BIODIVERSITY

Supplementary Planning Guidance
2004









Updated 2009

Herefordshire Council

Working in partnership for the people of Herefordshire

NHS Herefordshire

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1.0 INTRODUCTION

1.1 The purpose of this Biodiversity Supplementary Planning Guidance (SPG) is to assist those submitting and determining planning applications by supplementing the policies and proposals in the Herefordshire Unitary Development Plan (UDP) (Adopted March 2007) with more specific information and advice. In addition to supporting the UDP the SPG seeks to further the actions of both the national and county Biodiversity Action Plans (BAPs). The SPG will be reviewed alongside reviews of the UDP and the County BAP.

1.2 Biodiversity simply means the variety of plant and animal life. It enhances our 'quality of life' and gives a distinctive character to the County. The aim of the Council's policies is to ensure development does not cause a net loss in the biodiversity resource of Herefordshire as this would conflict with proposals for sustainable development.

1.3 Those considering undertaking developments should be aware that in addition to the Town and Country Planning Act there is a complex range of legislation and policy guidance derived from international, national and local programmes which protect biodiversity. Consequently this document also seeks to explain the wider basis for controls. Accordingly the guidance is divided into two parts:

Part 1 Biodiversity in Context:
How the planning system takes account of biodiversity (chapter 2). The background to the County's wildlife resource including legally protected sites, species and features, Biodiversity Action Plan priorities and habitat networks (chapter 3).

Part 2 Guidance for Applicants:
A standard approach for conserving biodiversity within development proposals (chapter 4). Detailed guidance on the provision of adequate information and steps to be taken in the consideration of applications (chapter 5). Opportunities for enhancing biodiversity on development sites (chapter 6).

1.4 As guidance this document should be used to influence the consideration of proposals at all stages – from an applicant's site selection, determining the appropriateness of proposals, on site works, habitat creation and management plans. The basis for a well developed scheme will normally include an ecological survey and appraisal which should accompany the planning application.

1.5 Planning Officers will use this guidance as a basis for determining whether planning permission should or should not be granted. However it is up to all those involved – planners, agents, applicants and clients, designers and contractors to contribute to protecting and enhancing the biodiversity resource which makes Herefordshire so special.

1.6 This printed advice is not a substitute for early consultation with the Council's Planning Officers and the Conservation Section. This is important in relation to biodiversity since nearly all applications can potentially have an impact be it positive or negative.

1.7 The SPG frequently draws on the existing range of planning and biodiversity related legislation and initiatives and therefore a full reference is provided in Appendix A. It also attempts to use non-scientific language wherever possible but inevitably some technical terms have been used and therefore these are explained in the glossary contained in Appendix B. Full lists of protected and BAP priority species are found in Appendices C to E. Consultees on applications are contained in Appendix F. Triggers for ecological appraisal are provided in Appendix G. County BAP targets relevant to planning and contact details of relevant organisations are contained in Appendix H and I.

2.0 BIODIVERSITY CONSERVATION AND THE PLANNING SYSTEM

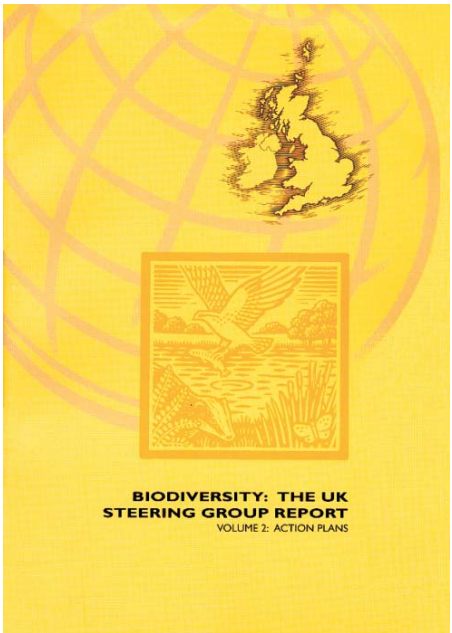
2.1 What is biodiversity?

2.1.1 Biodiversity is quite simply 'the variety of life' on Earth. Not only does it include all species of plants and animals, but their genetic variation and the complex ecosystems of which they are part. It is not restricted to rare or threatened species but includes the whole of the natural world from the commonplace to the critically endangered and occurs within our towns and cities as well as within the wider countryside. There is evidence that Herefordshire in common with the rest of the UK, has lost much of its biodiversity, mainly due to post war changes in agricultural practices including intensification.

Why should we conserve biodiversity?

2.1.2 The diversity of biological life on Earth provides our life support system – our oxygen, water, soil and food. Contact with nature gives a spiritual dimension to our lives. In effect it enhances our quality of life. In a local context it gives a distinctive character to an area. Herefordshire's biodiversity and the natural environment which supports it, makes a major contribution to the local economy, attracting inward investment, providing significant employment in the land based sector and high-tec industries, supporting the growing tourism sector and providing a healthy and attractive environment within which residents can live and work.

2.1.3 The Natural Environment and Rural Communities (NERC) Act 2006 places a duty on public authorities and local authorities to have regard for the conservation of biodiversity in exercising their functions. The duty aims to raise the profile of biodiversity and to make it a natural and integral part of policy and decision making.



2.1.4 At the 1992 "Earth Summit" at Rio de Janeiro the UK Government signed the Biodiversity Convention[1]. It subsequently launched Biodiversity The UK Action Plan in 1994[2] which sets out the Government's approach to conserve biodiversity nationally. This has the goal of *'conserving and enhancing biological diversity in the UK and to contribute to the conservation of global diversity through all appropriate mechanisms'*. The 1995 UK Biodiversity Steering Group[3] identified priority habitats and species for the country as a whole, based on criteria including threat, recent decline and rarity. These priority habitats have national action plans prepared for them to be delivered by the Government, nature conservation agencies and local authorities. The national action plans are translated into local action through the publication of a local biodiversity action plan - Herefordshire's Biodiversity Action Plan (2000)[4]. Many aspects of the implementation of Biodiversity Action Plans are linked to the planning system.

2.2 Biodiversity and sustainable development

2.2.1 The key principle of sustainability is to foster development that does not irreparably damage the natural environment. Sustainable development should meet the needs of the present without compromising the ability of future generations to meet their own needs. In its support of sustainable development the Government has placed great emphasis upon the contributions that the Town and Country Planning system can offer.

2.2.2 A net loss of biodiversity would conflict with the principles of sustainable development. Principle 4 of the Rio Declaration[5] states *'In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it'.* As the planning system is charged with a duty to further the principles of sustainable development it logically follows that biodiversity must be central to the policies and decisions that drive the Town and Country Planning system. In essence biodiversity is a material consideration in planning decisions and it should be ensured that there is no net loss of either quality or quantity of biodiversity in the County.

The Precautionary Principle

2.2.3 The Precautionary Principle was adopted at Rio as a central principle for sustainable development. The UK Government Sustainable Development Strategy[6] states that *'in instances where decisions on managing natural resources have to be taken on the basis of partial information and where, firstly, there is a risk of significant adverse environmental effects occurring and secondly, any possible mitigation measures seem unlikely to safeguard against these effects, the precautionary*

principle will be adopted'. In such cases the presumption should be against development that may cause irreversible damage.

2.2.4 Biodiversity conservation encompasses the possibility of reversing past losses and places a much greater emphasis on obtaining gain wherever possible. It is pro-active in the sense that it looks for future improvement. This SPG is concerned with all aspects of biodiversity conservation from protection through to enhancement measures. It is intended to represent a positive and pro-active approach to wildlife conservation in the County during the development process.

2.3 Government Planning Guidance

2.3.1 Government guidance upon how the planning system should treat sustainable development and biodiversity is given within a series of Planning Policy Guidance (PPG) notes and Planning Policy Statements (PPSs). Local interpretation of Government planning guidance is provided for in the Unitary Development Plan (UDP). All planning decisions are required by the 1990 Town and Country Planning Act (as amended in 1991)[7] to accord with the polices of this plan unless other material decisions indicate otherwise. It is the principal component to decision making within the County.

2.3.2 PPS9 Biodiversity and Geological Conservation (2005)[8] contains the Government's broad policy objectives in relation to biodiversity and geological conservation in England and its proposed planning policies that will help deliver these objectives. The Government Circular Biodiversity and Geological conservation – Statutory obligations and their impact within the planning system (2005)[9] which accompanies it sets out guidance on the application of the law relating to planning and nature conservation as it applies in England.

2.3.3 PPG3 Housing (2000)[10] encourages contributions to *'greening initiatives which can contribute to biodiversity'* and *'promotes good design in new housing developments in order to create attractive high-quality living environments'*

2.3.4 PPS7 Sustainable Development in Rural Areas (2004)[11] requires land use planning to raise the quality of life and the environment in rural areas, as well as promoting sustainable patterns of development. Local planning authorities should have particular regard to any areas that have been statutorily designated for their landscape, wildlife or historic qualities and ensure conservation of specific features. The guidance also makes particular reference to encouraging the re-use of buildings in the countryside whilst taking account of potential impact upon countryside, landscapes and wildlife.

2.3.5 PPG25 Development and Flood Risk (2003)[12] emphasises the role of sustainable drainage systems and introduces a general presumption that they will be used.

2.3.6 Further Government guidance of relevance to biodiversity is also provided in the series of Mineral Planning Guidance notes (MPGs). MPG7 The Reclamation of Mineral Workings (1996)[13] states that reclamation of mineral workings can make a contribution to the UK Biodiversity Action Plan.

2.3.7 The Regional Planning Guidance for the West Midlands (2004)[14] highlights the importance of biodiversity in a section entitled "Protecting, managing and enhancing the Region's biodiversity and nature conservation resources". This includes a statutory Policy QE7 requiring local authorities and others to provide for biodiversity in their plans and programmes.

Policy QE7 from the Regional Spatial Strategy

All the plans and programmes of local authorities and other relevant agencies should:

i) encourage the maintenance and enhancement of the Region's wider biodiversity resources, giving priority to:

- the protection and enhancement of specific species and habitats of international, national and sub-regional importance as identified in the West Midlands Regional Biodiversity Audit, Local Biodiversity Action Plans (LBAPs) and other BAPs;
- those that receive statutory protection; and
- the biodiversity enhancement areas shown on the QE Areas of Enhancement Diagram.

ii) include policies and proposals which enable the West Midlands to achieve its minimum share of the UK Biodiversity Action Plan (UKBAP) targets as set out in Annex B and the targets of local partnerships and other BAPs;

iii) take a common approach to biodiversity and nature conservation issues which cross local planning authority and Regional boundaries, especially those relevant to:-

- the strategic corridors and tributaries of the Severn, Trent, Avon and Wye, river catchments, and issues in current local Environment Agency plans; and
- priorities derived from English Nature's Natural Areas Framework and associated Area Profiles and the West Midlands Biodiversity Audit.

3.0 BIODIVERSITY IN HEREFORDSHIRE

3.1 County surveys and assessments

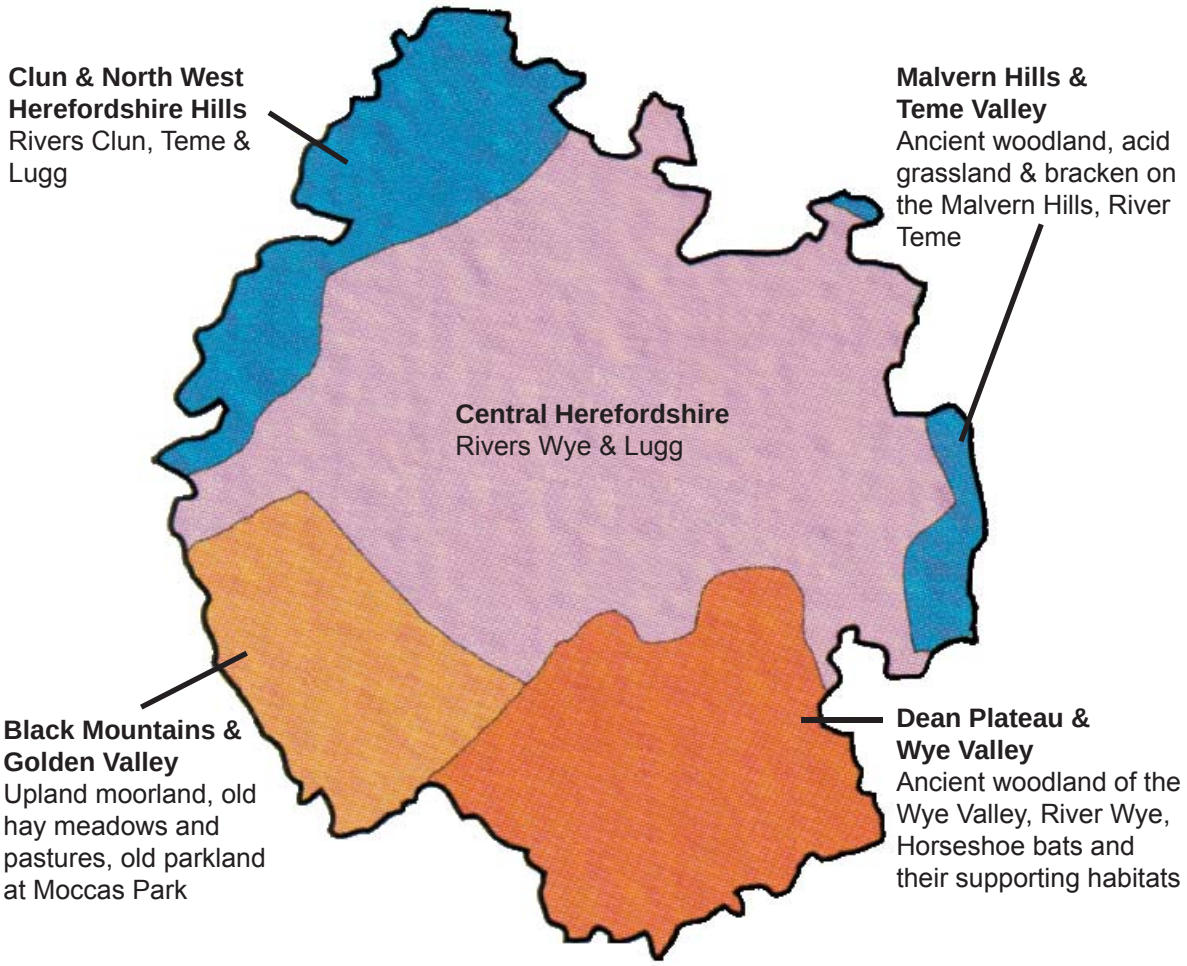
3.1.1 Herefordshire is renowned for its countryside and wildlife habitats, particularly those associated with the Malvern Hills and Wye Valley Areas of Outstanding Natural Beauty. However there have been several recent County surveys and assessments, which contribute to an increased understanding of the extent of the natural resource. These surveys can be used to help inform planning decisions.

3.1.2 In England, the Countryside Commission and English Nature (now known as Natural England) produced a map of The Character of England: Landscape, Wildlife and Natural Features launched in 1996[15]. Herefordshire Council has developed this approach further by producing a countywide detailed Landscape Character Assessment (LCA). The assessment identifies 22 distinctive landscape types within the County. Summary details of the LCA have been published separately as Supplementary Planning Guidance[16].

3.1.3 The County has been mapped into 'Natural Areas' along with the rest of the country by English Nature. This mapping does not follow administrative boundaries and is not a designation but instead relates to variations in wildlife, natural features and composition of the landscape. There are 5 different Natural Areas recognised within Herefordshire[17] (see figure 1). Each area has its own profile and objectives for conservation and enhancement of biodiversity.

3.1.4 A Phase 1 Habitat Survey[18] commenced in Herefordshire in 1999, undertaken by a partnership of organisations including Herefordshire Nature Trust, Herefordshire Council and English Nature. It is a field survey to establish land-uses and, in particular, the location of important wildlife habitats within a given area. The survey has taken place over a number of years and is therefore phased according to the County's Natural Areas. Preliminary results demonstrate that the extent of semi-natural habitat is low, for example, excluding woodland habitat there is only 3% remaining semi-natural habitat in the Herefordshire Dean Plateau & Wye Valley Natural Area.

Figure 1 Natural Areas in Herefordshire and their key features



3.1.5 Herefordshire's Biodiversity Audit and Priorities (1999)[19] and Herefordshire's Biodiversity Action Plan (2000)[4] has identified which habitats and species are locally of the highest nature conservation importance. The West Midlands Regional Biodiversity Audit (2001)[20] has gathered biodiversity information at a regional level. Herefordshire contains a significant proportion of the West Midlands Region's biodiversity interest. Biodiversity Enhancement Areas have been identified in the Regional Planning Guidance[14]. These are areas which offer some of the best prospects for retaining environments with a rich and resilient biodiversity resource. In these areas ecological integrity should be reinforced. Four Biodiversity Enhancement Areas have been identified in the county to date but others may be defined in the future. These include the Black Mountains, the Wye Valley Floodplain, the Woolhope Dome and the Malvern Hills.

3.1.6 A Herefordshire Biological Records Centre is being developed within the County. It acts as a central point for the storage and collation of ecological data collected from a variety of sources including natural history groups and individuals. It is financially supported by Herefordshire Council, Natural England and other partners who access this ecological data in order to assist with the determination of planning applications or conservation proposals.

3.2 Protected sites

3.2.1 In an attempt to secure the exceptional remaining vestiges of our natural habitat a series of legal obligations and provisions have been introduced over the last 50 years. Increasingly so these have been at the instigation of the European Union reflecting the international importance of the diversity and rareness of certain habitats within the UK.

Table 1 Protected sites in Herefordshire

Level of Importance	Site Designation	Designated by	Relevant legislation & policy
Sites of International Importance	Special Area of Conservation (SAC)	European Commission	Habitats Directive 1992 Habitats Regulations 1994 PPS9 2005 para 6 Circular 06/2005 Part I
Sites of National Importance	Site of Special Scientific Interest (SSSI)	Natural England	Wildlife and Countryside Act 1981 Countryside and Rights of Way Act 2000 PPS9 2005 para 7 and 8 Circular 06/2005 Part II
	National Nature Reserve (NNR)	Natural England	National Parks and Access to the Countryside Act 1949
Sites of Regional/ County/Local Importance	Local Nature Reserve (LNR)	Herefordshire Council or Parish Councils with ratification by Natural England	National Parks and Access to the Countryside Act 1949 PPS9 2005 para 9
	Special Wildlife Site (SWS)	Herefordshire Nature Trust in consultation with Herefordshire Council	PPS9 2005 para 9
	Site of Importance to Nature Conservation (SINC)	Herefordshire Council in consultation with Herefordshire Nature Trust	PPS9 2005 para 9
	Regionally Important Geological/ Geomorphological Site (RIGS)	Herefordshire Council in consultation with Herefordshire and Worcestershire Earth Heritage Trust	PPS9 2005 para 9
	Section 39 Agreement sites	Herefordshire Council	Wildlife and Countryside Act 1981 Section 39

3.2.2 The various legal statutes have resulted in a hierarchy of site designations. This section deals with each of the statutory and non-statutory site designations in Herefordshire each of which is also summarised in Table 1. These sites are monitored and their status reviewed by the designating body. The location of individual sites is provided in the UDP proposals map.

Sites of international importance

3.2.3 There are 3 types of international site designations. Two of these, the Special Area of Conservation (SAC) and the Special Protection Area (SPA) arise from European Directives, the Habitats Directive 1992[21],and the Birds Directive 1979[22] respectively. The Conservation (Natural Habitats, &c) Regulations 1994[23] implement the European Habitats Directive. Together the two categories of European site, make up a network of European protected sites known as 'Natura 2000'. These sites are part of a range of measures aimed at conserving important or threatened habitats and species. The third category of international site designation, 'Wetlands of International Importance especially as Waterfowl Habitat' known as Ramsar sites, are designated under the 1971 Ramsar Convention[24]. At the time of publication of this guidance Herefordshire has no SPA or Ramsar sites, but does have 4 SACs: River Wye, Downton George, Wye Valley Woodlands and the River Clun.

Sites of national importance

3.2.4 There are 2 types of national site designation. Sites of Special Scientific Interest (SSSIs) are designated by Natural England under the 1981 Wildlife and Countryside Act[25] as amended by the Countryside and Rights of Way Act (CRoW) 2000[26]. They are notified for their biological and/or geological interest. The purpose of designation is to maintain the present diversity of plants and animals in the country and to provide a representative sample of national habitats and geological features. Each SSSI is seen as an integral part of a national series. Herefordshire contains 76 SSSIs.

