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Good planning practice for invertebrates: protection

There is a range of legislation and policy protecting invertebrates and their habitats to be considered when making a planning decision. This guide summarises key policy and legislation relating to the protection of invertebrates and wildlife rich brownfield land in England. For legally protected species and habitats please refer to Buglife's 'Policy and Legislation Summary' leaflet available on our website.

National Planning Policy Framework– previously developed land

Sometimes previously developed or 'brownfield land' can be a haven for wildlife and these sites should be protected from development.

This presents a challenge for planners as policy requires that brownfield land is prioritised for re-development but it is also clear that nature conservation should be considered when making a planning decision.

The National Planning Policy Framework states that

local authorities should '*encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value*'. (para 17)

And

'*Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. Local planning authorities may continue to consider the case for setting a locally appropriate target for the use of brownfield land.*' (para 111)

There is no formal definition of 'high environmental value' but the best measure of this is identifying sites that contain rare and endangered invertebrates and/or the [priority habitat](#) 'open mosaic habitat on previously



Streaked bombardier beetle
(*Brachinus sclopeta*) © C Slawson

developed land'. You can find out more about this habitat on our [brownfield hub](#). Briefly this environment is usually characterised by a patchwork of varied habitats such as unmanaged flower-rich grasslands, sparsely vegetated areas on nutrient poor ground, artificial surface substrates or patches of scrub.

The variety within this habitat is exactly what bugs need and it is why some brownfields support so many rare and endangered invertebrates.

Other nature conservation policies:

The Framework has a number of additional policies to protect our wildlife and their associated habitats.

The key policies for protecting nature during development of planning policy and when deciding planning applications are set out here.

Paragraph 117 states '*To minimise impacts on biodiversity and geodiversity, planning policies should:*

- plan for biodiversity at a landscape-scale across local authority boundaries;
- **identify and map components** of the local ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity, wildlife corridors and stepping stones that connect them and areas identified by local partnerships for habitat restoration or creation;
- **promote the preservation, restoration and recreation** of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan;
- aim to **prevent harm** to geological conservation interests; and
- where Nature Improvement Areas are identified in Local Plans, consider specifying the types of development that may be appropriate in these areas.'

Paragraph 118 states that 'When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort,

compensated for, **then planning permission should be refused;**

- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;
- development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;
- opportunities to **incorporate biodiversity** in and around developments should be encouraged;
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss; and
- the following wildlife sites should be given the same protection as European sites:
 - * potential Special Protection Areas and possible Special Areas of Conservation;
 - * listed or proposed Ramsar sites;
 - * sites identified, or required, as compensatory measures for adverse effects on European sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

National Planning Practice Guidance

Recently published guidance indicates environmental value should be assessed **before development decisions are taken**. This will prevent delays later in the process and wildlife rich sites being lost. Carrying out a basic assessment of a previously developed site before allocating it for development in local plans will help avoid



Old railway tracks are brownfield but can be great for wildlife © G Hitchcock

surprises later in the process and give an idea of the level of mitigation required for the development meet the requirements of the Framework.

Paragraph 025 states:

Can brownfield land have a high ecological value?

*It can do. A core principle in the National Planning Policy Framework is to encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value. **This means that planning needs to take account of issues such as the biodiversity value which may be present on a brownfield site before decisions are taken.***

Defra has published information on open Mosaic Habitats, a specific type of habitat that is of high ecological value and which occurs on brownfield land. Where insufficient information is available, survey work may be appropriate to assess ecological value before decisions on development are taken.

In addition, planning may need to take account of contamination.

You can find out more about how to identify wildlife rich sites in Buglife's [Brownfield Hub](#). When assessing



Moss carder bee (*Bombus muscorum*) © S Falk
A section 41 species

environmental value of brownfield land it is important that the standard open mosaic habitat survey techniques are used. These are available in [Open Mosaic Habitat Survey Handbook](#).

**Natural Environment and Rural Communities Act 2006–
Section 41 species and habitats**

Under the Natural Environment and Rural Communities Act all public bodies have a duty 'to have regard' for biodiversity. To help carry out this function the Secretary of State has published a list of priority habitats and species. These are commonly known as Section 41 habitats or species, or priority habitats or species.

Use these lists to help identify and prioritise the species and habitats that should be afforded protection when applying the requirements of the Framework to conserve and enhance biodiversity. A key habitat listed is open mosaic habitat on previously developed land which has been specifically added to this list due to its exceptional value for wildlife, invertebrates in particular. There are also around 400 invertebrates species listed and the presence of any of these on a development site indicates the site is likely to be of high ecological value and is a material consideration.

The complete Section 41 list can be found on the JNCC web site: www.jncc.gov.uk/page-5705.

Further information

www.buglife.org.uk

www.buglife.org.uk/brownfield-hub

References

Lush, M.J., Kirby, P., Shepherd, P., 2013. Open Mosaic Habitat Survey Handbook. [ExeGesIS Spatial Data Management Ltd, Powys](#)

Natural Environment and Rural Communities Act (2006) Sections 40 and 41

National Planning Policy Framework

National Planning Practice Guidance

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