

Nature Conservation

Swindon Borough Local Plan, 2011

Development Control Guidance Note

August 2007

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PART 1 INTRODUCTION

Biodiversity is essential to maintain the life support systems that allow life, including human life, to exist on the planet. Biodiversity is of fundamental importance to our future well-being and prosperity because a healthy environment supports a long-term sustainable economy and contributes to a more balanced society. It is a key indicator of sustainable development. It adds to the quality of life and local distinctiveness. However, our planet's biodiversity is being diminished, with many wildlife species and habitats experiencing decline or facing the threat of extinction, largely as a direct result of human actions.

The geology of Great Britain, including its landforms, minerals and fossils, is diverse, visually impressive and of great scientific importance. Our geology records millions of years of history in which continents have moved, climates have changed, sea-levels have risen and fallen, and animals such as dinosaurs and mammoths have appeared, evolved and eventually become extinct. The study of geology enables us to understand the history of our planet and how life evolved. Through understanding past environmental change, we are better placed to understand and plan for future environmental change.

The enjoyment of wildlife and geology provides opportunities for lifelong learning, recreation and tourism. The conservation of our natural resources is not a luxury. It is not something we can choose to do when it is convenient, or when funds are available or when everyone agrees.

The planning system has a vital role to play in biodiversity and geological conservation.

Failure to address these issues may cause a planning application to be refused or seriously delayed or development works to be suspended.

The Purpose and Status of the Document

The purpose of this Guidance Note is to assist people who are submitting and determining planning applications to understand how to ensure that biodiversity and where relevant geodiversity, are protected as a consequence of development. The document helps developers determine what steps are necessary to determine whether their scheme is likely to affect biodiversity and what they must do in order that their planning application is not delayed or even

refused on nature conservation grounds.

The benefits for developers in adhering to the advice of this Guidance Note are many and include:

- Enabling the consideration of biodiversity from the beginning of a project (when it is least costly to change plans)
- Facilitating the timely processing of planning applications
- Reducing the number of objections to planning applications on nature conservation grounds

- Offering a straightforward account of how developers are required to take account of biodiversity issues
- Enables the delivery of a better and more attractive development.

This document supplements the policies and proposals in the statutory development plan (currently the Structure Plan and Local Plan, but in future the Regional Spatial Strategy and Swindon's Local Development Framework) with more specific guidance about the scope of information that should be submitted with a planning application.

In addition to supporting the development plan, the Guidance Note sets out to improve the delivery of the national and local Biodiversity Action Plans (BAPs) within Swindon.

The Guidance Note emphasises the importance of adopting a positive approach to biodiversity protection and enhancement, and sets out the considerations relating to wildlife and geology that must be taken into account in all development proposals.

The Guidance Note provides practical examples on how biodiversity can be incorporated into development schemes.

The Nature Conservation Guidance Note complements and should be considered alongside a number of the Council's existing adopted Supplementary Planning Guidance Notes (SPG). Of particular relevance is the Open Space and New Residential Development (SPG) (August 2004), which provides detailed advice on how the requirements for open space within new housing development will be calculated and the process for the delivery and subsequent maintenance of new open

spaces. The Guidance Note should also be considered alongside the Tree Protection on Development Sites SPG (December 2004), Landscape Character Areas SPG (December 2004), Community Forest SPG (December 2004), Infill and Backland Development (June 2007) and the Green Corridors Policies contained within the Swindon Borough Local Plan. These documents are available to download online at the Council's website www.swindon.gov.uk.

A further SPD is currently being prepared by the Borough Council, which should also be considered alongside the Nature Conservation Guidance Note: *Sustainable Construction*.

The Council has also commenced work on a Green Infrastructure Strategy, which will ultimately be adopted as an SPD. The aim of the Green Infrastructure Strategy is to create a comprehensive and sustainable network of green corridors and sites that:

- enhance the diversity of landscape character
- connect and enrich biodiversity habitats and
- extend access and recreation opportunities.

What is Biodiversity?

"Biodiversity" is the term applied to the variety of life on earth and is short for biological diversity. It describes the richness and variety of all living things, from the tiniest microscopic organism to the largest tree. In this document biodiversity refers to all the species, habitats and sites in Swindon.

What is Geodiversity?