3.2.5 National Nature Reserves (NNRs) are designated by Natural England under the 1949 National Parks and Access to the Countryside Act[27]. As a matter of practice these are also SSSIs and are owned and managed by Natural England, managed by them in agreement with the landowner or managed by a body approved by Natural England. Herefordshire contains 3 NNRs.

Sites of local importance

3.2.6 There are 2 types of local nature conservation site designations - one statutory and one non-statutory. A power is given to Local Authorities to designate statutory Local Nature Reserves (LNRs) under the 1949 National Parks and Access to the Countryside Act (Section 21)[27]. This power may be delegated by Herefordshire Council to a parish council. Provided that the land is under their control (either through ownership or a management agreement with the owner/tenant) they may set up and manage a LNR. Such sites are managed for their nature conservation interest and typically provide for an element of public access and have educational and study potential. Natural England must be consulted by local authorities in their use of the powers given by the Act.

3.2.7 Non-statutory sites are currently known as Special Wildlife Sites (SWSs) in the rural areas of the County and Sites of Importance to Nature Conservation (SINCs) in Hereford City. These sites were selected by Herefordshire Nature Trust and the local authority. Both sites fulfil a similar role but were given different names by the different local authorities prior to local government re-organisation. It is likely that a review of the non-statutory local site system will be undertaken during the lifetime of this SPG and one standard name adopted. There are over 683 SWSs and 56 SINCs in Herefordshire.

3.2.8 SWSs and SINCs cover a wide range of semi-natural habitats of substantive value within

the County. The designation may also take account of community use of the site, recognising that value for nature conservation is not the same as purely scientific value. Their value is enforced by PPS 9[8] which states in paragraph 9 that these sites *'have a fundamental role to play in meeting overall national biodiversity targets, contributing to the quality of life and the well being of the community and in supporting research and education'*.

3.2.9 In addition to these nature conservation based designations, local authorities may also recognise the geological and geomorphological interest of sites within their area. Such sites are known as Regionally Important Geological/ Geomorphological Sites (RIGS) and are in the process of being selected by Herefordshire and Worcestershire Earth Heritage Trust and the local authority. They are of value for their educational, research, historical and aesthetic importance. They provide a record of past biodiversity, climatic conditions and environmental processes and are a unique natural heritage. Herefordshire currently has over 80 RIGS sites however it is anticipated that 200-300 sites will eventually be identified.

Management agreements

3.2.10 The Council has entered into a number of Management Agreements under Section 39 of the Wildlife & Countryside Act 1981[25] with owners of key nature conservation sites. These agreements provide an effective way of sustaining and enhancing the wildlife value of these sites.

3.3 Protected species

3.3.1 Some species which are rare, threatened, or likely to become rare if action is not taken, receive individual legal protection and special protection measures at a European and/or National level. Protected species are not restricted in distribution to protected sites alone but are wide ranging and can be found both in rural and urban situations. Tables 2 and 3 summarise all the protected species that are known to occur in Herefordshire.

European protected species

3.3.2 The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) [23] (which implement the European Habitats Directive 1992[21]) lists those species which receive special protection in Europe on Schedules 2 (animals) and 4 (plants).

3.3.3 Schedule 2 animals include otters, dormice, all bats and great crested newts. For all life stages of these animals it is an offence to deliberately:

- Capture or kill them in the wild;
- Disturb them, particularly whilst they are breeding, rearing, hibernating or migrating;
- Take or destroy their eggs;
- Damage or destroy their breeding sites or resting places or to cause deterioration of such sites;
- Keep, transport or sell, or offer for sale.

3.3.4 There is one plant in Herefordshire, which receives protection through Schedule 4, the floating-leaved water plantain. All life stages of the plant are protected from deliberate:

- Picking, uprooting and destruction;
- Cutting and collecting;
- Keeping, transport and sale, or offering for sale.

(Annex II and IV of the Habitats Directive additionally lists animal and plant species whose conservation requires designation of Special Areas of Conservation).

Table 2 European protected species that are known to occur in Herefordshire

Species Affected	Legislation/Policy
Animals Otter, all bats, dormouse, great crested newt	Habitats Directive 1992 Habitats Regulations 1994 Schedule 2 PPS 9 2005 para 15, 16 Circular 06/2005 Part IV
Plants Floating-leaved water plantain	Habitats Directive 1992 Habitats Regulations 1994 Schedule 4 PPS 9 2005 para 15, 16 Circular 06/2005 Part IV

Nationally protected species

3.3.5 The Wildlife and Countryside Act 1981[25] as amended by CROW 2000[26] provides a basic level of protection to all plants and birds. This has the effect to make it illegal to:

- Uproot any wild plant without the landowner's permission;
- Intentionally or recklessly kill, injure, or take any wild bird;
- Intentionally or recklessly kill, damage or destroy a wild bird's nest while it is in use;
- Intentionally or recklessly kill, take or destroy a wild birds' eggs.

3.3.6 The Wildlife and Countryside Act 1981[25] also lists those species, which receive special protection in England, on Schedules 1 (birds) 5 (animals) and 8 (plants). A full list of all the birds protected by Schedule 1 of the Act is included in Appendix C. The Schedule 1 birds most likely to be encountered in Herefordshire in a planning context are barn owl, black redstart, kingfisher, peregrine falcon and little ringed plover. It is an offence to intentionally or recklessly disturb these birds while nesting or rearing young or to disturb the dependent young.

3.3.7 A list of Schedule 5 animals that are known to occur in Herefordshire is included in Appendix D. The level of protection afforded to different species varies considerably, for example some species are protected against sale only whilst others are afforded full protection. The Schedule 5 animals most likely to be encountered in a planning context are water vole, otter, dormouse, bats, slow worm, common lizard, grass snake, adder, great crested newt, allis shad, twaite shad, high brown fritillary and pearl mussel.

3.3.8 Six plants are known to occur in the county that are protected under Schedule 8. The floating-leaved water plantain, ghost orchid, orange-fruited elm lichen, elm gylecta and oak polypore are protected against picking, uprooting, destruction, sale, offering for sale or transport for the purpose of sale. The bluebell is protected against sale, offering for sale or transport for the purpose of sale.

Table 3 Nationally protected species that are known to occur in Herefordshire

Species Affected	Legislation/Policy
Birds barn owl, black redstart, kingfisher, peregrine falcon, little ringed plover	Wildlife and Countryside Act 1981 Schedule 1 Countryside and Rights of Way Act 2000 PPS9 2005 para 15, 16 Circular 06/2005 Part IV
Animals water vole, otter, pine marten, dormouse, all bats, slow worm, common lizard, grass snake, adder, great crested newt, palmate newt, smooth newt, allis shad, twaite shad, high brown fritillary, pearl-bordered fritillary, wood white, white-clawed crayfish, pearl mussel, medicinal leech	Wildlife and Countryside Act 1981 Schedule 5 Countryside and Rights of Way Act 2000 PPS9 2005 para 15, 16 Circular 06/2005 Part IV
Badgers	Badger Act 1992 PPS9 2005 para 15, 16 Circular 06/2005 Part IV
Plants Floating-leaved water plantain Ghost orchid Orange-fruited elm lichen Oak polypore Elm gylecta Bluebell	Wildlife and Countryside Act 1981 Schedule 8 PPS9 2005 para 15, 16 Circular 06/2005 Part IV

3.3.9 Since the passing of the Act there have been amendments to the Act though other legislation and to the lists of protected species. There is a statutory five yearly review of schedules 5 and 8 (protected animals other than birds and protected plants). Local authorities are notified of any amendments and additions to those schedules as a result of the review.

3.3.10 Badgers are the subject of their own piece of legislation, The Protection of Badgers Act 1992[28]. The primary purpose of the Act is to prevent cruelty. The Badger Act makes it an offence to:

- Wilfully kill, injure, take, possess or cruelly ill-treat a badger, or to attempt to do so;
- Interfere with a badger sett by damaging or destroying it;
- Obstruct access to a badger sett, or obstruct any entrance to a sett;
- Disturb a badger when it is occupying a sett.

3.3.11 In addition, under the Wild Mammals (Protection) Act 1996[29], all wild mammals are protected against certain cruel acts carried out with the intention of causing unnecessary cruelty.

3.4 BAP priority habitats and species

3.4.1 As described in 2.1.3 the 1995 UK Biodiversity Steering Group[3] identified priority habitats and species for the country as a whole, based on criteria including threat, recent decline and rarity. These priority habitats and species have national action plans prepared for them. In 2007 the UK Biodiversity Reporting and Information Group proposed a revised list of habitats and species. Herefordshire's Biodiversity: Audit and Priorities[19] was the first step in assessing the complete status of biodiversity in the County. The Audit was undertaken to help inform the Herefordshire BAP which was published in June 2000[4] by the Herefordshire Biodiversity Partnership on behalf of the Herefordshire Biodiversity Forum – a partnership of statutory and voluntary organisations. This County BAP aims to identify those components of biodiversity most in need of action to maintain their status taking account of nationally determined priorities, and to set targets for their management, enhancement and restoration.

3.4.2 The County BAP includes habitat action Plans and species Action Plans. These plans identify actions necessary to secure the future of the features concerned. For example there are actions under various headings including 'Policy and legislation' and 'Site safeguard and management'. The plans then specify the organisations that will carry out the work and the timescale for delivery. The County BAP was reviewed in 2005 – Herefordshire Biodiversity Action Plan Update 2005[30].

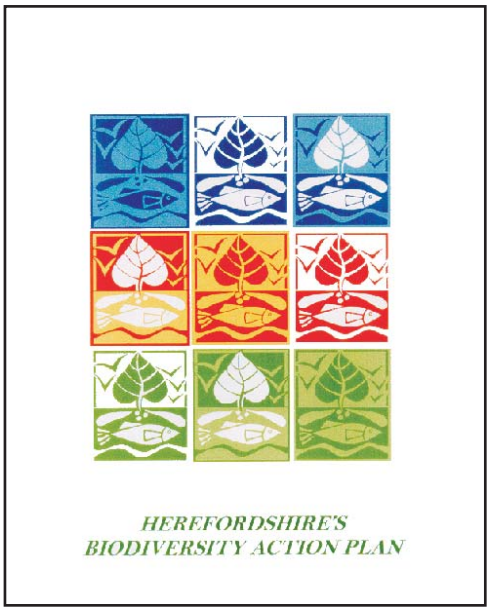
Priority habitats

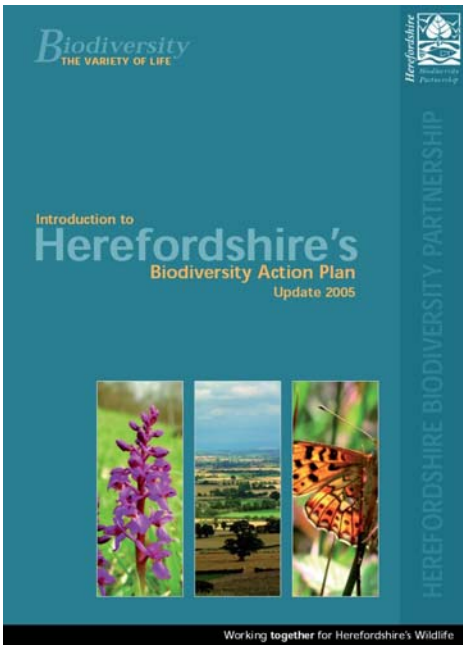
3.4.3 Within the UK BAPs, habitats of urgent priority for conservation were identified as key habitats and priorities for national action. Twenty five proposed UK BAP priority habitats occur within Herefordshire.

UK and Herefordshire Biodiversity Action Plan Priority Habitats:

- Upland mixed ashwood
- Lowland beech and yew woods
- Upland oak woodland
- Lowland oak and mixed woodland
- Wet woodland
- Lowland wood pasture and parklands
- Traditional orchards
- Lowland meadow and pasture
- Lowland calcareous grassland
- Upland calcareous grassland
- Lowland acid grassland
- Floodplain grazing marsh
- Blanket bog
- Eutrophic water
- Mesotrophic water
- Fens
- Purple moor grass
- Lowland heathland
- Upland heathland
- Rivers and streams
- Hedges
- Cereal field margins
- Managed greenspace
- Quarries
- Ponds

Definitions of these habitats can be found in Biodiversity: The UK Steering Group Report, Volume 2: Action Plans (1995)[3], UK Biodiversity Steering Group Tranche 2 Action Plans (1998)[31], Species and Habitat Review Report (2007)[32], Herefordshire's Biodiversity Action Plan (2000)[4] and Herefordshire Biodiversity Action Plan Update (2005)[30].





Priority species

3.4.4 Within the UK BAPs, species that are of urgent priority for conservation due to threats and decline have been selected and action plans have been produced for them. In total 391 UK species action plans have been prepared to date. Of course not all of the species within the UK BAP are found in Herefordshire.

3.4.5 Following the approach applied in Biodiversity: the UK Steering Group Report, Volume 2[3], those species most in need of conservation action in Herefordshire have been identified as local priorities. Examples of the criteria that were used to define these include species listed in national Red Data Books, in the various legal statutes and where the species is locally threatened or where Herefordshire forms a stronghold with greater than 10% of the national population.

3.4.6 Applying these criteria a total of 156 priority species have been identified in the County - see Appendix E for a full list. Fifty nine of these are UK priorities and have national action plans. A further 101 species have been identified as a priority for research given little is known about their current distribution in the County. Five of these have national action plans prepared for them.

3.4.7 In addition a long list of species have been identified in the County BAP which although not priorities are of conservation concern. It is noted in the County BAP that there was a difficulty in prioritising habitats and species because of the paucity of up-to-date qualitative and quantitative information in Herefordshire. It follows that as survey and research develops, further species may be added. This list is therefore subject to review.

Local geodiversity plans

3.4.8 The preservation of rocks (including fossils and minerals) and natural processes (such as soil formation and retention) upon which biodiversity relies is of prime importance. Herefordshire is particularly rich in such Geodiversity. Local Geodiversity Plans (LGAPs) are being drawn up in pilot schemes under the guidance of Natural England. Herefordshire and Worcestershire Earth Heritage Trust have begun developing a County LGAP.

3.5 Networks of natural habitats

3.5.1 The Council recognises that natural features (termed as landscape features in the Habitats Directive[21]) such as woods, trees, hedgerows, rivers, ditches and ponds are important for biodiversity. They may contain semi-natural habitat and be of major importance in their own right or provide a network of stepping stones or linkages from one habitat to another, known as wildlife corridors. These links allow plants and animals to move between natural features and are important for:

- migration - for example, birds as they follow their long distance routes;
- the dispersal of habitats and species into new areas when conditions become suitable;
- genetic exchange - crucial to the overall health, adaptability and survival of all wild plants and animals.

3.5.2 The protection of networks of natural habitats is supported by PPS9[8] (paragraph 12) which states that they provide a valuable resource by linking sites of biodiversity importance. The protection and the management of landscape features is advocated in the Habitats Directive[21] (Articles 3 and 10) and the Habitats Regulations[23].

3.5.3 It is important that individual habitats are not broken up, or fragmented and that valuable species and habitats are not isolated. When habitats become isolated their ability to recover from extreme events can be impaired which may lead to a loss of species and ultimately the loss of the habitat itself. The need to avoid the fragmentation and isolation of natural habitats is stated in PPS9[8] (paragraph 12) and given special emphasis in the UK BAP[2], which states that *'the fragmentation or isolation of key habitats is to be avoided'.*

3.5.4 The Boundary Features Action Plan in the County BAP contains many actions to further the conservation of a variety of boundary and linear features. For example disused railway lines are recognised as important linear features that provide connections between habitats.

3.5.5 As well as being recognised within the Habitats Directive[21], certain landscape features and habitats such as hedgerows and trees are afforded statutory protection through legislation, in the form of the Hedgerow Regulations[33] and Tree Preservation Orders[35].

Hedgerows and the Hedgerow Regulations

3.5.6 The Hedgerows Regulations came into operation in 1997[33]. They implement part of the 1995 Environment Act[34]. The Regulations aim to protect important countryside hedgerows and cover hedgerows adjoining agricultural land, common land, or protected sites such as SSSI's or LNR's. Garden hedges are unaffected. Landowners are required to notify the Council of their intent to remove a hedgerow. The Council then assesses the hedge against wildlife, landscape, archaeological and historic criteria. If the hedgerow meets one of the criteria, it is deemed to be 'important' and the presumption will be that the Council serves a Hedgerow Retention Notice prohibiting its removal.

Trees and Tree Preservation Orders

3.5.7 Trees and woodlands may be protected by either a Tree Preservation Order (TPO) or by virtue of their location within a Conservation Area. TPO's derive from Town and Country Planning legislation, but can operate independently of the development control system. The Town and Country Planning Act 1990[7] and the Town and Country Planning (Trees) Regulations 1999[35] form the legislative framework for TPO's. Local Authorities have a power to make TPO's to conserve the amenity value of trees.

3.5.8 The TPO system works pro-actively in that TPO's can be made whether or not there is a threat to the trees or woodland. The main consideration is the amenity value but wildlife value may be taken into account and many trees and woodlands of nature conservation value have been protected by a TPO. A TPO prohibits the cutting down of trees and woodlands as well as wilful damage or destruction. Once a tree or woodland is covered by a TPO, the owner must apply to the Council for permission to carry out work to the tree(s).

3.5.9 Whether or not a TPO is in force you must first apply to the Forestry Commission for a felling licence if you want to cut down trees containing more than five cubic metres of wood as long as no more than 2 cubic metres of any exempt amount are sold in any calendar quarter. There are exceptions to this rule which are set out in the Forestry Act 1967[36] (as amended).

Ancient woodlands

3.5.10 Ancient woodlands are those woodlands that have been continuously wooded since 1600. The Herefordshire Inventory of Ancient Woodlands 1986[37] identifies and details the location of ancient woodlands within the County that are above 2ha in size. This report is due for review. They are also listed in the UDP. Herefordshire's ancient woods including those under 2ha in size are a very important biodiversity resource. Ancient woodland is the most biologically rich woodland type, supporting characteristic plant and animals species. Each ancient woodland is unique, having its own historical associations. These woods are by definition irreplaceable and cannot be re-created once damaged or destroyed. Ancient woods may be semi-natural or, if replaced with planted stands of trees, may be regarded as replanted. Replanted ancient woods have the potential to be restored to ancient semi-natural woodland as they will often retain the original ground flora. The conservation, restoration and enhancement of ancient woodlands is a priority of the England Forestry Strategy[38].

Ancient trees

3.5.11 The concept of ancient trees has been developed in the last ten years - gaining momentum from the Veteran Trees Initiative launched by English Nature in 2000. There is no precise definition for an ancient tree. In general however, the term is taken to cover trees that have reached the stage in their life cycle when the amount of growth each year is less than that of the previous year. This may be the longest period in the life of some trees. They are generally trees that are large or old relative to the usual lifespan of the tree e.g. birch can be ancient at 70 and oak would not be ancient until 300 + years. Ancient trees have a tendency to hollowing, where rotting of the dead wood in the core results in a hollow trunk that is structurally more stable than a solid trunk. Similarly ancient trees lose branches from the canopy which reduces their crown area and exposure to wind stress. Such trees often have runs of sap and pools of water, and these together with the hollowing and deadwood can support bracket fungi, lichens, ferns and specialist plants and insects. They can also support nesting birds and roosting bats. In effect, the ancient tree becomes a habitat in its own right. In addition, the great age of ancient trees means that they often have great historic, cultural and landscape value. PPS9 (paragraph 10) recognises the value of such trees *'Aged or 'veteran' trees found outside ancient woodland are also particularly valuable for biodiversity and their loss should be avoided'*.

3.5.12 Ancient trees in England represent a very high proportion of Northern Europe's ancient tree population and Herefordshire in particular, supports many examples. Ancient trees are found in a wide variety of situations, in agricultural land, hedgerows where they often mark old boundaries (between parishes), parklands and woodlands. They may even occur in village settings such as Eardisley where there is a famous Great Oak.

Ponds and watercourses

3.5.13 Farm ponds and garden ponds are scattered throughout Herefordshire and comprise an important habitat. Fewer larger pools or lakes occur but where they do they are often associated with former mineral workings such as those at Bodenham or with parks such as that at Berrington Hall. Some ponds are seasonal and temporary in nature. Temporary ponds can look uninteresting in their dry phase but they are of high wildlife value. Many rare and vulnerable species such as the great crested newt are closely associated with ponds. Ponds may also be of historical and cultural value.

