

PPG9 extracts

para. 1.

The wildlife of Britain is an integral part of its countryside, towns and coasts. The 1990 White Paper This Common Inheritance made plain the Government's commitment to sustainable development, and in particular to conserving the natural heritage for the benefit of this and future generations¹. In January 1994 the Government published a national strategy looking at the principles of sustainable development and the processes for implementing and monitoring them². The United Kingdom signed the Biodiversity Convention at the UN Conference on Environment and Development held in Brazil in June 1992. Biodiversity (biological diversity) can be simply defined as "the sum total of life's variety on earth". The Convention includes provisions on habitat conservation and impact assessment. It requires that the components of diversity should be used sustainably; that is, in a way and at a rate which does not lead to their long-term decline, and which maintains their potential to meet the needs of present and future generations. These concepts are not new to the United Kingdom. In response to the Convention the Government published in January 1994 an Action Plan setting out the UK's conservation strategy for the next 10 and 20 years.

para. 2.

The Government's objectives for nature conservation are to ensure that its policies contribute to the conservation of the abundance and diversity of British wildlife and its habitats, or minimise the adverse effects on wildlife where conflict of interest is unavoidable, and to meet its international responsibilities and obligations for nature conservation. Sound stewardship of wildlife and natural features is not a task for Government alone. It depends also on the decisions made by local planning authorities, landowners and others who influence the development and use of land.

para. 3.

One of the essential tasks for Government, local authorities, and all public agencies concerned with the use of land and natural resources is to make adequate provision for development and economic growth whilst ensuring effective conservation of wildlife and natural features as an important element of a clean and healthy natural environment. The conservation of nature is important. Attractive environments, where attention is given to nature conservation, are essential to social and economic well-being. With careful planning and control, conservation and development can be compatible.

para. 4.

The key to the conservation of wildlife is the protection of the habitat on which it depends. The Wildlife and Countryside Act 1981 introduced the most comprehensive system of wildlife conservation ever seen in this country, based on a network of Sites of Special Scientific Interest (SSSIs). But protection of wildlife is not an objective which applies only in SSSIs; it depends on the wise use and management of the nation's land resources as a whole. The Government looks to local authorities to keep themselves informed of the state of the natural environment locally, and to take account of nature conservation interests wherever relevant to local decisions.

para. 5.

⁵ This Planning Policy Guidance note (PPG) sets out the principles and policies that apply to the integration of nature conservation priorities and land use planning. But others may also be relevant to nature conservation issues - for example PPG7, which provides guidance on the need to balance economic, conservation, agricultural and other factors in considering development in the countryside; PPG12, which makes clear that the planning (and especially the development plans) system can contribute to sustainable development and that plan policies and proposals should be subject to appropriate environmental appraisal; PPG 13, which advises on mitigating the impact of transport proposals on the natural environment; PPG17 on the interaction of nature conservation with sport and recreation; PPG20 on coastal planning; and PPG21 on tourism.

para. 19.

The Government's general policy on nature conservation is outlined in the introduction. Nature conservation objectives should be taken into account in all planning activities which affect rural and coastal land use, and in urban areas where there is wildlife of local importance. They should be reflected in regional planning guidance, structure plans, unitary development plans and local plans. General policy advice on plan preparation is set out in PPG12. This includes guidance that plan policies and proposals should be subject to appropriate environmental appraisal in the plan preparation process.

Local plans

Local plans

para. 24.

Local plans and part II of unitary development plans should identify relevant international, national and local nature conservation interests. They should ensure that the protection and enhancement of those interests is properly provided for in development and land-use policies, and place particular emphasis on the strength of protection afforded to international designations. Plans should offer reasonable certainty to developers, landowners and residents alike about the weight that will be given to nature conservation interests in reaching planning decisions. Nature conservation issues should be included in the surveys of local authority areas required by sections 11 and 30 of the Town and Country Planning Act 1990 to ensure that the plans are based on fully adequate information about local species, habitats, geology and landform. Plans should be concerned not only with designated areas but also with other land of conservation value (see paragraph 23 above) and the possible provision of new habitats. They should take account of locally-prepared nature conservation strategies, which should in turn be consistent with development plan policies.

para. 25.

Local plans should include planning policies to be applied to nature conservation sites, indicating the criteria against which a development affecting a site will be judged. They should have regard to the advice in this PPG on the relative significance of different designations (paragraph 18), and on policies for SSSIs (paragraph 29); NNRs and NCR and GCR sites (paragraph 36); SPAs and SACs (paragraph 37 and Annex C); and potential SPAs, candidate SACs and Ramsar sites (paragraphs 13 and C7 of Annex C). The plan proposals map should identify the areas to which these policies apply, including any sites identified as of local nature conservation importance. Minerals and waste local plans should also take account of nature conservation interests, especially in respect of designated sites.

para. 26.

Authorities should take account of nature conservation considerations in assessing sites for any development proposals in the plan. In some cases the reduced importance of keeping agricultural land in production may enable development to be directed towards land which is not of the best and most versatile agricultural quality, rather than to alternative sites which may be of greater nature conservation interest; special protection applies to the best and most versatile agricultural land (see PPG7 [see now PPG7, The Countryside: Environmental Quality and Economic and Social Development (1997)]).

para. 27.