Geodiversity is the variety of geological environments, phenomena and active processes that make

landscapes, rocks, minerals, fossils, soils and other shallow deposits, which provide the framework for life on Earth. Geodiversity is important because it underpins biodiversity with soils being the link between them.

Local Biodiversity Action Plans

Local Biodiversity Action Plans (LBAPs) are the mechanism for local delivery of the targets set out in the UK BAP (www.ukbap.org.uk) and the England Biodiversity Strategy. Each LBAP reflects the priorities of the national biodiversity action plan covering priority habitats and species that are at risk or whose status may be uncertain, as well as more widespread habitats and local species. LBAPs have been developed throughout Britain by partnerships between local stakeholders such as the Local Authority, Natural England, the Environment Agency, local Wildlife Trusts and other non-governmental organisations and landowners.

Biodiversity in Swindon Borough

In March 2005, a Biodiversity Action Plan for Swindon was published, with the aim of translating the national objectives set by Government in response to commitments made at the 1992 Earth Summit, into local action. It contains clear targets and actions that specify what needs to be done, by whom, and by when to conserve the Borough's animals, plants, fungi and habitats that are critical to the conservation of biodiversity. This Guidance Note seeks to assist implementing many of the initiatives contained within the Swindon BAP.

Protected sites

An important aspect of this is to safeguard the sites that are particularly recognised as important and designated for nature conservation. In Swindon these are Sites of Special

Scientific Interest (SSSI), notified by Natural England (which have statutory protection), and County Wildlife Sites identified by local wildlife organisations in association with the Council and approved by Natural England.

Other semi-natural habitats, such as ancient woodland, also provide a valuable biodiversity resource. Ancient Woodland is protected both for its diversity of species and for its longevity as woodland. Once lost it cannot be recreated. Any development that would result in its loss or deterioration is therefore resisted by the Council.

PART 2

ROLE OF THE PLANNING SYSTEM

Biodiversity and the Planning System

Much of the pressure on biodiversity is related to development and land use. Consequently, the planning and development process has a fundamental role to play in controlling and relieving this pressure. Failure to address biodiversity issues may cause a planning application to be refused or seriously delayed. If, for example, a protected species is discovered during the course of development operations that had not been found by proper investigation earlier, this situation can lead to the suspension of works until a licence is obtained to carry out activities that would be otherwise prohibited by the Habitats Regulations.

The important role for the planning system in conserving biodiversity has been recognised in legislation and the government's planning guidance, in particular PPS9. The principle of conserving biodiversity is applied in Swindon Borough through the requirement that development proposals conform with the biodiversity protection policies in the Swindon Borough Local Plan.

There are a variety of statutory (nationally important) and non-statutory sites of local nature conservation value in Swindon. Nature conservation efforts in the past have tended to concentrate on the protection of sites and species that are considered to be of high wildlife value, and the localities where they are best represented. Whilst the hierarchy of protected sites remains vital, as reflected in the policies of the Swindon

Borough Local Plan, conservation and management of the wider countryside must be increased if real biodiversity gain is to be achieved. The effect of a development proposal on the wildlife or landscape of any area will therefore be a material consideration in all relevant planning decisions, whether or not statutorily designated sites or protected species are involved.

Development should not lead to a net loss in either quality or quantity of biodiversity and, wherever possible, should contribute positively to its enhancement, promoting a net gain that benefits people and wildlife alike.

The pressures for development in Swindon will have the potential to impact severely on bio/geodiversity so there is a challenge ahead to balance all interests and ensure that there is no net loss and considerable gain.

The protection provided by planning controls operates in parallel with wildlife protection legislation. Both aspects must be considered by the local planning authority and developers (see Part 3).

General Principles for Biodiversity in Planning and Development

- **Anticipating all potential impacts of a development proposal at the earliest stage of the planning process**
- **Reversing habitat fragmentation and species isolation.**
- **Ensuring development does not lead to a net loss in biodiversity**
- **Identifying opportunities for new development and redevelopment**

to contribute towards a "net gain in biodiversity, in line with Section 40 of the NERC Act 2006."