4.0 OBJECTIVES FOR THE CONSERVATION OF BIODIVERSITY IN PLANNING

4.1 To ensure that biodiversity is fully incorporated and best practice observed in development proposals, a comprehensive and standard approach is required. This approach is adopted by the Royal Town Planning Institute in their Good Practice Guide Planning for Biodiversity[39]. The main objectives to consider when preparing a development proposal are detailed below. By following these steps damage can be avoided and biodiversity enhanced, combining to create a high quality development. Only when damage is unavoidable should the stages of mitigation, that is, seeking to minimise harm and compensation to offset any losses be considered. Existing planning policy i.e. PPS9[8], Circulars 11/95[40] and 1/97[41] supports each stage advocated.

The main objectives:

1. **SURVEY and APPRAISE** the site's biodiversity interest including buildings. Consider its linkages with habitat outside the site. Appraise the impact of the development. Ensure the provision of sufficient environmental information to the Council. Note that certain developments require statutory Environmental Impact Assessment and/or Appropriate Assessments;

2. **RETAIN and PROTECT** existing habitats and species. Exclude important areas from development proposals and protect these in site layout, design and during construction. An appropriately experienced Clerk of Works should supervise any works undertaken;

   only where damage is unavoidable should the following two stages be considered;

3. **MITIGATE** to reduce adverse effects. Change the way the development is carried out to minimise adverse impacts through appropriate methods or timing, secured by conditions or obligations;

4. **COMPENSATE** with new features to offset any losses or adverse effects that cannot be avoided or mitigated for. For example the creation of habitats on or near the site or financial contributions to ensure the long term management of other sites. Compensation is the least desirable option;

5. **ENHANCE and CREATE** habitats. Take account of BAP targets in developing habitat creation proposals. Consider restoring linkages between habitats and sites. Use native plants and seeds in creation projects. Adopt Sustainable Urban Drainage Systems;

6. **MONITOR** the success or otherwise of measures and adapt where necessary. Ensure long term maintenance and management of the site.

5.0 PLANNING APPLICATIONS AFFECTING BIODIVERSITY - DEVELOPMENT CONTROL CRITERIA AND INFORMATION REQUIRED

5.1 Environmental survey and appraisal

5.1.1 Policy NC1 of the UDP states:
In determining all development proposals, the effects upon biodiversity and features of geological interest will be taken fully into consideration. Prior to the determination of applications for development on sites where there is reason to believe that such features of importance exist, a field evaluation may be required. Proposals should:

1. **seek to retain existing semi-natural habitat, wildlife corridors, species or geological features within their layouts and design; and**

2. **demonstrate that the proposal will have no adverse effects on any biodiversity and features of geological interest, or lead to the fragmentation, increase isolation or damage to protected or priority habitats and/or priority or protected species.**

5.1.2 It is vital that the right environmental information is supplied to the Council at the right stage in the planning process if biodiversity is to be conserved and sustainable development achieved. In all cases it is the developers responsibility to provide the Council with the information necessary to assess the application. The amount of environmental information and level of detail required in appraisals will vary according to the site, habitats and species concerned, further guidance on this follows in the highlighted paragraphs.

5.1.3 The Council may call for information, plans or drawings which enable a proper consideration of the development proposal through exercising statutory powers (Article 4 of the Town and Country Planning (Applications) Regulations 1988[42]). This power is not time limited and can be invoked at any stage in the determination of a planning application. Thus applicants can be requested to provide ecological information after submission of their application, however this is likely to delay a decision. Failure to provide sufficient information may constitute grounds for refusal of planning permission in line with the Precautionary Principle, because it may be impossible to assess the development proposal against the relevant UDP proposals or because it may be unlawful for the Council to do so. The Council cannot impose a condition requesting further work to identify the likely environmental effects after permission has been granted. It must be sure that all of these have been identified and taken into account before granting planning permission. It is therefore in an applicants interest to consider as early as possible which types of ecological information will be required, to collect this information and to submit it as part of the application.

5.1.4 With regard to outline planning applications, the Council will require the submission of all or any reserved matters it considers to be necessary to consider before the granting of an outline planning permission in line with Article 3 (2) of the Town and Country Planning (General Development Procedure) Order 1995[43]. There is a one month time limit on the use of this provision.

Cornwall Case
"In Regina v Cornwall County Council ex parte J. Hardy (2001) a.k.a. United Mines landfill site, refers to a case in which the applicant carried out an EIA. Although it was known that the conditions at the site were those favoured by a protected species, bats, the applicant did not investigate for their presence. The planning authority imposed a condition requiring the applicant to carry out a survey to establish whether bats were present prior to commencing the development. The Court held that it was unlawful for the Council to grant planning permission due to inadequate 'environmental information' as defined in the EIA Regulations (1999) relating to the presence of bats on site and the necessity to assess likely significant adverse effects before determining a planning application. The Planning Committee were not in a position to conclude there were no significant nature conservation issues until they had the results of the bat surveys. The planning permission was quashed"

5.1.5 A standard planning form (1App) which replaced all existing types of planning application forms (except minerals) was launched in April 2008 within England. It includes a question regarding Biodiversity and Geological Conservation and trees and hedges. Further details may be found on the UK Government's online Planning Portal.

Appropriate assessment

5.1.6 Appropriate assessment may be required in the consideration of development proposals affecting SAC's and SPA's[44]. Further details may be found in 5.2.

Environmental Impact Assessment (EIA)

5.1.7 Environmental Impact Assessment is mandatory for projects of the kinds listed in Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999[45]. For projects of a kind listed in Schedule 2 to the Regulations (including those which

would otherwise have benefited from permitted development rights), EIA is required if the particular development proposed would be likely to have significant environmental effects by virtue of factors such as its nature, size or location. The Council will adopt its own formal determination, known as a screening opinion, of whether or not EIA is required in such instances and place it on the planning register. The Council will also be guided by advice in DETR Circular 02/99[46], Environmental Impact Assessment, which states that *'Where relevant, Local Biodiversity Action Plans will be of assistance in determining the sensitivity of a location'*. The Council's Planning Officers will consult with the Conservation Section in the screening exercise.

5.1.8 Details of the information needed for an EIA and guidance on how to carry one out are provided by Circular 02/99[46]. This circular accompanies and explains the Regulations. Regulation 10 allows developers to obtain a formal scoping opinion from the relevant planning authority on the scope of the information to be included in the EIA.

5.1.9 Developers must compile the information themselves but can request information from statutory consultees and public bodies. These organisations must provide information already in their possession, but are not required to gather extra data.

5.1.10 Developers are required to include an outline of the main alternative approaches to the proposed development that they have considered, and the main reason for their choice.

5.1.11 If an EIA is required, no decision can be made on the planning application until the assessment has been carried out. The Council shall not grant planning permission pursuant to an application unless they have first taken the environmental information into consideration. When determining an EIA application the Council must inform the public and the Secretary of State of the decision and the main reasons for it, whether granting or refusing permission (Regulation 21). EIAs's may also be undertaken on a voluntary basis rather than as a requirement of the Regulations. Where the Council is also the applicant, modifications to the regulations apply, for example in relation to informing consultation bodies (Regulation 22).

Ecological survey and appraisal

5.1.12 Not withstanding the statutory requirements for EIA, it may be necessary to undertake an ecological survey and appraisal of a site to identify and assess the effects of the proposed development. The circumstances where this will apply and the type of information that will typically be required in each case are outlined here. In some instances the Council may consider it necessary to prepare a more detailed brief to the applicant. However there are a number of issues common to all types of ecological appraisal.

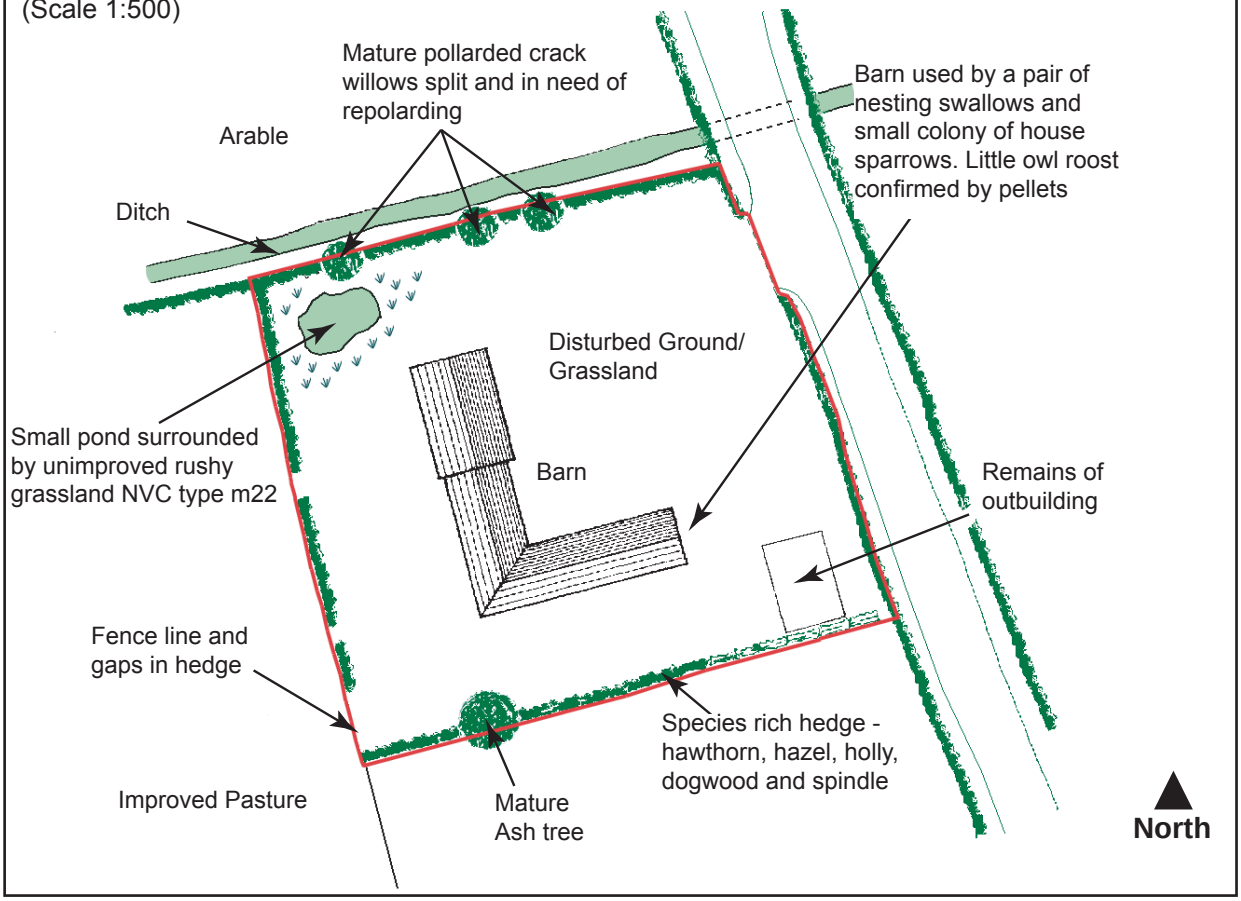
5.1.13 Due to the technical nature of ecological appraisals the Council would normally expect the applicant to use independent ecological consultants to undertake them. Ecological consultants should be qualified and experienced and the Council may ask the applicant to provide the details of the personnel responsible for undertaking each appraisal. It is the responsibility of applicants to ensure their appointed Ecologists provides suitable information within the Ecological Appraisal. Following this SPG will assist the process. Ecologists in the Council, Natural England and Herefordshire Nature Trust may have a knowledge of specialists who undertake consultancy in the area. The Institute of Ecology and Environmental Management (IEEM) produce a directory of members including commercial ecologists – see Appendix I.

5.1.14 All ecological appraisals must provide a report including a site grid reference and location plan (scale 1:1250 or 1:2500 based on recent Ordnance Survey map) with the application site and any adjoining property owned or controlled by the applicant clearly delineated. Plans showing the existing site layout e.g. all buildings, results of habitat and species surveys including connections to other semi-natural habitat outside the site, the proposed site layout and construction footprint e.g. any new building, access, habitats or natural features such as trees to be protected or removed and landscape proposals are also likely to be required. All plan-based information must be drawn to an appropriate scale with a north point and key. Other supporting material such as photographs may be submitted.

Figure 2 **Example of plans accompanying conversions of barn to dwelling.**

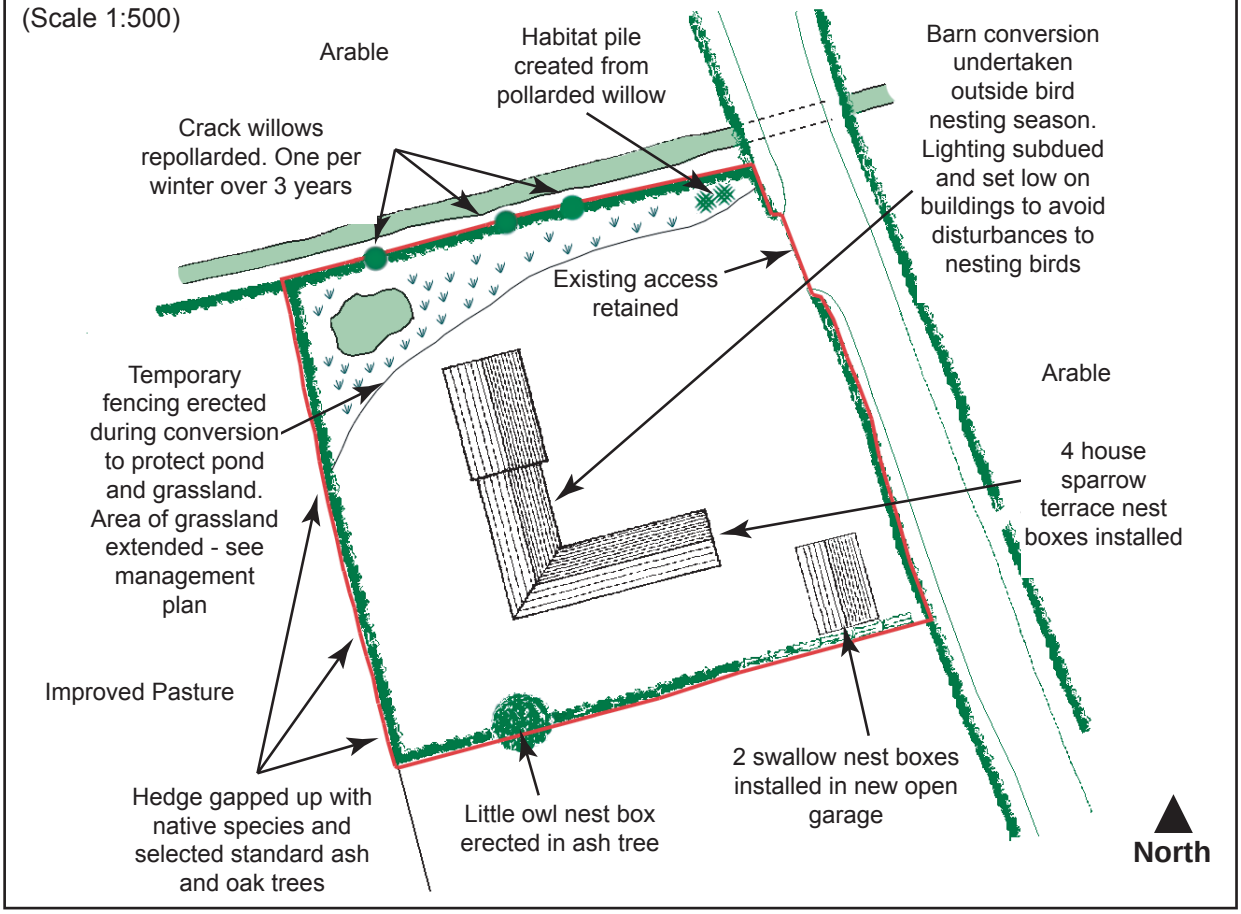
Existing site layout - results of ecological survey

(Scale 1:500)



Proposed site layout - protection and enhancement of habitat

(Scale 1:500)



5.1.15 The Council intends to issue an advisory note on ecological surveys and reports in support of planning applications. This will provide further detail on types of survey particularly in relation to protected species.

5.1.16 A desktop survey of the site proposed for development will usually be necessary as a first measure to establish if any existing biological information is available from relevant sources e.g. the Herefordshire Biological Records Centre - see appendix I.

5.1.17 In the majority of cases field survey will be essential. It should be noted that there is an optimal time for surveying habitats and species. Table 4 outlines optimal survey times. However weather conditions can vary each year and affect optimum survey times and therefore care must be taken in its application. If the survey has been seasonally constrained or indeed other constraints such as access have arisen and posed limitations to the survey then this must be clearly stated.

5.1.18 The methodology used for undertaking ecological surveys must be described with a justification for their selection and any limitations encountered. In the case of vegetation surveys in most instances a National Vegetation Classification (NVC) survey[47] or Phase 1 survey[18] will be required - see Figure 3. The Forestry Commision's Native Woodland Plans can provide a mechanism for ecological survey of semi-natural woodland. In the case of species surveys the methodology must be stated and should concur with recent published standards.

5.1.19 All ecological appraisals must include an objective evaluation of the site and the habitats and species it contains according to their status in legislation, the BAP's and any other relevant documentation.

5.1.20 All ecological appraisals must contain an assessment of the impact of the development, both the construction and operational phase. English Nature in Nature Conservation in Environmental Assessment, (1994)[48] state that *'impact significance is determined by the magnitude (scale or severity) of the impact and the value of the environmental resource being affected'*. The impact may be direct or indirect, negative or positive in direction. The impact may be temporary or permanent in duration. In some cases it will be possible to quantify the magnitude of the impact for example as a measurable area of the site that will be lost or adversely affected. Appraisals should indicate the certainty of impacts occurring and take into account cumulative effects.

5.1.21 The Department of the Environment, Transport and the Regions has produced guidance on a New Approach to Appraisal, (1998)[49] which recommends the formulation of project specific magnitude criteria. Further details surrounding the determination of impact magnitude may also be found within Developing Naturally (2000)[50].

5.1.22 All ecological appraisals must contain recommendations in relation to the retention and protection of habitats and species, for example, contractors to erect fencing and warning signs at start of project and ensure all workforce understand the issues surrounding the protection of biodiversity features. Where loss is unavoidable recommendations for mitigation and compensation must be included. Enhancement measures must also be considered. These should take full account of any other constraints operating on the site e.g. engineering requirements and thus be capable of implementation. It is recognised that in some situations there may be conflict between issues. The onus is on the applicant and their ecological consultant to work together to resolve these prior to submitting the appraisal.

5.1.23 Guidance on ecological appraisal has been developed by The Institute of Ecology and Environmental Management - Guidelines for Ecological Impact Assessment[51] in the United Kingdom.

5.1.24 Ecological consultants must, wherever possible, make scientific data collected during the course of their professional duties available to the Herefordshire Biological Records Centre.

Table 4 Optimal survey times

Habitat/Species	Optimal survey time
Grassland	May - August
Woodland/Hedgerows	April - June
Ponds/Water courses	May - June
All wild birds, their nests and eggs	Breeding March - August Wintering wetland birds October - March
Barn Owl, Peregrine Falcon, Kingfisher, Little Ringed Plover	Breeding March - August
Water Vole	March - October
Otter	Search for signs at any time but note flooding along watercourses may remove spraints
Dormouse	Hazel nut searches September - November Nest searches May - September
Bats	Depends on nature of roost e.g. summer roosts and feeding areas April - September but may occupy separate hibernation roosts October - March
Grass snake, Adder, Slow worm, Common lizard	April - June and September
White-clawed crayfish	July - September
Great crested newt	Water searches mid March - end of June Land searches July - October
Badger	Sett surveys October - April Bait marking February - April and September - October

Figure 3 Example of a Phase 1 habitat survey

5.2 Protected sites

Sites of international importance

5.2.1 Policy NC2 of the UDP states:
Development which may affect a European Site, a proposed or candidate European Site or a Ramsar Site will be subject to the most rigorous examination. Development that is not directly connected with or necessary to the management of the site for nature conservation, which is likely to have significant effects on the site (either individually or in combination with other plans or projects) and where it cannot be ascertained that the proposal would not adversely affect the integrity of the site, will not be permitted unless:

1. **there is no alternative solution; and**

2. **there are imperative reasons of over-riding public interest for the development.**

Where the site concerned hosts a priority natural habitat type and/or a priority species, development or land use change will not be permitted unless the authority is satisfied that it is necessary for reasons of human health or public safety or for beneficial consequences of primary importance for nature conservation.

5.2.2 As there are no SPAs or Ramsar sites in Herefordshire, this section deals solely with SACs. However, the procedures for SPAs are the same as for SACs and will apply to any SPAs designated in Herefordshire in the future. Ramsar sites are dealt with through the SSSI protection system.

5.2.3 Natural England is a statutory consultee for development likely to affect a SAC – see Appendix F. Regulation 48 of the Habitats Regulations[23] imposes a duty to consult Natural England before granting planning permission for development affecting a SAC.