Nature conservation can be a significant material consideration in determining many planning applications, especially in or near SSSIs, where there are statutory requirements to consult English Nature. But local planning authorities should not refuse permission if development can be subject to conditions that will prevent damaging impacts on wildlife habitats or important physical features, or if other material factors are sufficient to override nature conservation considerations.

para. 28.

Where there is a risk of damage to a designated site, the planning authority should consider the use of conditions or planning obligations in the interests of nature conservation. Conditions can be used, for example, to require areas to be fenced or banded off to protect them, or to restrict operations or uses to specific times of year. Planning obligations can accompany permissions in order to secure long-term management, to provide funds for management, or to provide nature conservation features to compensate for any such features lost when development takes place. Full guidance on planning conditions is provided by DoE Circular 1/85 [see now Circular 11/95, *The Use of Conditions in Planning Permissions*] and on planning obligations in DoE Circular 16/91 [see now DOE Circular 1/97, *Planning Obligations*].

Protection of Species

para. 44.

Part 1 of the Wildlife and Countryside Act 1981 sets out the protection which is afforded to wild animals and plants. Every five years, the Schedules to the Act relating to protected animals (Schedule 5) and plants (Schedule 8) are reviewed. Local authorities are notified of any amendments and additions to those Schedules as a result of the review and are bound by the Act to take steps to bring to the attention of the public and of school children in particular the provisions of Part 1 of the Act. The protection offered by the Act is additional to that offered by the planning system.

para. 45.

Certain plant and animal species, including all wild birds, are protected under the 1981 Act. Some other animals are protected under their own legislation (for example the Protection of Badgers Act 1992). It is an offence to ill-treat any animal; to kill, injure, sell or take protected species (with certain exceptions); or intentionally to damage, destroy or obstruct their places of shelter. Bats enjoy additional protection. It is an offence to kill, injure or disturb bats found in the non-living areas of a dwelling house (that is, in the loft) or in any other place without first notifying English Nature.

para. 46.

The Conservation (Natural Habitats,&c.) Regulations 1994 (the Habitats Regulations) implement the requirements of the Habitats Directive for species listed in Annex IV of the Directive (see Annex G to this PPG). It is an offence deliberately to kill, injure, take or disturb listed animal species; to destroy their resting places or breeding sites; or to pick, collect, cut, uproot or otherwise destroy listed plant species.

para. 47.

The presence of a protected species is a material consideration when a local planning authority is considering a development proposal which, 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. They should consider attaching appropriate planning conditions or entering into planning obligations under which the developer would take steps to secure the protection of the species, particularly if a species listed in Annex IV to the Habitats Directive would be affected. They should also advise developers that they must conform with any statutory species protection provisions affecting the site concerned.

para. 48.

English Nature are responsible for issuing licences under section 10(1)(d) of the Protection of Badgers Act 1992 to permit interference with a badger sett, in the course of development (which includes building and construction work). Although consideration of the case for granting a licence is separate from the process of applying for planning permission, a local authority should advise anyone submitting an application for development in an area where there are known to be badger setts that they must comply with the provisions of the Act. Local authorities and all other public bodies also need a licence in respect of any development which they themselves carry out in any areas where there are known to be badger setts. For further information see Home Office Circular 100/91.

Lawful Development Certificates

para. 49.

If a local planning authority is considering an application for a lawful development certificate⁵, and the development or use appear prima facie to involve a contravention of the 1981 Act, they should draw its requirements to the applicant's attention. They cannot however have regard to possible contravention of the 1981 Act in determining the application. A lawful development certificate relates only to the lawfulness of the use of land or buildings under planning legislation. It remains the applicant's responsibility to comply with all other legislation. A local authority should however notify English Nature of any lawful development certificate application relating to an SSSI.

Extracts from PPG7

The role of plans

The role of plans

para. 2.4

Development plans are means by which development to sustain economic activity in rural areas can be promoted whilst protecting the countryside. Section 54A of the Town and Country Planning Act 1990 provides that development control decisions must be made in accordance with the development plan unless material considerations indicate otherwise (see PPGs 1 and 12). Development plans should state the criteria to be used in assessing proposals for development in all areas of countryside, whether inside or outside nationally designated areas. They should consider how any acceptable development would best respect or enhance the character of the countryside.

para. 2.8

When preparing their development plans and deciding planning applications, local planning authorities should take account of any statutory designation (see part 4 of this PPG) and then weigh the need to:

- encourage rural enterprise, including the diversification of farm businesses;
- protect landscape, wildlife and historic features;
- safeguard best and most versatile agricultural land (see paragraphs 2.17 and 2.18);
- have regard to the quality and versatility of land for use in forestry and other rural enterprises;
- protect other non-renewable resources;
- strengthen rural communities by encouraging new employment, facilitating an adequate supply of affordable and market housing and underpinning services and community facilities;
- achieve good quality development which respects the character of the countryside; and
- secure safe development by taking account, where appropriate, of the stability of the land (see PPG14).

para. 2.9

Local planning authorities should take account of the advice in Planning for Rural Diversification: A Good Practice Guide on:

- assessing the economic and social needs of their areas;
- devising positive development plan policies for economic activity which respects the countryside; and
- taking a constructive approach to planning applications.