- **Affording designated sites the levels of protection appropriate to their status.**
- **Taking account of indirect and cumulative impacts in assessing the potential effects of a development.**
- **Recognising that many landscape features are crucial for the migration, dispersal and genetic exchange of wild species. These important "stepping stones" and corridors should be protected and managed sympathetically and extended wherever possible.**
- **Promote long term sustainability and beneficial impacts on biodiversity by incorporating ecological build technologies to reduce environmental impacts of developments.**

Incorporating Biodiversity into new development

There are 3 key stages in the accommodation of nature conservation in development scheme:

- Stage 1 – Pre-application gathering of information
- Stage 2 – Design
- Stage 3 – Monitor and Manage

Stage 1 - Pre-application gathering of information

Before designing your proposed development and submitting a planning application to the Council you need to follow these simple steps:

1. Determine if the area is on, or adjacent to a **designated site**, contains **protected species** or has

any **local biodiversity interest**.

Initial determination as to whether a survey is required should be apparent from simply walking the site and checking for the presence of habitats such as trees, hedges, old buildings, ponds etc which are likely to support wildlife. The Checklist for Developers Table at Appendix 3 provides a useful reference tool at this information gathering stage. The Wiltshire & Swindon Biological Records Centre should be consulted, as they can provide details of protected sites and species in the development area. It is important to find out if the site forms part of a network of habitats, or is a stepping stone between habitats. The Government has recognised that such features are crucial for biodiversity as they can provide routes for the migration, dispersal and genetic exchange of species in the wider environment. Such networks should therefore be protected from development and where possible strengthened by or integrated within it.

2. If a survey is needed the level of data required and the time taken to collect it will vary according to the size of the development and the habitats and species concerned. There are certain times of year when surveys ought to be conducted for different species and this needs to be taken into account.
3. Check if the site is within other protected land designations such as Areas of Outstanding Natural Beauty, contains trees protected by Tree Preservation Order or hedgerows protected by the Hedgerow Regulations. Such designations could have significant impacts on the potential development of the site and the requirement for sensitive design.

4. Some developments require an Environmental Impact Assessment (EIA) under the Town and Country Planning Regulations 1999. Applicants should check with the Council before submitting an application to determine if an EIA is required.
5. Developers should also take into account what habitats covered by the Swindon BAP are likely to be affected and consider whether there are opportunities to create some new habitats within the scheme.
6. Local organisations, such as Parish Councils and Community Councils, provide a valuable source of local knowledge. Developers should contact these organisations for information on the local environment.

Surveys

Ecological surveys must be carried out to a satisfactory level, by a suitably qualified and experienced ecologist (list from Institute of Ecology and Environmental Management [IEEM]). Best practice survey methods should be employed and both the habitat and species surveys should be submitted as part of the planning application.

This should include:

- Species population level at the site
- Impacts of the development on the species
- Details of possible avoidance, mitigation and/or compensation measures
- Details as to whether the proposed development and/or mitigation measures require a licence from Natural England

Applications which are not submitted with satisfactory survey information, where this information is required, will not be validated or

processed.

Ecological surveys must be carried out early in the planning process, not left to be completed after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers will not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and /or planning obligations, before the permission is granted.

For further advice and contacts on surveys please contact the Development Management Group at Swindon Borough Council.

In appropriate circumstances, a condition may be imposed on a planning permission preventing the development from proceeding without the prior acquisition of a relevant licence. These licences are issued by Natural England. For further information on licensing issues see www.naturalengland.org.uk

Stage 2 – Design

The design stage should lead clearly from the survey information gathered at stage 1. In considering the requirements for sustainable development, it is imperative that features of existing biodiversity interest within a site are protected, enhanced and restored, wherever possible. Principles of best practice in terms of sustainable design should be used and where possible areas for habitat creation should be optimised. The key

elements to focus on when designing any development include:

1. **Protecting** existing biodiversity as an absolute minimum, by designing the scheme in such a way that it retains areas of wildlife value within the site.
2. **Aim for net gain** in biodiversity at development sites.
3. **Mitigating harm** through the provision of appropriate mitigation measures, may be considered, where it is not possible to avoid harm to habitats and species. The normal process is such that the applicant should propose appropriate mitigating measures (an ecologist should be able to help with this), to be discussed with the Borough Council and once agreed these will be secured with planning conditions or obligations.