5.2.4 Circular 06/2005[9] and Natural England's Habitat Regulations Guidance Notes (1997)[52] detail the steps involved in the consideration of development proposals affecting SACs and includes a useful flow chart. However in summary, if a development proposal is 'likely to have a significant effect' on a SAC either alone or in combination with other plans or projects and it is not directly connected with or necessary to site management it must be subjected to an 'appropriate assessment' by a 'competent authority'. The Council will take account of advice from Natural England in reaching a decision as to whether the development proposal is likely to have a significant effect.

5.2.5 When determining planning applications the Council will be the relevant 'competent authority'. The scope and content of an appropriate assessment will depend on the location, size and significance of the proposed project. The Council will seek Natural England's advice on the aspects the assessment should cover. The assessment will examine the implications of the development in view of the reasons for which the site was designated to ascertain whether or not it will adversely affect the integrity of the site.

5.2.6 Where a development proposal is likely to affect a SAC an appropriate assessment will be required. The applicant must provide information on all the aspects of the development and its potential impacts to the Council, in order for the Council to carry out the appropriate assessment. The appraisal should take the form of an ecological report and be submitted as part of the planning application.

The report should provide the following information:

1. An assessment of the impact of the development proposal on habitats and species. In line with the Habitats Regulations the assessment must include the effects of the proposal in combination with other proposals;

2. An evaluation of the significance of the impact in view of the site's conservation objectives (i.e. the reason for which the site was designated);

3. Proposals for protection of habitats and species and where damage is unavoidable, mitigation and compensation measures and enhancement;

4. Details of any monitoring and future management.

5.2.7 The Secretary of State will normally call in for his own decision planning applications which are likely significantly to affect a SAC. He will have regard to the advice of Natural England on which applications are likely to have such effects. Where a planning application likely to affect such a site is not called in, the Government expects the papers inviting Council members to take a particular decision to indicate clearly that the relevant factors have been fully addressed, whether or not the authority is minded to allow the development. The Council should be prepared to explain their reasons, particularly if they do not decide the case in accordance with the recommendations of Natural England. Regulation 49 of the Habitats Regulations[23] requires an authority proposing to allow development which would adversely affect a SAC to notify the Secretary of State in advance.

5.2.8 The development may only be allowed if there is no alternative solution and if there are imperative reasons of over-riding public interest, including those of a social or economic nature. In addition if the site also hosts a priority habitat or species (as listed in the Habitats Directive[21]) the scheme can only be considered in terms of over-riding reasons of human health and public safety, or where it has beneficial consequences of primary importance for the environment. Alternative solutions means that there are no other available sites which offer a reasonable alternative for the proposed development. It also means that there are no different, practicable approaches that would have a lesser impact.

5.2.9 There is a requirement to compensate for loss or damage under Regulation 53 of the Habitats Regulations[23] – see 5.6 for details.

5.2.10 For some projects an Environmental Impact Assessment[45] may also be required The assessment required under the Habitats Regulations does not correspond to an Environmental Impact Assessment. In such cases it will be appropriate to use the information assembled for the purposes of the Environmental Impact Assessment for the appropriate assessment.

Sites of national importance

5.2.11 Policy NC3 of the UDP states:
Development in or likely to affect Sites of Special Scientific Interest or National Nature Reserves will be subject to special scrutiny. Where such development may have an adverse effect, directly or indirectly on the special interest of the site it will not be permitted unless the reasons for the development clearly outweigh the nature conservation value of the site and the national policy to safeguard the network of such sites.

Where development is permitted proposals should make provision for the enhancement of such sites in order to improve their nature conservation status.

5.2.12 Under the General Development Procedure Order (1995)[43], the Council must consult English Nature (now Natural England) on development proposals for land in a SSSI – see Appendix F. Under the Countryside and Rights of Way Act (CRoW) 2000[26] it is also the Council's duty to consider the effect of proposals which could damage a SSSI whether located on or off the site. Natural England and the Council have informally agreed guidelines on types of development likely to trigger consultation.

5.2.13 The advice received from Natural England is a material consideration for the Council in its determination of the planning application. Under CRoW, if the Council is minded to permit an application contrary to the advice received from Natural England which might include the refusal of a permission or conditions that must be applied, then the authority must give Natural England a 28 day period of notice of the permission. The notice must include a statement setting out how it has taken account of Natural England's advice, make the start date of the permission no less than 21 days after the notice to Natural England and has a duty to conserve and enhance SSSI features. There are provisions for both parties to request that the Secretary of State determine the application.

5.2.14 Development proposals affecting SSSI's may require an Environmental Impact Assessment[45]. An EIA is mandatory for those development proposals on Schedule 1 of the Environmental Impact Assessment Regulations, but may also be required for projects on Schedule 2 where these are likely to have significant effects on the special character of an SSSI. The Council will take account advice from Natural England in reaching a decision as to whether or not an EIA is required in these circumstances.

5.2.15 Where development proposals affect NNR's the Council is expected to pay particular regard to their national importance. The Council must consult with Natural England for planning applications affecting NNR's. The Secretary of State may call in planning applications with a significant effect on NNR sites following advice from Natural England.

5.2.16 Where a development proposal is likely to adversely affect a site of national importance an EIA may be required. Where the development does not fall within the remit of the EIA legislation an ecological appraisal will normally be required. This appraisal should take the form of an ecological report and be submitted as part of the planning application.

The report should provide the following information:

1. An assessment of the impact of the development on the special features of the site;
2. An evaluation of the significance of the impact in a national context;
3. Proposals for protection of habitats and species and where damage is unavoidable, mitigation and compensation measures and enhancement of SSSI features in line with the CRoW Act;
4. Details of any monitoring and future management .

Sites of local importance

5.2.17 Policy NC4 of the UDP states:
Development which could directly or indirectly affect a Special Wildlife Site, Site of Importance to Nature Conservation, Local Nature Reserve or a Regionally Important Geological/ Geomorphological Site or a site subject to an agreement under Section 39 of the Wildlife and Countryside Act will not be permitted unless it can be demonstrated that there would be no harm to the substantive nature conservation value of the site, or that appropriate mitigation and compensatory measures can be taken in accordance with policy NC7, or that the reasons for development clearly outweigh the need to safeguard the nature conservation value of the site.

5.2.18 Local Sites may be adversely affected by development adjacent to or close to the site as well as development within the site itself. Consultation will be undertaken with the Herefordshire Nature Trust where applications may affect a site of local importance. For proposals affecting Regionally Important Geological/Geomorphological Sites, the Council will consult the Herefordshire and Worcestershire Earth Heritage Trust – see Appendix F.

5.2.19 Where a development proposal is likely to adversely affect a local site an ecological appraisal will be required. This appraisal should take the form of a report and be submitted as part of the planning application.

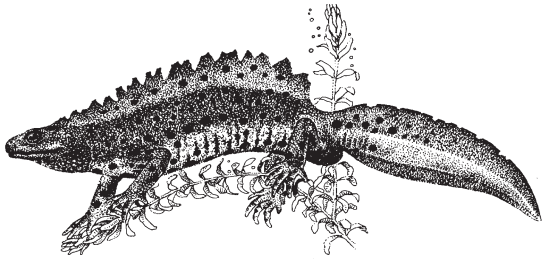
The report should provide the following information:

1. An assessment of the impact of the development on the special interest features of the site;

2. An evaluation of the significance of the impact in a local and county context;

3. Proposals for protection of habitats and species and where damage is unavoidable, mitigation and compensation measures and enhancement;

4. Details of any monitoring and future management.



5.3 Protected species

5.3.1 Policy NC5 of the UDP states:
Development proposals which would have an adverse impact on badgers or species protected by Schedules 1, 5 or 8 of the Wildlife and Countryside Act as amended, will not be permitted. Where an over-riding need for the development is demonstrated, conditions on the planning permission will be imposed or a planning obligation entered into to:

1. **facilitate the survival of individual members of the species;**

2. **reduce disturbance to a minimum; and**

3. **provide adequate alternative habitats to sustain at least the current levels of population of the species.**

5.3.2 Chapter 3 Biodiversity in Herefordshire outlines the legal protection afforded to certain animals and plants. This legal protection operates independently of the land use planning system. However developers must conform with this legislation in addition to obtaining planning permission. The suspected presence of a protected species on a proposed development site is probably the most frequently raised ecological issue in the planning process in Herefordshire.

5.3.3 Circular 06/2005 (paragraph 98)[9] states: *'The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Local authorities should consult English Nature before granting planning permission.'*

5.3.4 Sometimes the presence of a protected species on a site is known about by a third party such as a local naturalists group or biological recorder. There may also be instances when the issue of protected species arises unexpectedly during the development control process. This is usually when a member of the public reports that a protected species is present on a development site after a planning application has been submitted.

5.3.5 Circular 06/2005 (paragraph 99)[9] states: *'It is essential that the presence or otherwise of a 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'.*

5.3.6 It is advisable for developers to check as early as possible whether protected species are present on potential sites for development – ideally before the land is bought and the application made. If the presence of a protected species is suspected the applicant must inform the Council.

5.3.7 Table 5 sets out some types of development that may affect protected species or their habitats in the County. However it is not comprehensive and therefore care must be taken in its application. Appendix G provides further detail on triggers to undertake an ecological survey and appraisal. Badgers are widespread in Herefordshire, occupying a wide range of habitats including gardens and it is not possible to be specific about which types of developments are likely to affect them. Developers need to be aware of this and should take steps to ensure they have fully considered the possible use of a development site by badgers before submitting a planning application.

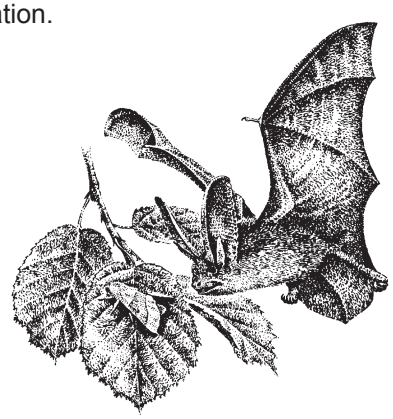


Table 5 Types of development that may affect a protected species

Checklist of Development Activites	Protected species that may be affected
1. Developments adjacent to or affecting ponds. Also in the case of great crested newts development affecting possible shelter/foraging/ hibernation sites such woodland, hedgerows, banks, rough pasture, piles of rubble or logs and stone/brick buildings within 250m of ponds.	Water vole, otter, grass snake, great crested newt, medicinal leech, kingfisher.
2. Developments adjacent to or affecting watercourses.	Water vole, otter, grass snake, great crested newt, allis shad, twaite shad, atlantic crayfish, pearl mussel, kingfisher, other nesting birds such as sand martin, floating-leaved water plantain.
3. Barn and rural building conversions, where the building is old rather than modern and the roof is intact. Especially if these are previously unoccupied, stone-built, contain large section roof timbers or are within 200m of water or woodland.	Bats, great crested newt, barn owl, other nesting birds such as little owl, swallow and house martin.
4. Alterations (or demolitions) to the roof spaces of buildings in particular churches/chapels, institutions, schools, manor houses. Development affecting caves, mines, tunnels, cellars and exposed rock faces. Development affecting bridges, culverts, chimneys, kilns and ice houses and/or any other structures within 200m of water or woodland.	Bats, barn owl, other nesting birds such as swift, swallow, house martin and house sparrow.
5. Developments affecting woodland, hedgerows, lines of trees and scrub.	Otter, dormouse, bats, adder, badger, nesting birds.
6. Developments affecting old and veteran trees and trees with a girth over 1.5m, or containing obvious holes including any felling or lopping.	Bats, barn owl, nesting birds.
7. Developments affecting derelict land, brown-field sites, railways and land aside them, grassland and allotments.	Slow worm, common lizard, grass snake, adder, barn owl.
8. Developments affecting quarries, cliff faces and gravel pits.	Slow worm, common lizard, peregrine falcon, little ringed plover, nesting birds.

5.3.8 More specific guidance in relation to protected species that might be affected by barn and rural building conversions may be found in the Re-use and Adaptation of Rural Buildings SPG[53].

5.3.9 Where the presence of a protected species is known or where there is reasonable evidence to indicate the likely presence of a protected species on a site and a development proposal is likely to harm it, an ecological appraisal will be required. This appraisal should take the form of a report and be submitted as part of the planning application.

The ecological report should provide the following information for each protected species present on the site:

1. Name of species/s;

2. Details of any past records for the species on the site and in any surrounding suitable habitat;
3. Survey information describing.

- Presence or absence. If present, numbers of individuals of the species using the site
- What the species uses the site and surrounding area for – breeding, roosting, hibernating, feeding etc
- Which times of year the species is present on the site
- The methodology used in collecting the survey data giving times of recording, demonstrating that surveys have taken account of seasonal constraints and any limitations encountered.

4. An assessment of the impact of the development upon the species;

5. An evaluation of the significance of the impacts in a county, national and international context;

6. A description of procedures for protection of species and their habitat and where damage is unavoidable, mitigation and compensation measures and enhancement. This should also include any requirements for a development license from DEFRA;

7. Details of any future management and monitoring.

5.3.10 Where appropriate, taking into account any advice from Natural England, the Council will attach planning conditions or enter into planning obligations under which mitigation is secured from the developer, to secure the protection of the species. Mitigation in this instance may mean things like re-timing the development to avoid the breeding season, redesigning the layout of the site to exclude the areas used by the protected species, or incorporation of the habitat that the species depends upon into the site layout as an integral feature of the design.

5.3.11 Licensing Requirements

Licences are required to allow activities to take place that would otherwise be prohibited. Any activities that are likely to cause disturbance, including survey or any other prohibited activities, need a licence to do so lawfully. It should also be noted that the granting of planning permission does not negate the legal protection afforded to species under the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), the Wildlife and Countryside Act 1981 (as amended) and the Badger Act 1992.

Licences derogating from the protection afforded to European Protected Species (EPS) can be granted for a number of specified reasons or purposes as set out in Regulation 44 of the Conservation (Natural Habitats, &c.) Regulations 1994. These purposes are listed:
(a) scientific or education;
(b) ringing or marking, or examining any ring or mark on, wild animals;
(c) conserving wild animals or wild plants or introducing them to particular areas;
(d) protecting any zoological or botanical collection;
(e) preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment;
(f) preventing the spread of disease;
(g) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other forms of property or to fisheries.

Licences can only be issued by Natural England where the proposed activity meets the criteria for one of the purposes above and the following two criteria (together commonly referred to as the 'three tests') -
- that there is no satisfactory alternative; and
- that the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

Mitigation licences
The developer will need to apply to Natural England (formerly Defra) for a 'Mitigation' Licence before any work commences on site. The licence application consists of three documents – the application form, the Method Statement and the Reasoned Statement. Applicants have to provide sufficient evidence that all the tests are met before a licence can be issued.

A licence will not generally be issued until planning conditions relating to wildlife, which are intended to be and are capable of being discharged before development begins, have been discharged. If NE decides to issue a licence in advance of full planning consent (or outline planning consent with conditions or Reserved Matters being secured) they will attach a condition to the licence requiring all necessary permissions to be obtained before licensed activities can commence.

NE also licence any activity which is likely to result in a breach of the Badger Act 1992, such as disturbance of badgers or their setts. Disturbance includes:
- All work within 10 metres of the nearest sett entrance
- The use of machinery within 20 metres
- The use of large machinery within 30 metres

If in doubt, contact Natural England for advice. Application forms and guidance are available from:
http://www.naturalengland.org.uk/ourwork/regulation/wildlife/licences/applicationforms.aspx
Wildlife Management and Licensing Service, Natural England, Burghill Road, Westbury-on-Trym, Bristol, BS10 6NJ
Tel: 0845 601 3438 Email: wildlife@naturalengland.org.uk

Survey licences
Application forms are available from:
Wildlife Management and Licensing Service, Natural England, Northminster House, Peterborough, PE1 1UA
Tel: 0845 601 4523 Email: wildlife@naturalengland.org.uk

5.4 BAP priority habitats and species

5.4.1 Policy NC6 of the UDP states:
Development should have regard to those habitats and species listed in the UK and Herefordshire Biodiversity Action Plans in order to protect, manage and enhance priority species and habitats. Proposals that might result in a threat to such priority species or habitats will not be permitted unless the reasons for the development clearly outweigh the need to safeguard the habitat or species.

5.4.2 Many priority habitats and species do not fall within designated sites or have any specific legal protection. However it is government policy as described in 3.4 that features of biodiversity importance should be protected. The Circular 06/2005 (paragraph 84)[9] endorses this by stating that such habitats and species of principal importance in England are capable of being a material consideration in the making of planning decisions. In PPS9[8] the Government has indicated that local authorities should take steps to further the conservation of habitats and species of principal importance through their planning function (paragraph 11).

5.4.3 Where a development proposal is likely to adversely affect a BAP priority habitat or species an ecological appraisal will be required. This appraisal should take the form of an ecological report and be submitted as part of the planning application.

The report should include the following information:

1. An assessment of the impact of the development on the special interest features of the site;

2. An evaluation of the significance of the impact in a county, national and local context. Reference should be made to the relevant UK and/or LBAP;

3. A description of proposals for protection of habitats and species and where damage is unavoidable mitigation and compensation measures and enhancement;

4. Details of any monitoring and future management.

5.5 Safeguarding habitat networks

5.5.1 Policy NC1 of the UDP (see 5.1.1) (and also LA5 Protection of trees, woodlands and hedgerows) is relevant to safeguarding habitat networks. The protection of species and habitats within a development and also the habitat networks that they depend on is vital to ensure they do not become isolated. When habitats become isolated their ability to recover from extreme events can be impaired. All development proposals should retain the linkages between habitats and, where possible and if appropriate, strengthen them.

Hedgerows

5.5.2 Hedgerows are a habitat specifically protected under UK legislation. The Hedgerow Regulations 1997[33] operate independently of the land use planning system - via the Environment Act 1995[34]. However, where a planning application proposes the removal of a hedge, which would otherwise be covered by the Regulations, then, this is deemed to be a notification of the intent to remove the hedgerow and the Council will expect a hedgerow assessment to be commissioned and a report submitted by the developer.

5.5.3 Where a development proposal is likely to involve the removal of a hedgerow or hedgerows which would otherwise be covered by the Hedgerow Regulations an appraisal will be required. This should take the form of a report and be submitted as part of the planning application. The hedgerow/s should be assessed against the criteria set out in the Hedgerow Regulations.

5.5.4 The Council will not permit planning permission for the removal of hedgerows meeting the criteria for importance unless there are exceptional circumstances that merit removal and/or the reasons for the development outweigh the need to safeguard the hedge. The exceptional circumstances meriting removal will be similar to those described in the Hedgerow Regulations. These are likely to be where in the judgement of the Council the applicant has reasonably demonstrated that there is a justification based on public safety or wider environmental benefits being served. Where in the Local Authority's opinion a hedgerow can be removed in order to facilitate development it will expect compensation proposals to be put forward.

Trees and Tree Preservation Orders

5.5.5 If there are any trees on a proposed development site, before proceeding with site design, the developer should check the UDP to see if the site falls within a Conservation Area and check with Conservation Section's Arboriculturalist to see if the tree(s) is covered by a Tree Preservation Order[35]. The submission of a planning application is deemed to be an application for consent to carry out work to protected trees. The Council intend to produce detailed guidance on trees on development sites as SPG. Although only trees within a Conservation Area or TPO's are protected, it is normally desirable to retain as many trees as possible within the overall development scheme.

5.5.6 5.5.6 Where the development proposal is on or adjacent to a site with one or more trees, the applicant should submit an independent survey and assessment of the tree(s) (whether or not in a Conservation Area or covered by a TPO). The survey should follow the recommendations and guidance in British Standard BS 5837:2005[66] and should include details of all existing trees, their position, species, height girth, spread and condition. The assessment should clearly identify trees to be retained, those to be removed and those to which work is proposed; it should also demonstrate how trees are to be protected during construction as well as post-construction management.

5.5.7 Development proposals that would cause loss or damage to trees will be subject to rigorous examination and only permitted where the development is in the public interest. In accordance with 5.6 the Council will expect compensation proposals to be put forward in such cases.

Ancient trees

5.5.8 Ancient trees are a valuable asset to a development enabling new buildings to blend into the surroundings. The Council will seek the retention and incorporation of ancient trees within development sites as encouraged by PPS9 (paragraph 10)[8].

5.5.9 However the great age of ancient trees can pose issues of safety on some development sites in some circumstances. This is a complex area, outside the remit of this guidance. An assessment of the safety risk posed by trees should only be undertaken by qualified arboriculturist (registered with the Arboricultural Association). Guidelines on how to carry out such an assessment have been provided by English Nature in Veteran Trees: A Guide to Risk and Responsibility (2000)[54].

