to as 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.

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 2** or geological features listed in **Table 3**, 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 available*. 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.

* Further information on appropriate survey methods can be found through the Institute of Ecology and Environmental Management website <http://www.ieem.net/survey%2Dsources/index.html>

More information may be found on www.natureonthemap.org.uk
www.kentbap.org.uk
www.kentwildlifetrust.org.uk
www.kmbrc.org.uk
www.naturalengland.org.uk
www.kentrigs.org.uk

TABLE 2

**Local Requirements for Designated Sites and Priority Habitats
Trigger List for When a Survey and Assessment are Required**

1. DESIGNATED SITES (identifiable on the Kent Landscape Information System: www.kent.gov.uk/klis)	
Internationally designated sites	Special Protection Area (SPA) Special Area of Conservation (SAC) Ramsar Site
Nationally designated sites	Site of Special Scientific Interest (SSSI) National Nature Reserve (NNR)
Regionally and locally designated sites	Local Wildlife Sites (Sites of Nature Conservation Interest) Local Nature Reserve (LNR)
2. PRIORITY HABITATS (Habitats of Principal Importance for Biodiversity under S.41 of the NERC Act 2006) known to occur in Dover district. More information on these may be found here: http://www.ukbap.org.uk/NewPriorityList.aspx	
<ul style="list-style-type: none">▪ Arable Field Margins▪ Coastal and Floodplain grazing marsh▪ Coastal saltmarsh▪ Coastal sand dunes▪ Coastal vegetated shingle▪ Hedgerows▪ Fen, marsh, swamp and reedbeds▪ Lowland beech and yew woodland▪ Lowland calcareous grassland▪ Lowland meadows▪ Lowland mixed deciduous woodland▪ Wood-pasture and parkland▪ Maritime cliffs and slopes▪ Intertidal Chalk▪ Intertidal mudflats▪ Open Mosaic Habitats on Previously Developed Land▪ Ponds▪ Rivers▪ Saline lagoons▪ Standing open water and canals (e.g. lakes, reservoirs, ponds, aquifer fed fluctuating water bodies)	
3. OTHER BIODIVERSITY FEATURES - as identified by the Kent Biodiversity Partnership in accordance with Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within The Planning System.	
<ul style="list-style-type: none">▪ Old Orchards▪ Built-Up Areas & Gardens	

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 and/or the local Wildlife Trust 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 3

**Local Requirements For Designated Geodiversity Sites And Features
Trigger List for when a Survey and Assessment are Required**

1. REGIONALLY IMPORTANT GEOLOGICAL SITES (RIGS)	
Fowlmead Country Park with Relic Cliff Snowdown Colliery Tip Tilmanstone Colliery Tip And any others that may be so designated	
2. OTHER GEOLOGICAL CONSERVATION FEATURES (Based on the Earth Science Conservation Classification)	
Exposure or Extensive Sites	<ul style="list-style-type: none">▪ 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	<ul style="list-style-type: none">▪ Static (fossil) geomorphological▪ Active process geomorphological▪ Caves
Finite Site	<ul style="list-style-type: none">▪ 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:

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 (such as the Local RIGS Group) that they are satisfied that the proposed development will not affect any regional or local sites designated for their local nature conservation importance.

BIODIVERSITY DATA PROVISION

Dover District Council has compiled a complete list of Biodiversity Action Plan Priority Habitats has been compiled. The habitat list, together with access to maps of protected areas are being prepared as a weblink (2011).

Figure 2 ECOLOGICAL SURVEY SEASONS

Key: Optimal Survey Time ■■ Extending into ■

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
Badgers		■	■	■	■	■	■	■	■	■	■	■
Bats (Hibernation Roosts)	■	■	■								■	■
Bats (Summer Roosts)				■	■	■	■	■	■			
Bats (Foraging/Commuting)				■	■	■	■	■	■	■		
Birds (Breeding)			■	■	■	■	■	■				
BIRDS (Over Wintering)	■	■									■	■
Dormice	■				■	■	■	■	■		■	■
Great-Crested Newt <small>TERRESTRIAL AQUATIC</small>		■	■	■	■	■	■	■	■	■		
Invertebrates				■	■	■	■	■	■			
Natterjack Toads				■	■							
Otters	■	■	■	■	■	■	■	■	■	■	■	■
Reptiles			■	■	■				■			
Water Voles		■	■	■	■	■	■	■	■	■		
White-Clawed Crayfish							■	■	■			
Habitats/Vegetation				■	■	■	■	■	■			

Points to note regarding surveys are as follows:

- 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 Figure 2
- Surveys conducted outside of optimal times (Figure 2) 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 may be 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).
- Kent and Medway Biological Records 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 on the following web sites:

IEEM at: <http://www.ieem.net/survey%2Dsources/index.html>

Natural England: <http://www.naturalengland.org.uk/publications/default.htm>