It must be remembered that mitigation, no matter how well intentioned, by its very nature involves harm of some form. Where the proposed mitigation measures are insufficient in relation to the existing biodiversity to be mitigated against, planning permission may be refused on these grounds.

4. **Compensating** for any loss of existing biodiversity may be considered, where damage is unavoidable and will still occur despite mitigation. This may involve the creation of new habitats on or off site to replace that lost by

the development. Compensating for loss will only occur in very limited circumstances and as a last resort, where the need for the development clearly outweighs the biodiversity to be lost. It must be remembered that existing habitat has acquired biodiversity value over a long period of time. Habitat that has been artificially recreated is generally of lower biodiversity value initially and this needs to be reflected in the compensation offered.

In no way would an offer of compensation for loss of habitat, make unacceptable development, acceptable.

Stage 3 – Monitor and manage

In designing a successful development scheme that incorporates and enhances existing biodiversity, or creates opportunities for habitat creation, the use of monitoring and management tools are crucial. Where possible such measures should be included as part of the planning application in the form of a monitoring and management plan, to ensure that the proposed impact on biodiversity can be properly considered at the application stage. Where appropriate, the Borough Council will use planning conditions and planning obligations to ensure that the measures proposed are implemented.

PART 3 PROTECTED SPECIES

Consideration by the Planning Authority of protected species in planning decisions

The following flow diagram sets out how Swindon Borough Council will consider planning applications that may affect protected species in the Borough and offers advice to developers on what steps they should take at each stage in the planning process.

Consider the likelihood of a protected species being present on a site and seek advice when in doubt. The Wiltshire and Swindon Biological Records Centre provides a planning screen service, which involves screening all applications received by the Council for their impact on protected sites and species.

Developer may need to take advice of a consultant ecologist

Establish adequate information to assess the implications for any protected species potentially affected.

Developer may need to undertake a species survey and produce a mitigation strategy

Consider whether any harm is likely to result to a protected species or its habitat, and whether it can be avoided or mitigated.

Consult Natural England in instances where if a development proposal is carried out that incorporates mitigation measures it is still likely to result in harm to a protected species or its habitat.

It will be necessary to take account of:

- status, rarity or vulnerability of the species;
- likelihood of it or its habitats being harmed;
- scale, nature and duration of the harm, e.g. whether it would be temporary and unlikely to threaten long-term survival of the species or create permanent loss
- timing - whether development activity could be confined to times of the year that would not disturb the species;
- precautionary principle, where the risk of harm may be low but the effects severe, or where the risk is clear but the effects uncertain, the precautionary principle should be applied; and
- the likelihood of recovery - whether the site's ecological functions can be restored .

Test the application proposals against development plan policies, PPS9 (*Biodiversity and Geological Conservation*) and the BAP to decide whether the application is in accordance with policy.

Consider the likelihood of any necessary licences being granted to enable the development to proceed or whether the development may not be capable of implementation. If there is no realistic prospect of a licence being granted permission should be refused.

Where permission is to be granted, and there is a realistic prospect of obtaining any necessary licence, ensure that mitigation measures are secured by conditions and / or by a Section 106 Planning Obligation.

Mitigation and Monitoring

Swindon Borough Council, with advice from Natural England, will monitor conditions and S106 obligations to ensure that mitigation schemes are fully implemented and, where necessary, enforce them.

Where planning permission has been granted the developer still has legal obligations towards any protected species that may be present. Developers must conform to any statutory species protection provisions affecting the site concerned at the construction stage.

Where a development already has planning permission and a protected species is subsequently found to be present, construction work likely to affect the species should be suspended until any necessary licences are obtained and the developer should commission and implement suitable mitigation measures.

The enforcement agency with responsibility for bringing prosecutions under provisions of the Wildlife and Countryside Act are the police. Any alleged breach of the legislation should be reported to the Police Wildlife Officer (Tel: 01793 528111) and to Natural England.

In the case of bats in dwelling houses, Natural England has a statutory duty to advise householders under the Habitats Regulations and the Wildlife and Countryside Act 1981. The advice, however, does not negate Government policy that protected species are a material consideration in planning decisions. Where dwelling houses are subject to planning permissions Natural England will usually advise that a licence should be obtained if the development work will disturb the bats or affect their roosts.