5.5.10 Where a development proposal involves carrying out works to an ancient tree for reasons of safety or the tree poses such a safety issue that it would need to be felled the Council will expect the developer to provide an independent survey and assessment of the tree with the planning application. The survey should identify any appropriate works to the tree such as pruning or leaving the trunk section standing.

5.5.11 Development proposals that would cause loss or damage to ancient trees will be subject to rigorous examination and only permitted where the development is in the public interest. In accordance with 5.6 the Council will expect compensation proposals to be put forward in such cases.

Ancient woodlands

5.5.12 The Forestry Commission are consulted on planning applications which may have an impact upon ancient woodlands[55]. The consultation zone has been defined at a 500m radius surrounding ancient woodland. The Government is committed to reviewing the effectiveness of the protection measures for ancient woodlands and introducing new ones if necessary.

5.5.13 Where a development proposal is likely to adversely affect either directly or indirectly an ancient woodland (either as shown on the Ancient Woodland Inventory[37], or suggested by field survey) an ecological and historical appraisal will be required.

5.5.14 PPS9 (paragraph 10)[8] states that local planning authorities *'should not grant planning permission for any developments that would result in its loss or deterioration unless the need for, and benefits of, the development in that location outweigh the loss of the woodland habitat'.* Many of the County's ancient woodlands are also County BAP priority habitats and accordingly development that might result in a threat will not be permitted unless the reasons for the development clearly outweigh the need to safeguard the habitat.

Ponds and watercourses

5.5.15 Policies DR6 Water resources and DR8 Culverting are relevant to safeguarding ponds and watercourses. Where ponds or watercourses exist on proposed development sites, as well as being of value to wildlife, they can make an important contribution to the setting and appearance of a development and landscaping scheme. Environment Agency land drainage consent is required for the culverting of any watercourse and consent is not usually given unless the culvert is required for access.

5.5.16 Where a development proposal is likely to adversely affect a pond or watercourse an ecological appraisal will be required.

5.5.17 Development proposals should wherever possible retain ponds and open watercourses.

5.6 Mitigation and compensation

5.6.1 Policy NC7 of the UDP states:
Where development is permitted, the use of conditions and/or planning obligations will be considered in order to provide appropriate mitigation and compensatory measures to avoid, minimise or offset the loss of or damage to any biodiversity feature covered by policies NC2 to NC6. Such measures will be at least proportionate to the scale of the loss or impact.

5.6.2 Mitigation and compensation should only be proposed when alternative design and siting solutions for a development have been thoroughly considered. They should not be seen as an alternative to modifying the proposal in the first place.

5.6.3 **Mitigation** is those actions taken to reduce or eliminate the adverse effects of a development. For example changing the timing of a construction phase of the development or the method in which it is carried out. A goal in drawing up mitigation proposals should be to maintain habitats, features and species at a satisfactory status on site. Where development proposals are adjacent or near to protected sites or priority habitats, the creation of new habitats that act as a buffer zone to protect from damage, disturbance or pollution may be required as mitigation.

5.6.4 **Compensation** is those actions taken to offset any residual damage which cannot be mitigated against. The goal in drawing up compensation proposals is to provide some relationship between what is lost and what is offered in terms of quality and quantity of features provided. Ideally, compensation should provide more, for example, to allow for the lower ecological value of newly created habitats in comparison with established habitats.

5.6.5 Where development proposals meet the relevant policy tests i.e. other material factors are sufficient to override biodiversity considerations and where loss or damage is unavoidable, appropriate compensation will be required of a similar quality and quantity (Circular 1/97[40], Annex b, para. 11 and 12) to ensure there is no net loss of biodiversity within the County.

5.6.6 It is the developer's responsibility to demonstrate that the mitigation and compensation measures offered and the timescales involved are technically feasible to achieve success. Such measures should form part of a planning permission and be the subject of either planning conditions (Circular 11/95[39]), or of a planning agreement (Circular 1/97[40]). Mitigation and compensation secured through planning conditions must be necessary, relevant to planning, relevant to the development permitted, enforceable and fairly and reasonably related to the permitted development.

5.6.7 Translocation is the removal and relocation of assemblages of species (usually including the substrates on which they occur) from their original site to a new location. Habitat or species translocation should not be viewed as a convenient measure to move the interest out of the way of the development. The available evidence indicates that translocations have not been successful in maintaining the biodiversity of the assemblage that is moved, and so the practice is regarded as damaging by statutory and voluntary conservation organisations[56]. Translocation will not remove a development proposal's conflict with policies intended to protect habitats and species.

5.6.8 For European protected sites there is a statutory requirement to compensate for loss or damage. The Habitats Regulations[23] (Regulation 53) state that where permission is granted for a development proposal which will adversely affect a European site *'the Secretary of State shall secure that any necessary compensatory measures are taken to ensure that the overall coherence of Natura 2000 is protected'*. In other words, the Secretary of State will require developers to provide sufficient compensation to maintain the suite of European protected sites (Natura 2000). Such compensation may be on site or equally, it may be elsewhere, provided that the overall integrity of the Natura 2000 is maintained. Developers are requested to seek further advice from the Secretary of State for the correct procedure in this instance.

5.6.9 For sites of national importance when mitigation and compensation proposals are required the Council will consult Natural England on the suitability of the proposals. In the case of proposals involving local sites, Herefordshire Nature Trust and/or the Earth Heritage Trust will be consulted.

5.6.10 There will be a requirement to prepare a management plan and monitoring programme to accompany any mitigation and compensation proposals – see 6.4 and 6.6 for further details.

6.0 CREATING NEW WILDLIFE HABITATS AND ENHANCING BIODIVERSITY ON DEVELOPMENT SITES

6.1 Using the planning system to achieve habitat creation, restoration and enhancement.

6.1.1 This chapter attempts to provide practical advice on how to deliver biodiversity enhancement or 'net gain'. It is not enough just to protect what we already have and indeed a positive planning agenda seeks to ensure that we actually enhance our environment and quality of life. It is not a definitive guide, merely an insight into the scale of opportunities for planning applications to deliver national and local BAP targets.

6.1.2 Legislative instruments, including the Planning and Compensation Act of 1991[57] and the Habitats Directive 1992[21] have long framed the interactions between planning and concern for wildlife. The consequence of which is that it is now a statutory duty upon the Council to improve their physical environment, to conserve the natural beauty and amenity of the land, and to encourage the management of important landscape features.

6.1.3 PPS9 (paragraph 14)[8] states that 'Development proposals provide many opportunities for building-in beneficial biodiversity features or elements as part of good design'. Creating new wildlife habitats and enhancing biodiversity as part of a planning application may make the difference between permission being granted or refused.

6.1.4 Policy NC8 of the UDP states:
The design of new development and the restoration and reclamation of derelict and degraded sites and landscapes, should wherever possible, seek to enhance existing wildlife habitats and provide new habitats for wildlife as opportunities arise. In bringing forward such measures proposals should:

1. **retain and enhance existing semi-natural habitats, wildlife corridors or geological features within their layouts and design;**

2. **demonstrate that they will have no adverse effects on any adjacent nature conversation resource;**

3. **help to create or restore habitat networks in particular through the creation of new wildlife corridor and/or stepping stones; and**

4. **contribute towards one or more targets in the UK and Herefordshire Biodiversity Action Plans.**

6.1.5 Any proposals and site design should firstly ensure biodiversity features are retained and incorporated on site. However encouragement will be given to schemes that seek to **create**, **restore** or **enhance** habitats and species. Furthermore these habitats may require management to halt ecological change known as succession. The LPA will expect major developments to incorporate community aspirations for biodiversity within design proposals and foster local community participation in nature conservation sites.

Habitat creation = land management actions aimed at establishing a habitat on a site where it has not occurred before. This should take place only on land of no significant ecological interest.
Habitat restoration = land management actions aimed at restoring a habitat on a site where it has previously existed, but subsequently been lost
Habitat enhancement = land management actions aimed at improving the quality of habitat on a site which already supports that habitat

6.1.6 Habitat creation, restoration and enhancement activities need to be properly targeted to achieve the most gains for wildlife, be most cost effective and efficient and meet tests of reasonableness. Some developments are better suited to offering biodiversity opportunities or particular habitat types, so the targeting of habitat creation, restoration and enhancement has two elements; making sure the development type is appropriate and making sure the appropriate habitat type is created, restored, or enhanced and that provision of resources is secured for its long term management and monitoring.

6.2 Developments offering opportunities for enhancing biodiversity

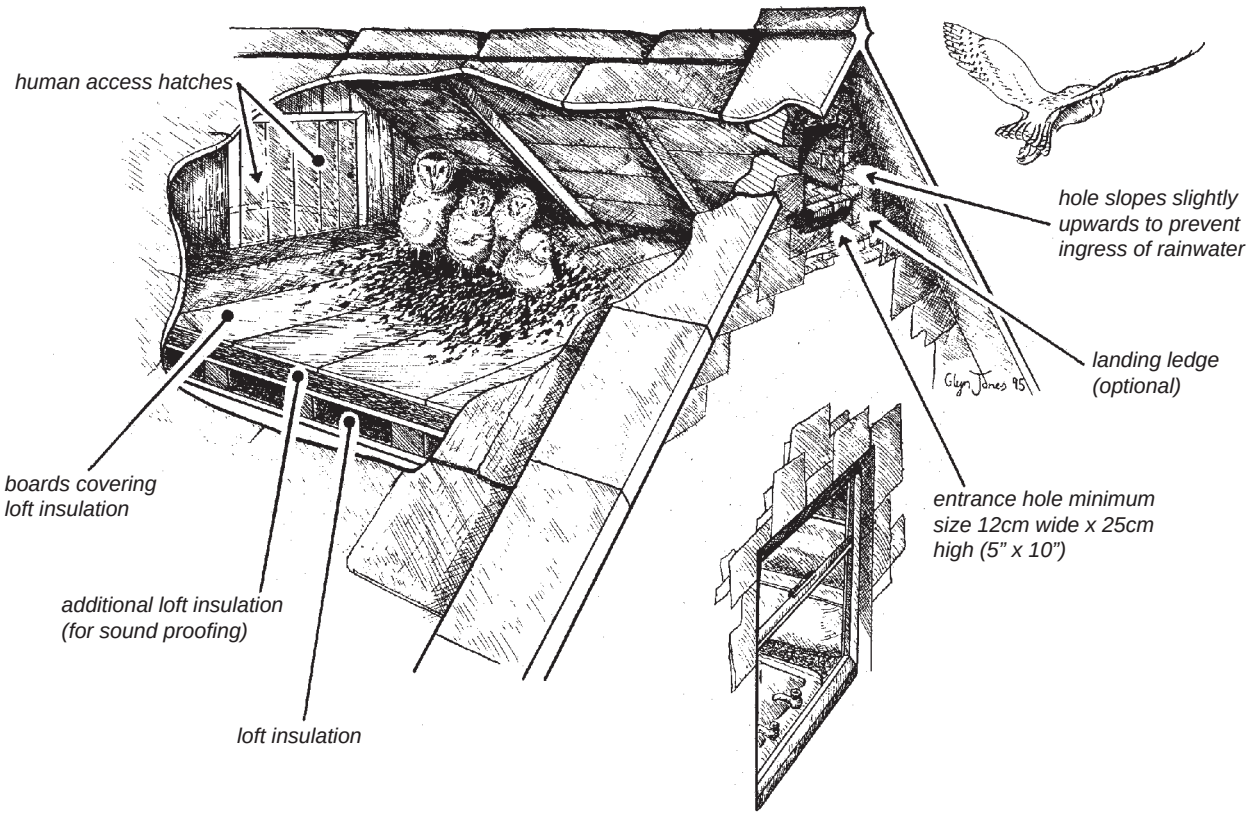
6.2.1 The identification of those development types offering the most opportunities for habitat creation, restoration and enhancement is based on factors such as the size of the development and the location of the development.

6.2.2 The size is dealt with by asking whether it is a major development. Major development is defined under the General Development Procedure Order 1995[42]. In the majority of cases, larger developments will have greater potential for biodiversity contribution however this does not discount the opportunities for small developments to deliver benefits. The Local Agenda 21[58] phrase *'think global act local'* has taught us that the accumulation of many small actions can achieve significant benefits. For instance even the smallest development may be able to incorporate a bird or bat box. In Herefordshire the Re-use and Adaptation of Rural Buildings SPG[53] states *'the retention and creation of a barn owl hole and nest box shall be encouraged, unless the site is 300m above sea level. Making provisions for barn owls is inexpensive, especially if undertaken at the time of renovation'*.

6.2.3 Even householders submitting planning applications can be encouraged to enhance the biodiversity of their own gardens. English Nature have produced a leaflet on the subject – see Appendix I.

6.2.4 The location of the development may afford extra opportunities. Where development proposals are adjacent or near to protected sites or priority habitats, habitat creation may be necessary as part of the mitigation to act as a buffer to the protected site. However in addition to any mitigation measures there may still be a good opportunity for habitat creation and strengthening habitat networks. Habitat creation, restoration and enhancement in Biodiversity Enhancement Areas (see 3.1.5) can make proportionately greater contributions to biodiversity conservation than efforts in other areas where the natural resources are more scattered or of less intrinsic value.

Figure 4 Example of provision for barn owls within a small loft area of a converted barn or other dwelling



Taken from Barn Owls on Site - the Barn Owl Trust

6.2.5 Using such factors it is possible to draw up a list of development categories to which Policy NC8 of the UDP should apply.

Categories of development where habitat creation, restoration or enhancement will usually be required in line with Policy NC8 of the UDP:

1. The restoration of mineral workings;
2. The reclamation of derelict or degraded land;
3. Waste development;
4. Major residential development when the site is more than 0.5 hectare in extent/10 houses;
5. Major industrial development when the site is more than 1 hectare in extent;
6. The development of public open space and major recreational features (such as golf courses);
7. Road and rail schemes;
8. Small developments which offer inherent opportunities e.g. barn conversions;
9. Developments adjacent to an existing protected site or priority habitat or within a Biodiversity Enhancement Area;
10. In settlements, neighbourhoods and urban areas currently lacking in wildlife sites and where local communities have few opportunities for direct contact with nature.

6.2.6 Examples of enhancing biodiversity within different developments are provided in Table 6. Many of the steps are very simple, others are more complex, but it does show that nearly all developments can contribute in a positive way. The person responsible for the design of the development plays a crucial role in formulating and realising a successful outcome for biodiversity. The Council is committed to achieving good design from all new development proposals through its SPG on Design and Development Requirements[59].

6.2.7 There are a number of technical handbooks available concerning biodiversity enhancements in developments. Some of these are included in Appendix A listed under Other useful references.

6.2.8 Some examples of Action Plan Targets taken from the Herefordshire BAP which are relevant to planning are included in Appendix H.

6.2.9 In addition to the above factors the Council may have identified biodiversity opportunities within a site-specific development brief. The two main functions of briefs in the planning process are to improve the efficiency of the planning and development process and to improve the quality of the development. A development brief can thus focus a developer's attention on the unique ecological characteristics of a site and provide specialist guidance that secures a high standard of development incorporating and enhancing a site's biodiversity interest.

Table 6 Examples of enhancing biodiversity within different developments

Development	Opportunities for Enhancing Biodiversity
Mineral workings	• Incorporate and manage existing habitat, species and geological exposures on unworked land • Plan at outset for habitat creation to meet BAP targets during restoration phases • Allow local naturalists visits to record and survey the site • Hold open days with biodiversity theme
Reclamation of derelict land Waste development	• Incorporate and manage existing habitat, species and geological exposures • Landscape and screen with locally appropriate native species • Create wildflower grassland to meet BAP targets • Create new woodland to meet BAP targets
Residential development	• Incorporate and manage existing habitat in open space requirement • Create new features for wildlife in open spaces e.g. traditional orchards or woodland to meet BAP targets • Create a network of green corridors e.g. plant hedges, long grass, wetland corridors • Design for sustainable drainage systems e.g. balancing ponds, reedbed systems • Landscape with locally appropriate native species • Design in bird and bat boxes • Promote wildlife gardening amongst householders • Investigate involving community groups and residents
Industrial development	• Design for sustainable drainage systems e.g. balancing ponds, reedbed systems • Create a network of green corridors e.g. plant hedges and allow areas of grassland to grow long • Create new wildlife habitats e.g. wildflower grasslands • Design in bird and bat boxes • Create green roofs • Enhance habitats on areas of open space
Public open space and recreational features	• Create a network of green corridors e.g. plant hedges and allow areas of grassland to grow long
Road and rail schemes	• Mitigation measures to include under passes for otter, badger crossings etc • Create new habitats e.g. semi-natural grassland, woodland and ponds • Design for sustainable drainage systems e.g. swales, balancing ponds • Conserve geological exposures • Landscape and screen with locally appropriate native species • Design in bat bricks, bird boxes etc on bridges
Conversions of rural buildings	• Barn owl box or provision of nest space • See Re-use and Adaptation of Rural Buildings SPG[53]

6.3 Creating, restoring and enhancing the appropriate habitat type on development sites

6.3.1 Biodiversity Action Plans and Natural Area Profiles are the foremost driving forces in setting targets and actions for nature conservation. Applicants and their appointed designers can use these positively to guide the approach and design of the development scheme. Many of the schemes would also benefit from the technical input of ecologists into the design.

6.3.2 To ensure that appropriate, characteristic and viable habitats are created, restored and enhanced on development sites, several factors must be taken into account:

Checklist for applicants and designers

- □ Reference should be made to the UK BAP[3, 31] and Herefordshire BAP[4, 30] habitat and species restoration targets.
- □ Reference should be made to the relevant Natural Area Profile[17]; Reference should be made to the Landscape Character Assessment SPG[16].
- □ The type and value of any existing habitats on the site must be considered so that new habitats are complementary e.g. trees should not be planted on species rich grassland.
- □ Opportunities for providing linkages between habitats on the site and in the vicinity should be explored to maximise their potential interest.
- □ The underlying geology and soils will have a strong influence on the habitat that can be created as well as the aspect and drainage.
- □ The past history of the site needs to be researched and considered. For instance, if fertilisers have been extensively used on a site, then the resulting high nutrient status may be a problem for the creation of a wildflower grassland.
- □ It must be technically feasible to create or restore the habitat – for instance a new pond must have a water supply.
- □ The interest and potential involvement of the local community.
- □ Proposals for tree and shrub planting and wildflower creation should always aim to use native plants and seeds sourced locally, or at least, from within the region or UK. This will ensure that it is of maximum benefit to wildlife, prevents competition between native and introduced plants of the same species and maintains the natural genetic diversity of our native wild plants. An organisation called Flora Locale has produced technical guidance notes on the subject[60].
- □ In some cases natural regeneration can be used as a tool to both create and restore habitats and can produce more benefits for biodiversity. Examples of where this is likely to be successful may include where there is a nearby semi-natural habitat providing a natural source of seed and plant colonisers. Areas subject to natural regeneration may be deemed to look untidy initially but they may be more beneficial than planted areas.
- □ It is also worth bearing in mind that some areas of bare ground can be useful for wild life e.g. solitary wasps and other invertebrates, and uncommon annual plants can all benefit from exposed substrates.
- □ Decisions on which habitat enhancement measures are appropriate can be simpler than those for habitat creation and restoration activities. The nature of the existing habitat will set the frame of reference. Enhancement measures can be management orientated e.g. changing the mowing regime for a grassland to allow certain plants to flower set seed, they may involve the removal of undesirable species or involve the addition of species e.g. planting in gaps within an existing hedgerow.
- □ It must be feasible to manage the new habitat to sustain or enhance its interest. For example, there is little point in establishing a grassland which relies on grazing to maintain its interest, if there is no possibility of grazing the site in the future.

6.4 Securing management of biodiversity features on development sites

6.4.1 Policy NC9 of the UDP states:
Development proposals which provide for the creation, restoration, enhancement or protection of biodiversity features including those provided as compensation for unavoidable loss in accordance with policy NC7, will also be required to provide for the management and monitoring of those features concerned. Conditions will be imposed or agreements entered into according to the nature of the management requirements needed.

6.4.2 Much effort is spent on protecting sites and species, on retaining features in situ and on creating new ones whilst the long term future of such features tends to be an afterthought. Yet without appropriate management, and importantly, monitoring, the value of the protected, retained and created habitats is likely to decline and all the initial effort may be wasted.

6.4.3 The importance of habitat management is recognised by the Habitats Regulations[23] which require development plans to include policies *'encouraging the management of features of the landscape which are of major importance for wild flora and fauna'* (section 37). Management is also supported by Circular 06/2005[9] in paragraph 88.