The main species likely to be affected in Swindon Borough

All of the following species are protected and are likely to be encountered on development sites throughout Swindon Borough wherever suitable habitat occurs.

Great Crested Newts

Great crested newts are a European Protected Species and special licensing provisions apply. They require water bodies for breeding. Ponds are preferred and tend to be of medium size, well-vegetated but not too shaded e.g. field ponds, large ditches or quarry ponds.

Terrestrial habitats are required for feeding, hibernation and dispersal. Great crested newts will utilise a range of terrestrial habitats including grassland, scrub, woodland, hedgerows and 'wastelands'. They usually prefer areas with dense ground vegetation with suitable refuges and shelters such as piles of logs, stones or rubble. Areas of ground with cracks or fissures may also be used for shelter or hibernation. Great crested newts can be found considerable distances away from ponds but it is generally accepted that their terrestrial range covers an area with a 500m radius from a breeding pond. Further information can be obtained from the Great Crested Newt mitigation guidelines available on Natural England's website.

Bats

Bats are a European Protected Species and special licensing provisions apply. They require safe roosting, hibernation and breeding sites as well as suitable foraging areas. Bats may use several roost sites during the year. They will often return to a roost site at the same time each year. Buildings are most frequently used in summer time and any age and type of building may be utilised. Cave-like places, such as tunnels or cellars, are mostly used for hibernation. Hollow trees in hedgerows, parks or woodlands are used for roosting throughout the year. Bats use the holes and crevices in trees for shelter, breeding and hibernation. Suitable conditions usually occur in old trees. For further information and mitigation measures see Natural England's 'Focus on bats' guidance and 'Bat Mitigation' guidelines.

Reptiles

All reptiles are protected to differing degrees under the Wildlife and countryside Act 1981 (as amended). For further information see Natural England's 'Reptiles: guidelines for developers'.

Grass Snakes

Grass snakes use a wide variety of habitats, containing open areas where they can bask. They primarily feed on amphibians and are therefore most frequently found near wet habitats. Rivers, marshes, damp meadows and still water bodies such as lakes, ponds, old gravel pits and reservoirs are all potential grass snake habitat. Grass snakes will also live in drier sites for example open woodland, rough grassland, allotments and heathland.

Eggs are laid in a warm environment in early summer e.g. compost or manure heaps, rotting logs and less commonly, moss or piles of dead leaves. Grass snakes hibernate in places such as rubble piles, mammal burrows and tree roots.

Slow Worms

Slow worms prefer to live in damp and warm habitats. Woodland, grassland, railway embankments allotments and gardens all potentially support slow worms. They are also frequently found on 'wasteland' sites. Unlike other reptiles, they rarely bask, preferring to stay hidden under the soil or vegetation. They hibernate in winter under piles of leaves, within tree roots and in ground crevices.

Common Lizards

Common lizards favour sheltered habitats containing dry, warm places where they can bask in the sunshine. The majority of lizards are found in grassland, hedgerows, woodland edges, roadsides and frequently railway embankments and 'wasteland' sites. At night they shelter beneath logs, stones and metal sheets.

Water Voles

Water voles live along rivers, streams, ditches, canals or lakes. They prefer slow-moving water with a depth of about one metre and without extreme fluctuations in level. Well-vegetated banks are necessary for shelter and food. Banks are usually fairly steep-sided and of a soil type suitable for burrowing. Burrows will have underwater and above ground entrances. There is no provision for licensing the intentional damage or destruction of water vole burrows during development. For

more information see Natural England's 'Water vole guidance for planners and developers'.

Badgers

Badgers live in family or social groups of related mature and young adults and cubs. Each group will defend a territory, which contains water and a variety of food sources to support the group throughout the year. Within their territory badgers live in a number of underground tunnel systems that form their sett. Some setts are always occupied and are used for breeding and raising young in the winter and spring.

Badgers are creatures of habit and are extremely loyal to their setts and use the same pathways to foraging areas.