6.4.4 Legislative and policy advice from Government provides local authorities two instruments to secure and deliver biodiversity gains, conditions and obligations. Planning conditions can be imposed to ensure that any adverse impacts are avoided mitigated and/ or compensated for. Circular 11/95[40] provides examples of model conditions that may be used for the benefit of nature conservation.

6.4.5 Although conditions may secure measures to enhance wildlife, the principal mechanism for securing positive benefits is provided for under Section 106 of the Town and Country Planning Act 1990[7]. A Section 106 agreement is a legal agreement, typically drafted by a solicitor before planning permission is granted and entered into by the local planning authority or a third party and developer. It is usually offered by a developer in association with the planning application and comes into effect at time when planning permission is granted. Circular 1/97[41] states that agreements should: serve a planning purpose, relate to the proposed development, be related in scale and kind to the development proposal and satisfy the test of reasonableness. They may be relevant for a variety of applications including resolution of land management issues through a management plan, arrangements for the monitoring of mitigation measures, provision of land for use as a nature reserve or public open space, new habitat creation schemes, financial provisions for lump sum or periodic payments such as maintenance funds. Circular 1/97 specifically cites as commendable the propositions made by some developers in creating nature reserves, planting trees, establishing wildlife ponds and providing for other nature conservation benefits. If a Section 106 agreement is to be successful it is vital that future site ownership and responsibility for any creation works and long term management is properly resolved and agreed between all parties.

6.4.6 The many issues involved in habitat management are best dealt with through the preparation of a management plan. There is a standard format for the preparation of such a plan - published, along with other advice, in Site Management Plans for Nature Conservation[61]. In addition as mentioned above, the practicalities of future management should have been one of the deciding factors in the choice of which habitat types to create or restore and in the formulation of enhancement proposals. It is important that a management plan also includes monitoring, to allow for amendments in the light of experience.

6.4.7 Management of habitats can be achieved through the use of planning conditions and planning obligations. Of the two, the Council will favour planning obligations because they do not have to be time-limited and they can cover land other than the application site (provided it is in the applicant's control). For instance planning obligations can:

- Require a management plan to be prepared for a site;
- Require that monitoring to assess the effects of such management be carried out;
- Require that the management plan be reviewed on a regular basis and be amended accordingly in the light of the results from the monitoring;
- Provide money (through a commuted sum) to enable such management to take place.

6.4.8 The issue of who carries out the management should be identified before management proposals are approved. In some instances, local nature conservation organisations may be willing to take on responsibility for land or its management but will usually also need the financial resources to support such a commitment.

6.4.9 Management proposals should be submitted as part of the planning application and if approved, will form part of the permission. Management proposals should be in the form of a management plan to allow for monitoring and revision as necessary. The organisation responsible for implementing the management plan should be clearly identified in the management proposals. The management plan should contain:

1. A description of features to be managed;

2. The aims and objectives of management;

3. Management options to achieve aims and objectives;

4. A 5 year work plan including costs;

5. The organisation and personnel responsible for implementing the plan;

6. Monitoring and review measures.

6.5 Community participation and access to natural greenspace

6.5.1 Unless carefully planned, a proposal for major development risks the danger of generating local opposition and hostility. The Government has stated that it is committed to active community involvement in the planning process. The Rural White Paper[62] reinforces the Government's approach with the aim *'to ensure that the things people value about the countryside are properly taken into account in planning and similar decisions: and that local communities have the opportunity to play a part in shaping the landscape around them'*. It extends to urban as well as rural areas. PPG3 *Housing*[10] also advocates the articulation of a *'shared vision for development with the local community'*.

6.5.2 Under the Local Government Act 2000[63] authorities are required to take full account of biodiversity in preparation of all their activities within Community Strategies. The Herefordshire Plan[64] (Herefordshire's Community Strategy) and the Herefordshire Local Biodiversity Action Plan[4] are two local strategies that provide a framework for enabling local community action.

6.5.3 People need nature, it is important for their well-being and quality of life. Natural England recommends that people living in towns and cities should have an accessible natural greenspace less than 300 metres (in a straight line) from home[65].

6.5.4 It is advantageous to include local people or representatives of voluntary groups and businesses with an interest in a site early on in the site design. They may have a part to play as catalysts to mobilise wider support. The community may have or wish to have access to greenspace. They may also assist with the creation and practical management of habitats and species provided in the development.

6.5.5 Major developments proposals will be expected to seek the participation of the local community by exploring opportunities for their access to and use of natural greenspace.

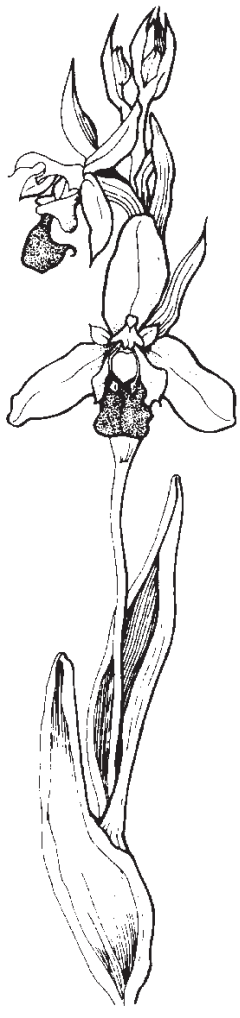
6.6 Monitoring

6.6.1 Where planning permission is granted accompanied by obligations or conditions for mitigation or enhancement works then there will be a requirement to prepare a monitoring programme. The purpose of monitoring is to measure change both positive and negative.

6.6.2 A monitoring programme should select indicators or targets that can be applied over a suitable timescale and that ensure the success or otherwise of any works. It should provide details of the personnel responsible for implementing the monitoring programme and include a contingency plan for corrective actions or changes to the development triggered by monitoring outcomes.

6.6.3 Monitoring will improve our knowledge surrounding the environment and will assist the Council in informing future planning decisions and assessing the effectiveness of policies in protecting and enhancing biodiversity.

6.6.4 As well as monitoring individual developments this SPG will be reviewed on a regular basis alongside reviews of the UDP and the County BAP.



APPENDIX A ~ References

1. Convention on Biological Diversity 1992, Rio.

2. Department of the Environment. Biodiversity: The UK Action plan 1994 (Command 2428), HMSO, London.

3. UK Biodiversity Steering Group (1995). Biodiversity: the UK Steering Group Report. Volume I and II. Meeting the Rio Challenge. HMSO. London.

4. Herefordshire Biodiversity Partnership. (2000). Herefordshire's Biodiversity Action Plan.

5. Rio Declaration on Environment and Development, 2002, Rio. The Stationery Office.

6. The UK Government Sustainable Development Strategy. (2005) (Command 6467), HMSO, London.

7. Town and Country Planning Act 1990 (as amended). HMSO, London.

8. Office of the Deputy Prime Minister. (2005). Planning Policy Statement 9: Biodiversity and Geological Conservation.

9. Office of the Deputy Prime Minister. (2005). Circular 06/2005 to accompany planning policy statement Biodiversity and Geological conservation – Statutory obligations and their impact within the planning system.

10. Department of the Environment. (2000). Planning Policy Guidance Note 3: Housing, PPG3. HMSO, London.

11. Department of the Environment. Planning Policy Statement 7: Sustainable Development in Rural Areas, PPS7. The Stationery Office.

12. Office of the Deputy Prime Minister. (2003). Planning Policy Guidance Note. Development and Flood Risk, PPG25. HMSO.

13. Department of the Environment. (1996). Mineral Planning Guidance Note 7: The Reclamation of Mineral Workings, MPG7. HMSO, London.

14. Office of the Deputy Prime Minister, GOWM. (2004). Regional Planning Guidance for the West Midlands (RPG11).

15. Countryside Commission and English Nature. (1996). The Character of England: Landscape, Wildlife and Natural Features, Cheltenham.

16. Herefordshire Council. (2004 (Updated 2009)). Supplementary Planning Guidance Landscape Character Assessment.

17. English Nature. Natural Character of the Three Counties.

18. Nature Conservancy Council. (1990). Handbook for Phase 1 Habitat Survey.

19. Herefordshire Biodiversity Forum. (1999). Herefordshire's Biodiversity: Audit and Priorities.

20. West Midlands Regional Biodiversity Partnership. 2001. West Midlands Regional Biodiversity Audit. GOWM.

21. European Community (EC) Directive (92/43/EEC) on the Conservation of Natural Habitats and of Wild Fauna and Flora.

22. European Community (EC) Directive (79/409/EEC) on the Conservation of Wild Birds to protect bird species and the habitat upon which they depend.

23. The Conservation (Natural Habitats, & c.) Regulations 1994, Statutory Instrument No. 2716. HMSO, London.

24. The Convention on Wetlands of International Importance especially as Waterfowl Habitat. Ramsar, Iran, 1971.

25. The Wildlife & Countryside Act 1981, Statutory Instrument 1982 1217 (C39) (as amended). HMSO, London.

26. Department of the Environment, Transport and the Regions. (2001). Circular 04/2001. Countryside and Rights of Way Act 2000. The Stationery Office.

27. National Parks and Access to the Countryside Act, 1949. HMSO, London.

28. The Protection of Badgers Act 1992. HMSO, London.

29. Wild Mammals (Protection Act).1996. The Stationery Office.

30. Herefordshire Biodiversity Partnership. (2005). Herefordshire Biodiversity Action Plan Update 2005.

31. UK Biodiversity Group (1998-9) Tranche 2 Action Plans Volumes I to VI. UKBG/English Nature, Peterborough.

32. UK Biodiversity Reporting and Information Group (2007) Species and Habitat Review Report 2007.

33. Department of the Environment. (1997). The Hedgerow Regulations 1997 A Guide to the Law and Good Practice.

34. The Environment Act, 1995. HMSO, London.

35. Town and Country Planning (Trees) Regulations 1999, Statutory Instrument No. 632. HMSO, London.

36. Forestry Act. (1967). (Part II) as amended by the Trees Act 1970 and the Forestry Act 1979 and 1986.

37. Nature Conservancy Council. (1986). Herefordshire Inventory of Ancient Woodlands.

38. Forestry Commission. (1998). England Forestry Strategy.

39. Royal Town Planning Institute (1999) Planning for Biodiversity Good Practice Guide.

40. Department of the Environment. (1995). Circular 11/95, The Use of Conditions in Planning Permissions.

41. Department of the Environment. (1997). Circular 1/97, Planning Obligations. HMSO, London.

42. Town and Country Planning (Applications) Regulations 1988, Statutory Instrument No. 1812, HMSO, London.

43. Town and Country Planning (General Development Procedure) Order 1995, Statutory Instrument No. 419. HMSO, London.

44. English Nature (1999). The Appropriate Assessment (Regulation 48) The Conservation (Natural Habitats & c) Regulations, 1994.

45. The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, SI 1999 No 293. HMSO, London.

46. Department of the Environment, Transport and the Regions. (1999). Circular 02/99 on the Town and Country Planning (Environmental Assessment Regulations) (England and Wales) Regulations 1999. No 293. HMSO. London.

47. Rodwell J. (1991 onwards) National Vegetation Classification
Vol. I Woodlands and scrub (1991)
Vol II Mires and heath (1992)
Vol III Grassland and montane vegetation (1992)
Vol IV Aquatic communities, swamp, tall herb and fen (1995)
Vol V Maritime and weed communities and vegetation of open habitats (2000)

48. English Nature. (1994). Nature Conservation in Environmental Assessment. English Nature, Peterborough.

49. Department of the Environment, Transport and the Regions. (1998). A New Deal for Trunk Roads in England: Guidance on the New Approach To Appraisal, London.

50. Oxford, M.J. (2000). Developing Naturally A Handbook for Incorporating the Natural Environment into Planning and Development.

51. Institute of Ecology and Environmental Management. (2005). Guidelines for Ecological Impact Assessment in the United Kingdom.

52. English Nature. (1997). Habitats Regulations Guidance Notes.

53. Herefordshire Council. (2004). Supplementary Planning Guidance Re-use and Adaptation of Rural Buildings.

54. English Nature. (2000). Veteran Trees: A Guide to Risk and Responsibility.

55. Forestry Commission. (1999). Ancient woodland and the planning system. Severn Wye & Avon Conservancy.

56. Joint Nature Conservation Committee. (2004). A Habitats Translocation Policy for Britain.

57. Planning and Compensation Act 1991. HMSO, London.

58. Department of the Environment. (1992). Earth Summit: Rio 1992:Agenda 21: A Guide for Local Authorities in the UK.

59. Herefordshire Council. (2004). Supplementary Planning Guidance Design and Development Requirements.

60. Flora Locale Technical Notes:
1. An overview of the issues concerning the sourcing and use of native plants
2. Designing and planning a project
3. Planting strategies for ecological restoration
4. Sourcing strategies for native plant schemes
5. Types of native plant material currently available
6. Who can supply native plants?
7. Specifications for native plants
8. Buying native plants

61. Nature Conservancy Council. (1988). Site Management Plans for Nature Conservation: a working guide.

62. Department of the Environment, Transport and the Regions. (2000) Our Countryside: The Future. A Fair Deal for Rural England.

63. Department of the Environment, Transport and the Regions. (2000). Local Government Act 2000. The Stationery Office.

64. The Herefordshire Partnership. (2000). Herefordshire Plan (Revised – Plan2).

65. English Nature. (1996). Research Report 153, Accessible Natural Greenspace in Towns and Cities: A review of Appropriate Size and Distance Criteria, English Nature.

66. British Standards Institution (2005) Trees in relation to construction - Recommendations BS 5837:2005.

Other Useful References

A.J. Mitchell-Jones. (2004). Bat Mitigation Guidelines. English Nature.

ALGE and South West Biodiversity Partnership. (2000). A Biodiversity Guide for the Planning and Development Sectors.

Bat Conservation Trust. (2007). Bat Surveys - Good Practice Guidelines

British Standards Institute. (2006). PAS2010 Planning to halt the loss of biodiversity.

Byron, H. (2000). Biodiversity and Environmental Impact Assessment: A Good Practice Guide for Road Schemes. The RSPB, WWF-UK, English Nature and the Wildlife Trusts, Sandy.

Cambridgeshire County Council. (2001). Biodiversity Checklist for Land Use Planners in Cambridgeshire and Peterborough. Peterborough.

Defra. (2007). Guidance for Local Authorities on Implementing the Biodiversity Duty.

Department of the Environment. (1996). Reclamation of Damaged Land for Nature Conservation. HMSO, London.

Department of the Environment, Transport and the Regions. (2000). European Protected Species: Guidance Note.

Department of the Environment. (1993). Environmental Appraisal of Development Plans: Guidance for Local Authorities.

Department of the Environment, Transport and the Regions. (2000). Our Countryside: The Future A Fair Deal for Rural England.

Derbyshire County Council (1996). Species Protected by Law. Guidance for Local Planning Authorities in Derbyshire. Derbyshire County Council, Derbyshire Wildlife Trust and English Nature.

Ecoscope. (2000). Wildlife Management and Habitat Creation on Landfill Sites: A Manual of Best Practice.

English Nature. (1998). The potential contribution of the mineral extraction industries to the UK Biodiversity Action Plan.

English Nature. (2001). Great crested newt mitigation guidelines.

European Commission. (2000). Managing Natura 2000 Sites: The Provisions of Article 6 of the Habitats Directive 92/43/EEC.

European Protected Species: Mitigation Licensing - How to get a licence (March 2009). WML–G12

Geodiversity Action Plan: Herefordshire. Herefordshire & Worcestershire Earth Heritage Trust (2009).

Oliver, P.G. (Ed). (1988). Proceedings of the First UK RIGS Conference. Herefordshire and Worcestershire RIGS Group.

Office of the Deputy Prime Minister. (2006). Planning for Biodiversity and Geological Conservation: A Guide to Good Practice.

RSPB. (1990). Gravel Pit Restoration for Wildlife.

RSPB. (2003). Habitat Creation handbook for the minerals industry.

Taylor, M.B. (1998). A Guide to Wildlife Law Enforcement in the United Kingdom.

The Highways Agency. (2001). Design Manual for Roads and Bridges. Vol. 10 Environmental Design and Management, Section 4 Nature Conservation and Biodiversity.
The Ponds Conservation Trust. (1999). The Pond Book. A Guide to the Management and Creation of Ponds.

The Ponds Conservation Trust, Environment Agency and English Nature. (2003). The Importance of Ponds a guide for planners and developers.

Town and Country Planning Association. (2004). Biodiversity by Design A guide for sustainable communities.

Ward, H. (2000). UK Biodiversity Action Plan Species in Three Counties Team by Natural Area and SSSI. English Nature.

West Midlands Biodiversity Partnership. (2005). Restoring the Region's wildlife. Regional Biodiversity Strategy for the West Midlands.

APPENDIX B ~ Glossary

Agenda 21
An action plan for the 21st century endorsed at the Earth Summit in Rio de Janeiro in 1992.

Ancient semi-natural woodland
Ancient woodland which still consists of mainly native species, but which may have been subject to various types of management, such as coppicing. In many cases the woodland is likely to have descended from the original 'wildwood' which originally covered most of England.

Ancient woodland
Woodland known to have existed continually in a location since before 1600.

Appropriate Assessment
A statutory procedure requiring the assessment of the implications of a proposal on the integrity of a European Site.

Area of Outstanding Natural Beauty (AONB)
A statutory designation to conserve the natural scenic beauty of an area. Identified by the Countryside Commission and administered by local authorities.

Biodiversity
The total variety of life on earth or within any given part of it.

Biodiversity Action Plan (BAP)
A plan setting out the current status, issues and threats for a species or habitat, and a programme of specific and timed actions with identified responsible agencies to restore, maintain and enhance the biodiversity interest.

Biodiversity: The UK Action Plan
Drawn up in response to the Biodiversity Convention signed at the 1992 Rio Earth Summit, this document (HMSO 1994) identified the means by which the United Kingdom should contribute to the global conservation of biodiversity, in particular establishing the Biodiversity Steering Group to compile action plans for habitats and species.

Biodiversity: The UK Steering Group Report
This report (HMSO 1995) prioritised 'key' habitats and species for which action plans are to be produced. Each habitat or species action plan is national in scale and incorporates an assessment of current status, actions to be taken, quantifiable national targets and estimated costings. Species action plans are to be reviewed every 5 years, while those for key habitats run through to 2010.

Biodiversity conservation
Sustaining and using wisely the whole variety of life.

Biodiversity enhancement areas
Areas which offer some of the best prospects for retaining and enhancing environments with a rich and resilient biodiversity resource. A non-statutory designation.

Buffer zone
An area or zone that helps to protect a habitat from damage, disturbance or pollution.

Compensation
Measures taken to offset any losses or adverse effects which cannot be entirely mitigated e.g. the creation of new habitats on or near the site.

Competent authority
The authority which determines whether or not an application for a project can proceed.

Conservation
The wise use and continuance of supply of a scarce resource.

Conservation Area
An area designated under Section 69 of the Town and Country Planning (Listed Buildings and Conservation Area) Act 1990 as being of 'special architectural or historical interest' the character and appearance of which it is desirable to preserve and enhance.

Corridor
A strip of a particular type that differs from the adjacent land on both sides. (Corridors have several important functions, including conduit, barrier and habitat).

Direct impact
An outcome that is directly attributable to a defined action.

Earth heritage
A broad term describing in the widest sense; rocks, fossils, minerals, museum collections and natural processes and making a clear link with wildlife.

Ecology
The science of the inter-relationships between living organisms and their environment.

Ecological appraisal
An assessment of the potential effects of development on sites, features or species of nature conservation value undertaken to the extent necessary to adequately inform the planning decision.

Ecological survey
An inventory of the attributes of a site or area, usually in terms of habitat and associated species and normally following a standardised procedure.

Environment
The external surroundings (i.e. physical and chemical conditions) experienced by and influencing habitats and species.

Environmental Impact Assessment (EIA)
A statutory procedure requiring the application of a full assessment of environmental impacts for certain major categories of development proposal.

Fauna
A collective term for all kinds of animals.

Felling Licence
A licence under the Forestry Act 1967 authorising the felling of trees.

Flora
A collective term for all kinds of plants.

Fragmentation
Division of formerly large, continuous areas of habitat into small, unlinked areas by any of a number of means.

Geodiversity
The variety of rocks, fossils, minerals and natural processes.

Habitat
A place in which a particular plant or animal lives. Often used in a wider sense, referring to major assemblages of plants and animals found together, such as woodlands or grasslands.

Habitat creation
Land management actions aimed at establishing a habitat on a site where it has not occurred before.

Habitat enhancement
Land management actions aimed at improving the quality of habitat on a site which already supports that habitat.

Habitat networks
A collection of features in the landscape that enable and encourage the migration, dispersal and genetic exchange of wild fauna and flora.

Habitat restoration
Land management actions aimed at restoring a habitat on a site where it has previously existed, but subsequently been lost.

Indirect impact
An impact that is attributable to a defined action, but that affects an environmental or ecological component via effects on other components.

Integrity
The coherence of a site's ecological/geological structure and function across its whole area that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was designated.

Local Geodiversity Action Plan (LGAP)
A local delivery mechanism to integrate geological conservation measures together with objectives, targets and indicators defined in a local and national context.

Local provenance
Seed or planting material of native origin that is destined for use in the same local area as it was collected.

Local Nature Reserve (LNR)
Local Authorities may establish Local Nature Reserves in consultation with English Nature under section 21 of the National Parks and Access to the Countryside Act 1949.

Management
The manipulation of a site to maintain or enhance its habitats and population of a species, through recognised techniques, such as coppicing or grazing.

Mitigation
Measures taken to reduce adverse impacts e.g. changing the way the development is carried out to minimise adverse effects through appropriate methods or timing.

Native species
A species that occurs naturally in an area, not having been introduced by humans, either accidentally or intentionally.

Natural Areas
A concept, introduced by English Nature, for defining areas based on their characteristic landscape and fauna and flora in England.

Natural regeneration
Re-colonisation of a site by species which were formerly present, or are present nearby, through germination of seeds in the seed bank and natural colonisation.

National Nature Reserve (NNR)
A reserve declared under section 19 of the National Parks and Access to the Countryside Act 1949, or section 35 of the Wildlife & Countryside Act 1981 and managed in England by English Nature or a body approved by English Nature. All NNRs are also SSSIs.

National Vegetation Classification
A system providing a detailed classification of Britain's vegetation according to the presence/abundance of characteristic plants. They are described in 5 volumes entitled British Plant Communities, published by Cambridge University Press (Rodwell 1991 et seq).

Natura 2000 sites
The Natura 2000 network of protected sites will consist of Special Areas of Conservation (SACs) and Special Protection Areas (SPAs).

No net loss
The point at which habitat or biodiversity losses equal their gains, both quantitatively and qualitatively.

Phase 1 (habitat survey)
A field survey to establish land-uses and, in particular, the location of important wildlife habitats within a given area.

Population
A collection of individuals (plants and animals) , all of the same species and in a defined geographical area.

Priority habitats
Those threatened habitats identified nationally and locally as being in greatest need of conservation action in order to ensure their future survival in the country or county.

Priority species
Those threatened or declining species that have been identified, nationally or locally as being of greatest need of conservation action in order to ensure their future survival, in the country or county.

Protected habitat
Habitat within a designated International, National or Local site.

Protected species
Species protected by law e.g. the Wildlife and Countryside Act 1981 (and amendments), Countryside and Rights of Way Act 2000, Protection of Badgers Act 1992 and the Habitats Regulations 1994.

Ramsar Site
An area that has been designated a 'Wetland of International Importance' as defined by the 'Ramsar Convention' of 1971, designed to promote wetlands and to foster their wise use. Ramsar is the town in Iran where this convention was adopted. The UK Government signed the convention in 1973.

Red Data Book (RDB)
Catalogues published by the International Union for the Conservation of Nature (IUCN) or by the national authority listing species which are rare or in danger of becoming extinct either nationally or globally. RDB listings categorise species on rarity grounds with the categorisations based on geographic range and population size (where known).

Regionally Important Geological/Geomorphological Site (RIGS)
Any geological or geomorphological site, of county importance that are considered worthy of protection for their educational, scientific, historical or aesthetic importance.

Scale
Spatial proportion, as the ratio on a map to actual length.

Scoping
Determination of the scope of an EIA

Screening
Determination of whether or not an EIA is necessary.

Section 39 Agreement
Section 39 of the Wildlife and Countryside Act empowers local authorities to enter management agreements with landowners to safeguard areas of high nature conservation interest.

Semi-natural
Vegetation which has been modified by humans but is still of significant nature conservation interest because it is composed of native plant species, is similar in structure to natural types and it supports native animal communities.

Site of Importance to Nature Conservation (SINC)
A site regarded to be of local importance for wildlife in the context of Hereford city.

Site of Special Scientific Interest (SSSI)
SSSIs form a nationally important series which contributes to the conservation of our natural heritage of wildlife habitats, geological features and landforms. SSSIs are areas of land that have been notified as being of special interest under the Wildlife & Countryside Act 1981 or the National Parks and Access to the Countryside Act 1949.

Special Area of Conservation (SAC)
SACs are sites designated under the Habitats Directive (Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora). Together with SPAs they will form the Natura 2000 network of sites. All sites are SSSIs.

Special Protection Area (SPA)
SPAs are sites designated under the Birds Directive (Directive 79/409/EEC) on the conservation of wild birds. Together with SACs they will form the Natura 2000 network of sites. All sites are SSSIs.

Special Wildlife Site (SWS)
A non-statutorily protected site regarded to be of local importance for wildlife in a county context.

Species
A group of organisms of the same kind which reproduce amongst themselves but are usually reproductively isolated from other groups of organisms.

Species diversity
A measure of species richness and the relative abundance of species.

Species richness
The number of species in an area or a sample.

Succession
The process by which a series of plants colonise a substrate over time, such as a change from open water, through swamp and scrub to woodland.

Sustainable development
Defined by the Brundtland Report (1989) as development that meets the needs of present generations without compromising its potential to meet the needs and aspirations of future generations.

Sustainable Urban Drainage Systems (SUDS)
Techniques designed to manage the quantity and improve the quality of water before discharge from development.

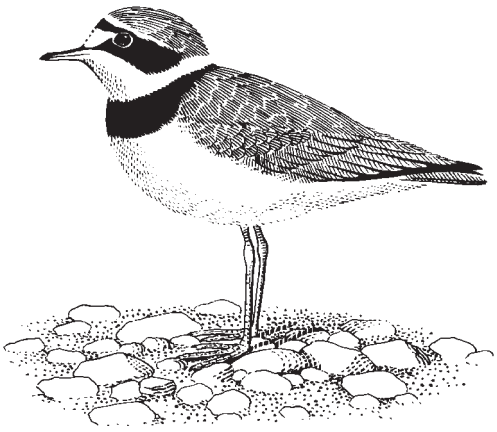
Tree Preservation Order (TPO)
A legal order which makes it an offence to cut down, top, lop, uproot or wilfully damage or destroy a protected tree without consent.

Unitary Development Plan
The forward planning document for unitary authorities, replacing county structure plans (held by county councils) and district local plans (district councils).

APPENDIX C ~ Birds protected under Schedule 1 of the Wildlife and Countryside Act

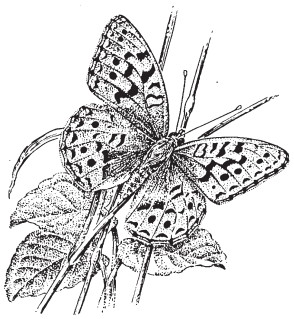
English name

Avocet
Bee-eater
Bittern
Little Bittern
Bluethroat
Brambling
Cirl bunting
Lapland bunting
Snow bunting
Honey buzzard
Chough
Corncrake
Spotted crake
Crossbills (all species)
Divers (all species)
Dotterel
Long–tailed duck
Golden eagle
White-tailed eagle
Gyr falcon
Fieldfare
Firecrest
Garganey
Black-tailed godwit
Goshawk
Black-necked grebe
Slavonian grebe
Greenshank
Little gull
Mediterranean gull
Harriers (all species)
Purple heron
Hobby
Hoopoe
Kingfisher
Red kite
Merlin
Golden oriole
Osprey
Barn owl
Snowy owl
Peregrine
Leach's petrel
Red-necked phalarope
Kentish plover
Little-ringed plover
Common quail
Black redstart
Redwing
Scarlet rosefinch
Ruff
Green sandpiper
Purple sandpiper
Scaup
Common scoter
Velvet scoter
Serin
Shorelark
Red-backed shrike
Spoonbill
Black-winged stilt
Temminck's stint
Stone-curlew
Bewick's swan
Whooper swan
Black tern
Little tern
Roseate tern
Bearded tit
Crested tit
Short-toed treecreeper
Cetti's warbler
Dartford warbler
Marsh warbler
Savi's warbler
Whimbrel
Wryneck
Woodlark



APPENDIX D ~ Animals protected under Schedule 5 of the Wildlife and Countryside Act that are known to occur in Herefordshire

English name	Protection	Year scheduled
Mammals		
Water vole	Full protection	1998
Otter	Full protection	1981
Pine marten	Full protection	1988
Dormouse	Full protection	1988
All bats	Full protection	1981
Reptiles		
Slow worm	Killing, injury and sale only	1981, 1988
Viviparous/common lizard	Killing, injury and sale only	1981, 1988
Grass snake	Killing, injury and sale only	1981, 1988
Adder	Killing, injury and sale only	1981, 1988
Amphibians		
Common toad	Sale only	1981
Common frog	Sale only	1981
Great crested newt	Full protection	1981
Palmate newt	Sale only	1981
Smooth newt	Sale only	1981
Fish		
Allis shad	Killing, injuring and taking and damage/destruction of place of shelter/protection	1998
Thwaite shad	Damage/destruction of place of shelter/protection	1998
Butterflies		
High brown fritillary	Full protection	1992
Pearl-bordered fritillary	Sale only	1989
Wood white	Sale only	1989
Crustaceans		
White-clawed crayfish	Taking and sale only	1988
Molluscs		
Pearl mussel	Full protection	1998
Worms (Annelida)		
Medicinal leech	Full protection	1988



Full protection = killing, injury, taking possession or control, damage/destruction of, obstruction of the place of shelter/protection and disturbance while in a place of shelter and safe.

APPENDIX E ~ BAP priority species in Herefordshire

Species	Key Habitat	Key Habitat	UKBAP
Vascular Plants			
Killarney Fern/ *Trichomanes speciosum*	Damp rock in woodland	Woodland	*
Pennyroyal/ *Mentha pulegium*	Damp sites	Farmland/Rivers and Floodplains	*
Pillwort/ *Pilularia globulifera*	Lowland heath	Upland and Commons	*
Small-flowered catchfly/ *Silene gallica*	Arable fields	Farmland	*
Three-lobed water-crowfoot/ *Ranunculus tripartitus*	Shallow water	Rivers and Floodplains/ Research	*
Dwarf sedge/ *Carex humilis*	Limestone chalk grassland	Farmlands/Boundary features	
Ghost orchid/ *Epipogium aphyllum*	Shady oak or beech woodland	Woodland	
Greater broomrape/ *Orobanche rapum-genistae*	On broom and gorse	Woodland	
Hay-scented buckler fern/ *Dryopteris aemula*	Woodland, hedges	Woodland/Boundary features	
Heath cudweed/ *Gnaphalium sylvaticum*	Heathland, hedgebanks, woodland edges	Upland and Commons/ Woodland	
River water-crowfoot/ *Ranunculus penicillatus*	Rivers	Rivers and Floodplains	
Sword-leaved helleborine/ *Cephalanthrea longifolia*	Woodland	Woodland	
Black poplar/ *Populus nigra*	Hedges, fields, riverbanks	SAP	
Broad-leaved cottongrass/ *Eriophorum latifolium*	Grassland	Woodland	
Chervil/ *Anthriscus cerefolium*	Open, sandy places	Urban	
Common wintergreen/ *Pyrola minor*	Woods, marshes, moors	Woodland/Upland and Commons	
Dropwort/ *Filipendula vulgaris*	Limestone chalk grassland	Rivers and Floodplains	
Fan-leaved water-crowfoot/ *Ranunculus circinatus*	Ponds, canals, slow-flowing rivers	Rivers and Floodplains	
Fingered Sedge/ *Carex digitata*	Open woodland, scrub, grassy slopes on limestone	Woodland	
Flat-sedge/ *Blysmus compressus*	Marshy, open ground	Rivers and Floodplains	
Frog orchid/ *Coeloglossum viride*	Grassland, uplands	Upland and Commons	
Globeflower/ *Trollius europaeus*	Meadows, marsh	Upland and Commons, Farmland	

Species	Key Habitat	Key Habitat	UKBAP
Hairlike pondweed/ *Potamogeton trichoides*	Ponds, lakes	Rivers and Floodplains	
Horseshoe vetch/ *Hippocrepis comosa*	Dry grassland	Farmland	
Hound's tongue/ *Cynoglossum officinale*	Dry grassland	Farmland	
Hutchinsia/ *Hornungia petraea*	Rocks, bare ground on limestone	Woodland/Farmland/ Upland and Commons	
Lesser butterfly orchid/ *Platanthera bifolia*	Woods, grassland, marshes, moors	Upland and Commons, Woodland	
Lesser meadow rue/ *Thalictrum minus*	Rocks, by streams, on limestone	Rivers and Floodplains	
Lobed maidenhair spleenwort/ *Asplenium trichomanes subsp. pachyrachis*	Limestone rocks and walls	Quarries/Rivers and Floodplains/Urban/ Boundary Features	
Mistletoe/ *Viscum album*	Orchards, woodland, hedges	Orchards	
Narrow-leaved bittercress/ *Cardamine impatien*	Shady, rocky places on lime	Woodland	
Needle spike-rush/ *Eleocharis acicularis*	Pond and lake margins	Rivers and Floodplains/ Farmland	
Petty whin/ *Genista anglica*	Heathland	Upland and Commons	
Round-leaved fluellen/ *Kickxia spuria*	Cultivated or bare ground	Farmland/Urban	
Spreading bellflower/ *Campanula patula*	Woods, grassland	Woodland/Boundary Features	
Spreading bellflower/ *Campanula patula*	Dry limestone grassland	Upland and commons	
Stag's horn clubmoss/ *Lycopodium clavatum*	Heathland, upland, grassland	Upland and commons	
Stinking hellebore/ *Helleborus foetidus*	Woodland and scrub	Woodland/ Boundary Features	
White helleborine/ *Cephalanthera damasonium*	Shady woodland on limestone	Woodland	
White mullein/ *Verbascum virginatum*	Dry, sparse grassland, bare ground	Farmland	
Wild daffodil/ *Narcissus pseudonarcissus ssp. pseudonarcissus*	Woodland, grassland	Farmland/Woodland/ Boundary Features, Orchards	
Wild service tree/ *Sorbus torminalis*	Woodland, scrub and hedges on limestone	Woodland/Boundary Features	

Species	Key Habitat	Key Habitat	UKBAP
Wood barley/ *Hordelymus europaeus*	Woodland, copses	Woodland	
Wood bitter-vetch/ *Vicia orobus*	Scrub, rocks	Upland and commons	
Wood fescue/ *Festuca altissima*	Woodland & copses	Woodland	
Wood stichwort/ *Stellaria nemorum* (ssp *montana*?)	Woodland	Woodland	
Mosses			
a moss *Orthotrichum sprucei*	Rivers and flood zone, especially R. Wye	Rivers and Floodplains	*
a moss *Grimmia ovalis*	Calcareous rock (cornstone)	SAP	
a moss *Myrinia pulvinata*	Rivers and flood zone, especially R. Wye	Rivers and Floodplains	
Liverworts			
Violet crystalwort/ *Riccia huebeneriana*	Pools	Parkland	*
Stoneworts			
Lesser bearded stonewort/ *Chara curta*	Ponds and lakes	Rivers and Floodplains	*
Fungi			
Devil's bolete/*Boletus satanas*	Beech/Wood pasture	Woodland/Research	
Pink meadow cap/ *Hygocybe calyptriformis*	Unimproved grassland	Farmland/Parkland/Urban	*
a fairy club/ *Ramariopsis pulchella*	Soils of woods and gardens	Woodland/Urban	
Oak polypore/ *Buglossoporus quercinus*	Ancient oaks	Parkland/Woodland	
Berkley's Earth Star/ *Geastrum berkeleyi*	Litter on clacareous soils	Woodland	
Fungus *Ganoderma resinaceum*	Ancient oaks	Parkland/Woodland	
Fungus *Puccinia buxi*	Living leaves of Buxus	Woodland	
Summer's Earth Cap/ *Geopora sumneriana*	Soils under cedars	Woodland	
Lichens			
Elm's Gyalecta/ *Gyalecta umli*	Calcareous soils and associated rock outcrop	Parkland/Woodland	*
Orange-fruited elm lichen/ *Caloplaca luteoalba*	Pasture, woodland, wayside trees, dry bark of mature trees, usually elm	Parkland/ Boundary Features	*
River jelly lichen/ *Collema dichotomum*	Rocks submerged in rivers	Rivers and Floodplains	*

Species	Key Habitat	Key Habitat	UKBAP
Tree lungwort/ *Lobaria pulmonaria*	Pasture woodland and woodland	Woodland/Parkland	
Mammals			
Barbastelle/ *Barbastellus barbastellus*		SAP	*
Brown hare/ *Lepus europaeus*	Farmland esp. arable	Farmland/Orchards/ Woodland/Research	*
Dormouse/ *Muscardinus avellanarius*	Ancient semi-natural woodland esp. coppice	SAP	*
European otter/*Lutra lutra*	Rivers, streams, wetland	SAP	*
Greater horseshoe bat/ *Rhinolophus ferrumequinum*	Permanent pasture and wooded valleys	SAP	*
Lesser horseshoe bat/ *Rhinolophus hipposideros*	Sheltered valleys with deciduous woodland, scrub and hedgerows	SAP	*
Pipistrelle bat/ *Pipistrellus pipistrellus*	Most habitats, including urban, except open moorland	SAP	*
Water vole/ *Arvicola terrestris*	Lowland rivers, streams and ditches	SAP	*
Pine marten/ *Martes martes*	Deciduous and conifer woodland, moorland and fell	Woodland/Research	
Polecat/*Mustela putorius*	Woodland and farmland	SAP	
Water shrew/*Neomys fodiens*	Unpolluted and farmland	Rivers and Floodplains/Research	
Birds			
Bullfinch/ *Pyrrhula pyrrhula*	Mixed farmland, hedges	Orchards/Farmland/Boundary Features/Urban	*
Corn bunting/*Miliaria calandra*	Arable Farmland	Farmland	*
Corncrake/*Crex crex*	Arable Farmland	Farmland	*
Grey partridge/*Perdix perdix*	Farmland	Farmland	*
Linnet/ *Carduelis cannabina*	Commons	Farmland/Quarries and Gravel Pits/Upland and Commons/Orchards/ Boundary Features	*
Nightjar/ *Caprimulgus europaeus*	Scrub, woodland edges	Woodland/Upland and Commons	*
Reed bunting/ *Emberiza schoeniclus*	Scrub, woodland edges	Rivers and Flooplains/ Farmland	*
Skylark/*Alauda arvensis*	Arable farmland	Farmland/Upland and Commons	*
Song thrush/ *Turdus philomelos*	Hedgerows	Boundary Features/Orchards	*

Species	Key Habitat	Key Habitat	UKBAP
Spotted flycatcher/ *Muscicapa striata*	Woodland	Woodland/Quarries and Gravel Pits/Urban/Orchards/Rivers and Floodplain	*
Tree Sparrow/ *Passer montanus*	Arable farmland, mature trees	Farmland/Orchards/Boundary Features/Urban	*
Turtle Dove/ *Streptopelia turtur*	Mosaic, woodland	Woodland/Farmland/ Boundary Features/Parkland	*
Barn Owl/*Tyto alba*	Meadows	SAP	
Lapwing/ *Vanellus vanellus*	Arable farmland	Quarries and Gravel Pits/ Uplands and Commons/ Farmland	
Merlin/ *Falco columbaris*	Heather, moorland	Upland and Commons	
Peregrine falcon/ *Falco peregrinus*	Quarries	Quarries and Gravel Pits/ Rivers and Flooplains	
Red Grouse/ *Lagopus lagopus scoticus*	Moorland (heather)	Upland and Commons	
Kestrel/*Falco tinnunculus*	Farmland	Boundary Features/Farmland	
Willow tit/*Parus montanus*	Deciduous woods and scrub	Woodland	
Reptiles			
Adder/*Vipera berus*	Heathland	Upland and Commons/ Woodland	
Amphibians			
Great crested newt/ *Triturus cristatus*	Lakes and pools	SAP	*
Fish			
Allis shad/*Alosa alosa*	Rivers	Rivers and Floodplains	*
Twaite shad/*Alosa fallax*	Rivers	Rivers and Floodplains	*
Atlantic salmon/*Salmo salmar*	Rivers	Rivers and Floodplains	
Brook lamprey/ *Lampetra planeri*	Rivers	Rivers and Floodplains	
River lamprey/ *Lampetra fluviatilis*	Rivers	Rivers and Floodplains	
Sea lamprey/ *Lampetra marinus*	Rivers	Rivers and Floodplains	