The types of proposals that may impact on badgers include developments:-

- adjacent to railways embankments/escarpments
- on overgrown abandoned land
- on greenfield sites
- in fields with hedgerows
- adjacent to woodland/wooded area
- adjacent to quarries

Any activity within 30m of a sett (10m if only hand tools used) will require a licence from Natural England. For more details see Natural England's 'Badgers and development guidance'

Appendix 1 - Relevant Organisations

Organisation	Role in Planning Process	Contact Details
<p>Swindon Borough Council</p>	<p>A number of sections within Swindon Borough Council can advise on nature conservation issues. The key contacts within the Council are set out below.</p> <p><u>Development Management</u> Determines all planning applications within the Borough. The Group will provide general advice on planning applications and will also advise whether an EIA is required in relation to a development and if so what its scope should be.</p> <p><u>Forward Planning</u> Responsible for preparation of the development plans and planning policies for the Borough for the Borough. The Group also assists the South West Regional Assembly in the preparation of the Regional Spatial Strategy</p> <p><u>Landscape and Countryside</u> Provides advice on all aspects of landscape, arboriculture and countryside management. The Group can give advice on the location of designated sites, protected species and other site planning constraints.</p> <p>The Landscape and Countryside Group is split into three main areas:</p> <ul style="list-style-type: none"> • Landscape • Community Forest • Arboriculture <p><u>Sustainable Development Manager</u> Promotes sustainable development throughout the Borough.</p>	<p>Environment and Regeneration, Swindon Borough Council, Premier House, Station Road, Swindon SN1 1TZ Tel 01793 463000 www.swindon.gov.uk</p> <p>Development Management Tel 01793 466328</p> <p>Forward Planning Tel 01793 466445</p> <p>Landscape and Countryside Tel 01793 466304</p> <p>Community Forest Tel 01793 466320 www.forestweb.org.uk</p> <p>Landscape Tel 01793 466311</p> <p>Arboriculture Tel 01793 466318</p> <p>Sustainable Development Manager Partnership and Policy Swindon Borough Council Room 1.35b Civic Offices Euclid Street Swindon SN1 2JH Tel 01793 463197</p>

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Organisation	Role in Planning Process	Contact Details
Natural England	<p>Natural England is the statutory body championing the conservation and enhancement of wildlife and natural features in England. Natural England:</p> <ul style="list-style-type: none"> • owns and manages National Nature Reserves; • is responsible for the designation, protection and helping landowners and occupiers to improve the management of SSSIs • deals with certain kinds of licences to enable surveys or development affecting some protected species; • promotes and oversees the establishment of Local Nature Reserves; and • is a statutory consultee on many planning applications, including all those likely to affect a SSSI or requiring EIA, and the development plan. 	<p>Natural England, Units 5 & 6, Prince Maurice Court, Hambleton Avenue, Devizes, Wiltshire, SN10 2RT Tel: 01380 726344 Fax: 01380 721411 Email: wiltshire@naturalengland.org.uk www.naturalengland.org.uk</p>
Environment Agency	<p>Is a statutory consultee on the Development Plan and certain planning applications including all minerals and waste applications; all other applications likely to affect the water environment or flood risk and all applications requiring EIA. Responsible for the management of water at catchment level. Deals with consents for waste management, water abstraction, land drainage, impoundment and discharge as well as management affecting drainage or flood defence. Will comment on the pollution potential of discharges.</p>	<p>Environment Agency – Thames Area, Red Kite House, Crowmarsh Gifford, Wallingford, Oxon, OX10 8BD Tel 01491 828309 www.environment-agency.gov.uk</p>
Wiltshire Wildlife Trust	<p>Part of the national partnership of Wildlife Trusts and the county wildlife organisation for Wiltshire, it owns and manages local nature reserves, promotes wildlife conservation and environmental education and is a non-statutory consultee on many planning applications and the development plan. The Trust is also responsible for County Wildlife Sites, which are sites of local importance for nature conservation. It also has a significant body of information and expertise about wildlife in the County.</p>	<p>Wiltshire Wildlife Trust, Elm Tree Court, Long Street, Devizes, Wilts SN10 1NJ Tel: 01380 725670 www.wiltshirewildlife.org</p>