Species	Key Habitat	Key Habitat	UKBAP
Bees, Wasps and Ants			
Shrill carder bee/ *Bombus sylvarum*		Farmland/Parkland/Research	*
Red-shanked bumblebee/ *Bombus ruderarius*		Farmland/Urban/Research	
A slave-making ant/ *Formica sanguinea*	Woodland glades and rides	Woodland	
Beetles			
a chafer/ *Gnorimus nobilis*	Woodland-rotten fruit trees and oak	Orchards/Woodlands	*
a rove beetle/ *Thinobius newberyi*	River shingle	Rivers and Floodplains/ Research	
Cardinal click beetle/ *Ampedus cardinalis*	Woodland-red-rotten oak	Parkland	
a beetle/ *Xyletinus longitarsis*	Ancient broad-leaved woodland, associated with dead wood	Woodland	
a cardinal beetle/ *Schizotus pectincornis*	Broad-leaved woodland	Woodland	
a featherwing beetle/ *Ptenidium turgidum*	Ancient woodland	Parkland	
a saproxylic (Moccas) beetle/ *Hypebaeus flavipes*	Wood Pasture	Parkland	
a small false click beetle/ *Aulonthroscus brevicollis*	Ancient oak woodland	Parkland	
a thick-legged flower beetle/ *Ischnomera cinerascens*	Ancient woodland	Parkland	
Black-headed cardinal beetle/ *Pyrochroa coccinea*	Ancient broad-leaved woodland and pasture woodland	Woodland/Parkland	
Glow worm/ *Lampyris noctiluca*	Calcareous	Woodland/Farmland/ Parkland/Research	
Butterflies			
High brown fritillary/ *Argynnis adippe*	Bracken/mosaic	SAP	*
Pearl bordered fritllary/ *Boloria euphrosyne*	Woods	SAP	*
Wood white/*Leptidea sinapsis*	Open woodland	SAP	
Dingy skipper/*Pyrus tages*	Meadows	SAP	
Grizzled skipper/ *Pyrus malvae*	Sheltered grassland	SAP	

Species	Key Habitat	Key Habitat	UKBAP
Moths			
Argent and sable/ *Rheumaptera hasta*	Birch coppice, regeneration within broad-leaved woodland	Woodland	*
Barred toothed-stripe/ *Trichopteryx polycommata*	Broad-leaved woodland	Woodland	*
Buttoned snout/ *Hypnea rostralis*	Hop yards, hedgerows	Boundary Features/Farmland/ Woodland/Research	*
Common fanfoot/ *Pechipogo strigilata*	Ancient semi-natural woodlands	Woodland	*
Drap looper/*Minoa murinata*	Broad-leaved woodland	Woodland	*
Square-spotted clay/ *Xestia rhomboidea*	Probably woodland	Woodland	*
Waved carpet/ *Hydrelia sylvata*	Broadleaved, damp woodland	Rivers and Floodplains/ Woodland	*
White-lined snout/ *Schrankia taenialis*	Ancient semi-natural woodlands	Woodland	*
White-spotted pinion/ *Cosmia diffinis*	Stands of mature common elm	Woodland	*
a micro-moth/ *Coleophora inulae*	Base rich dry grassland containing Ploughman's spikenard	Upland and Commons/ Farmland	
a micro-moth/ *Phyllonorycter distentella*	Associated with ancient semi-natural woodland. Larva feeds on oak leaves	Woodland	
Little thorn/ *Cepphis advenaria*	Open coppiced ancient woodland	Woodland	
Scarce prominent/ *Odontosia carmelita*	Broad-leaved woodland with dominant birch	Woodland	
Silvery arches/ *Polia trimaculosa*	Birch dominated broad-leaved coppice	Woodland	
Crickets/Grasshoppers			
Slender ground-hopper/ *Tetrix subulata*	Pond and stream-sides	Rivers and Floodplains/ Research	
Dragonflies and Damselflies			
Club-tailed dragonfly/ *Gomphus vulgatissimus*	Rivers, Wye and Lower Lugg	Rivers and Floodplains	
Downy emerald/ *Cordulia aenea*	Sheltered woodland pools	Woodland	
Scarce blue-tailed damselfly/ *Ishnura pumilio*		Quarries and Gravel Pits	

Species	Key Habitat	Key Habitat	UKBAP
Caddisflies			
A caddis fly/*Hydroptila lotensis*	R.Wye	Rivers and Floodplains	
Stoneflies			
A stonefly/*Brachytera putata*	Rivers, R. Wye	Rivers and Floodplains	*
Flies			
A cranefly/*Lipsothrix errans*	Wet Woods	Rivers and Floodplains	*
A cranefly/*Lipsothrix nervosa*	Wet Woods	Rivers and Floodplains	*
A cranefly/ *Rhabdomastix hilaris*	Rivers	Rivers and Floodplains	*
A cranefly/ *Protogonomyia albuscutellata*	Woodland	Woodland	
A cranefly/*Tasiocera muscula*	Tufa spring in wood	Parkland/Research	
A dungfly/ *Cosmetopus dentimanus*	Rivers	Rivers and Floodplains	
Molluscs			
Depressed river mussel/ *Pseudanodonta complanata*	Rivers	Rivers and Floodplains	*
Freshwater pea mussel/ *Pisidium tenuilineatum*	Rivers and canals, large ponds	Rivers and Floodplains	*
Freshwater pearl mussel/ *Margaritifera margaritifera*	Rivers	Rivers and Flooplains	*
Crustaceans			
A land woodlouse/ *Armadillidum pictum*	Rock	Quarries/Uplands and Commons	*
White-clawed crayfish/ *Austropotamobius pallipes*	Rivers and streams	Rivers and Floodplains	*
Worms			
Medicinal leech/ *Hirudo medicinalis*	Pools	SAP	*
Spiders			
A wolf spider/ *Pardosa paludicola*	Grassy clearings in woods, near ponds or peat	Woodland/Upland and Commons/Research	
A spider/ *Peleocopsis radicola*	Woodland glade, mixed woodland	Woodland	
An orb weaver/ *Araniella alpica*	Bushes and young trees alongside woodland rides	Woodland	

This list is subject to review with the possibility of additions and deletions.

APPENDIX F ~ Consultees on planning applications affecting biodiversity

PLANNING APPLICATION	STATUTORY CONSULTEES	DISCRETIONARY CONSULTEES
SAC	NE	HNT
SSSI	NE	HNT
NNR	NE	HNT
LNR		HNT
SWS/SINC		HNT
Legally protected species		NE and HNT (in some instances the Trust may refer enquiries on to other specialist wildlife groups)
BAP habitat/species		HNT
RIGS		HWET
EIA	NE, EA, DEFRA	CPRE (if major impact in rural area)
Ancient woodland	FC	
Wetland habitat/watercourses	EA	
Minerals applications	EA, NE	HWET
Engineering/earth moving operations (Major)	EA, NE	HWET
Waste applications	EA, NE	HWET

KEY TO CONSULTEES:

CPRE	Council for the Protection of Rural England
DEFRA	Secretary of State DEFRA, GOWM, 1st Floor, 77 Paradise Circus, Queensway, Birmingham, B1 2DT
EA	Environment Agency, Planning Liason, Hafren House, Welshpool Road, Shelton, Shrewsbury, SY3 2DT
NE	Natural England, Herefordshire Team, Block B, Government Building, Whittington Road, Worcester, WR5 2LQ
FC	Forestry Commission, West Midlands Conservancy, Govt Buildings, Block B, Whittington Road, Worcester, WR5 2FR
HNT	Herefordshire Nature Trust, Lower House Farm, Ledbury Road, Tupsley, Hereford, HR1 1UT
HWET	Herefordshire and Worcestershire Earth Heritage Trust, Geological Records Centre, University College Worcester, Henwick Grove, Worcester, WR2 6AJ

APPENDIX G ~ Protected species and triggers for ecological appraisal

Is the development a buildings renovation involving any of the following?	YES
Demolition	○
Annex, outbuilding or loft conversion	○
Extension of an existing structure (particularly roof spaces)	○
Change of use of buildings	○
Refurbishment of all or part of unoccupied dwelling	○
Re-roofing or complete roof replacement	○
Timber treatment in roof space	○
Cellar	○

Consult Re-use and Adaptation of Rural Buildings SPG for further biodiversity information

Does the development involve restoration or alteration of any of the following?	YES
Tunnels	○
Mines	○
Natural caves	○
Gullies	○
Rock faces	○
Geological features	○
Old brick or stone walls	○
Industrial archaeology such as kilns, chimneys etc.	○
Follies, dovecotes, ice houses, orangeries	○

Is the development a new development?	YES
If yes does the site or its surroundings contain the following?	YES
Flower rich grassland or rough pasture	○
Hedgerows or old trees	○
Woodland or scrub	○
Ponds or watercourses	○
Garden or allotment	○
Derelict land	○
Railways	○
Banks	○
Quarry or gravel pit	○

In the course of the development is there likely to be any of the following?	YES
Construction of permanent or temporary access roads	○
Soil compaction	○
Water table/watercourse alterations	○
Removal of vegetation including hedgerows, trees, scrub or grassland	○
Construction/reconstruction of ponds	○
Reinstatements of bridges, paths, stiles, walkways, culverts, lawns and terraces	○
Aerial construction and wire erection	○
Renewable energy technology assemblies	○
Permanent or temporary installation of fuel and chemical storage facilities	○
Underground energy, water and telecommunication conduits	○
Effluent and rainwater drainage systems	○

BATS
All species of bat in the UK have full protection at all times under the Wildlife and Countryside Act 1981 (and amend) and the Habitats Regulations 1994 (as amended). Full protection at all times means any disturbance to roosting, blockage of access to roost sites, photography etc. Roosts as well as the bats themselves are protected.

Where a roof, wall, chimney or stone/brick built structure has small openings and crevices bats may be in residence. Larger roof spaces may hold significant numbers of bats at different times of the year. Trees may shelter bats especially veteran trees with hollows and cavities. If presence is suspected an ecological survey should be carried out by a surveyor licensed by Natural England. An ecological appraisal should be submitted to the Council.

WILD PLANTS
Certain wild plants are specially protected under Schedule 8 of the Wildlife and Countryside Act 1981 (and amendments). These include floating-leaved water plantain, ghost orchid, orange-fruited elm lichen, elm gylecta and oak polypore. The floating – leaved water plantain is also protected through Schedule 4 of the Habitats Regulations 1994 (as amended). If presence is suspected an ecological survey should be carried out. An ecological appraisal should be submitted to the Council.

BIRDS
The Wildlife and Countryside Act 1981 (and amendments) gives basic protection to all wild birds, their nests and eggs. Nesting birds are likely to be found within vegetation such as hedgerows, trees and scrub during March to September. They may also inhabit grassland and banks of watercourses. Some birds receive additional protection under Schedule 1 of the Act. These birds include barn owl, kingfisher, peregrine falcon, black redstart and little ringed plover. It is an offence to intentionally or recklessly disturb these birds while nesting or rearing young or to disturb the dependent young. If presence is suspected an ecological survey should be carried out (by a surveyor licensed by Natural England in the case of Schedule 1 birds). An ecological appraisal should be submitted to the Council.

GRASS SNAKE, ADDER, SLOW WORM AND COMMON LIZARD
Protection from intentional killing, sale and injury is given by the Wildlife and Countryside Act 1981 (and amendments). If presence is suspected an ecological survey should be carried out. An ecological appraisal should be submitted to the Council.

WHITE-CLAWED CRAYFISH
Protection from intentional taking and sale is given by the Wildlife and Countryside Act 1981 (and amendments). If presence is suspected an ecological survey should be carried out. An ecological appraisal should be submitted to the Council.

WATER VOLE
Full protection at all times under the Wildlife and Countryside Act 1981 (and amendments). If presence is suspected an ecological survey should be carried out. An ecological appraisal should be submitted to the Council.

BADGER
In the event of badgers being present within 30 metres of a development no works excepting ecological survey should be carried out. Licenses for work within 30 metres of a sett may be granted by Natural England for operations outside the breeding season which takes place between December and June. The protection of Badgers Act 1992 makes it

- illegal to wilfully kill, take, possess, ill-treat or attempt to do so;
- intentionally or recklessly interfere with a badger sett.

GREAT CRESTED NEWT
Full protection at all times under the Wildlife and Countryside Act 1981 (and amendments) and the Habitats Regulations 1994. If development is within 250 metres of a pond, an ecological survey should be carried out by a surveyor licensed by Natural England. An ecological appraisal should be submitted to the Council. Found in still waters and may hibernate in walls, building spoil and log piles.

OTTER
Full protection at all times under the Wildlife and Countryside Act 1981 (and amendments) and the Habitats Regulations 1994 (as amended). If present an ecological survey should be carried out. An ecological appraisal should be submitted to the Council.

DORMOUSE
Full protection is given under the Wildlife and Countryside Act 1981 (and amendments) and the Habitats Regulations 1994 (as amended). If presence is suspected an ecological survey should be carried out by a surveyor licensed by Natural England. An ecological appraisal should be submitted to the Council.

Nationally Protected Species

The Wildlife and Countryside Act 1981 (and amendments) provides a basic level of protection to all plants and birds. Certain species receive additional protection i.e. those listed on Schedules 1 (birds), 5 (animals) and 8 (plants). The Countryside and Rights of Way Act 2000 also makes it an offence to "recklessly" disturb a wild bird, its nest or eggs.

Badgers (and their setts) have their own welfare protection under the Protection of Badgers Act 1992.

Activities such as survey which may cause disturbance require a survey licence issued by Natural England. If in doubt contact Natural England for advice. Natural England also licence activity likely to result in disturbance to badgers.

The Council has a statutory duty to consider the presence of protected species in the course of determining planning applications.

Protected species are material consideration and planning applicants must conform with any statutory species protection provisions affecting the site concerned.

Initial consultation with the Conservation Section is recommended if the presence of protected species is suspected.

European Protected Species

In addition to the national protection these protected species have additional protection under Schedule 2 of the Conservation (Natural Habitats) Regulations 1994 (as amended).

Where proposals affect these species the Council has a legal obligation to consult with Natural England.

Anyone undertaking a survey for these species requires a licence from Natural England.

Development which compromises the protection afforded a European protected species will almost invariably require a development licence from Natural England.

Initial consultation with the Conservation Section is recommended if presence of protected species is suspected.

APPENDIX H ~ Examples of action plan targets taken from the County BAP which are relevant to planning

Habitat/Species Action Plan	Target
Orchards	Target new orchard planting in areas identified as having lost traditional orchards
	Continue to promote maintenance and restoration of damson hedges
Boundary Features	Aim to secure appropriate management of existing and potentially wildlife rich former railway and canal sites
	Promote the retention of existing hedges, re-planting of former hedges, and planting of new hedges, using native species of local provenance, through the planning system, especially as a condition of new permissions
Farmland	Re-establish 50ha of unimproved grassland of wildlife value at targeted sites
Rivers and Floodplains	Promote creation of a green corridor (a habitat margin of grassland, woodland and wetland habitats) bordering all rivers to achieve biodiversity targets for otters, water vole and spawning fish
Quarries and Gravel Pits	Promote community involvement in decisions regarding the operation and after-use of quarries
Towns and Villages	Identify sites in each major town that could be enhanced for wildlife and collate information, towards this aim
Otter	Facilitate measures to safeguard otters from accidental death eg. otter under passes
Barn Owl	Encourage the local authority to adopt a policy stipulating that provision for barn owls is incorporated into all barn conversions, irrespective of whether barn owls are present or not, unless the site is within an urban area or more than 300m above sea level
Great Crested Newt	Seek all opportunities to create new great crested newt habitats in developments, encourage and facilitate habitat management by restoring old ponds, creating new pond clusters and habitat corridors

APPENDIX I ~ Contacts and further information

Useful contacts

Conservation Section (includes Planning Ecologist, Landscape Officer and Arboriculturalist) Herefordshire Council, P.O. Box 4, Plough Lane, Hereford, HR4 0XH	01432 260000
Herefordshire Biological Records Centre Herefordshire Council, P.O. Box 230, Hereford, HR1 2ZB. hbrc@herefordshire.gov.uk	01432 261538
Herefordshire Nature Trust Lower House Farm, Ledbury Road, Tupsley, Hereford, HR1 1UT	01432 356872
Herefordshire Ornithological Club, (The Secretary Mr T.M. Weale) Foxholes, Bringsty Common, Worcester, WR6 5UN.	01886 821368
Herefordshire and Worcestershire Earth Heritage Trust, Geological Records Centre, University College Worcester, Henwick Grove, Worcester, WR2 6AJ.	01905 855184
Natural England, Herefordshire Team, Block B, Government Buildings, Whittington Road, Worcester, WR5 2LQ.	01905 763355
Institute of Ecology & Environmental Management (IEEM) 45 Southgate Street, Winchester, SO23 9EH.	01962 868626

Useful websites

Arboricultural Association www.trees.org.uk	
CIRIA (Biodiversity benchmarking for construction projects and working with wildlife: training pack)	www.CIRIA.org.uk/environment
DEFRA	www.defra.gov.uk
Environment Agency (SUDS)	www.environment-agency.gov.uk
Flora Locale	www.floralocale.org
Forestry Commission	www.forestry.gov.uk
Herefordshire Biodiversity Partnership	www.herefordbap.org.uk
Herefordshire and Worcestershire Earth Heritage Trust	www.worc.ac.uk/eht
Natural England	www.naturalengland.org.uk
IEEM	www.ieem.org.uk
The Ponds Conservation Trust	www.pondtrust.org.uk
The UK Biodiversity Group	www.ukbap.org.uk
Planning Portal	www.planningportal.gov.uk
UK Planning	www.ukplanning.com/uk/index

Useful leaflets

The following leaflets are available from Natural England's publications catalogue, see www.naturalengland.org.uk/publicatons

Focus on Bats	ISBN 1 85716 057 6
Badgers and development	ISBN 1 85716 614 0
Bats in Roofs	ISBN 1 85716 006 1
Great Crested Newts – Guidelines for Developers	ISBN 1 85716 225 0
Water Vole – Guidance for Planners and Developers	ISBN 1 85716 458 X
Wildlife-friendly gardening	ISBN 1 85716 5675
A Space for Nature	ISBN 1 85716 246 3
English Nature. (2000). Special Areas of Conservation What they mean for you. Sites of Special Scientific Interest (SSSIs)	ISBN 1 85716 611 6

Barn Owl Trust leaflets on Indoor and Outdoor Nestbox Design from The Barn Owl Trust, Waterleat, Ashburton, Devon, TQ13 7HU.	01364 653026
Bats, Development and Planning in England from The Bat Conservation Trust, 15 Cloisters House, 8 Battersea Park Road, London, SW8 4BG.	0207 627 2629
Regionally Important Geological and Geomorphological Sites from UK RIGS, The National Stone Centre, Porter Lane, Middleton by Wirksworth, Derbyshire, DE4 4LS.	01629 824833

APPENDIX J ~ Statement of consultation

This SPG has been produced to augment the Unitary Development Plan (UDP), providing more specific guidelines for those considering submitting and determining planning applications. The first deposit version of this SPG was presented to Members on 19th July 2002 and subsequently published separately alongside the First Deposit UDP in September 2002

Following the publication of the draft version of this SPG in September 2002, it was placed on deposit for public consultation until 31st January 2003.

All Parish and Town Councils and organisations thought to have an interest were sent a copy and invited to make comments. Copies of the document were also made available at deposit locations around the County including the main libraries and 'Info in Herefordshire' points and the availability of the document highlighted on the Council's web-pages.

Comments have been received from 15 organisations as a result of the specific consultation on the SPG, although a number of comments made to the First Deposit UDP policies NC1 to NC9 were also relevant. Those who responded to the consultation are listed below.

Barn Owl Trust
Environment Agency
English Nature
Forestry Commission
Herefordshire Nature Trust
Highways Agency
Herefordshire Ornithological club
Gloucestershire County Council
H & W Earth Heritage Trust
Kington Town Council
Ledbury Town Council
Llangarron Parish Council
Mason Richards Planning
National Farmers Union
Welsh Newton & Llanrothal PC

The benefits of publishing both documents at the same time has enabled relevant changes to be made to both as the UDP leads and informs the SPG. Changes proposed to the UDP have therefore been reflected within this guidance. It should be noted that widespread support has been received for the document in principle.

The responses and amendments proposed to the SPG were reported to the Council's Planning Committee on 16th July 2004 when the SPG with the amendments was agreed for adoption as Interim Supplementary Planning Guidance to the Herefordshire Unitary Development Plan.