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Organisation	Role in Planning Process	Contact Details
Wiltshire & Swindon Biological Records Centre (WSBRC)	<p>The WSBRC has an ongoing Service Level Agreement with Swindon Borough Council to provide services to assist in the Council's Development Control and Forward Planning functions. WSBRC provides the following services to the Council:</p> <ul style="list-style-type: none"> • Provision of 'planning screen' for Wildlife Sites and protected species. • Provision of updated schedules of maps for Wildlife Sites in Swindon Borough. • Provision of updated Wildlife Sites data in spatial format. • Provision of enquiry service to Council Officers on biodiversity matters. <p>In addition to these services, WSBRC provides a data enquiry service for, and on behalf of Swindon Borough Council, for Wildlife Sites and species information. Requests are received from the Borough Council and its contractors, and also consultants, developers and landowners within the Swindon area. The WSBRC performs this statutory function for the Council as a public body as required under the Environmental Information Regulations 2004.</p>	<p>Wiltshire and Swindon Biological Records Centre, Elm Tree Court, Long Street, Devizes, Wilts SN10 1NJ Tel 01380 725670 www.wsbrc.org.uk</p>
Royal Society for the Protection of Birds (RSPB)	<p>Non-statutory consultee on planning applications affecting sites of importance for birds. Provides information on bird distribution and offers advice on survey methodologies and habitat management</p>	<p>RSPB, The Lodge, Sandy Bedfordshire SG19 2DL Tel: 01767 680551 www.rspb.org.uk</p>
Wiltshire Amphibian and Reptile Group	<p>Specialist advice on great crested newts and other amphibians</p>	<p>Wiltshire Amphibian and Reptile Group, The Langdales, West Street, Great Somerford, Chippenham, Wiltshire SN15 5EH Tel: 01249 720761</p>
Herpetological Conservation Trust	<p>Specialist advice on great crested newts, other amphibians and reptiles</p>	<p>HCT, 655a Christchurch Road, Boscombe Bournemouth, Dorset BH1 4AP Tel: 01202 391319 www.herpconstruct.org.uk</p>
Wiltshire Badger Group	<p>Specialist advice on badgers</p>	<p>Wiltshire Badger Group 5 Southview, Horton, Devizes, Wiltshire SN10 3NA Tel: 07721 506445 or 01793 771419 (for Swindon)</p>
The Mammal Society and The Bat Conservation Trust	<p>Specialist advice on mammals and particularly bats</p>	<p>The Mammal Society 15 Cloisters House, 8 Battersea Park Road, London SW8 4BG Tel: 020 7498 4533 www.mtuk.org and www.bats.org.uk</p>

Appendix 2: Wildlife Legislation and Policy

The Government Legislation and Policy that requires Biodiversity to be taken into account comprises:

Natural Environment and Rural Communities Act (NERC) section 40 – imposes a duty on every public authority to have regard to conserving biodiversity in exercising their functions. This includes restoring or enhancing a population or habitat.

Section 38 of the Planning and Compulsory Purchase Act 2004 provides that the determination of planning applications should be in accordance with the policies in the development plan, which in Swindon, currently, is the Wiltshire and Swindon Structure Plan and Swindon Borough Local Plan. They contain policies for the protection of wildlife and geology and all new development should accord with those policies.

Countryside and Rights of Way Act 2000, Section 74, Biological Diversity, states that *"It is the duty of [Government] in carrying out ... its functions, to have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biological diversity in accordance with the Convention"* (on Biological Diversity – ratified by over 170 nations, including the UK, following the 1992 Rio Earth Summit). The Secretary of State for Environment, Food and Rural Affairs is required to publish a list of habitats and species that are of principal importance to biodiversity conservation in England.

Planning Policy Statement 9 - Biodiversity and Geological Conservation makes it clear that biodiversity and geodiversity are material considerations in formulating development plans and in determining planning applications.

Many species of wildlife and some particular habitats are protected by law through the:

- ❑ Countryside and Rights of Way Act 2000 – as amended by NERC 2006
- ❑ Conservation (Natural Habitats, &c.) Regulations 1994 (The Habitats Regulations)
- ❑ Wildlife and Countryside Act 1981
- ❑ Hedgerows Regulations 1997
- ❑ Protection of Badgers Act 1992

Particular species of flora and fauna in England are subject to special protection, normally because of their vulnerable conservation status. For example, a species may be endangered or declining in numbers or range, either within the UK or the European Union, or may be the victim of persecution or cruelty (such as that inflicted on badgers or the collection of bird's eggs).

The two principal pieces of legislation protecting wild species are Part 1 of the Wildlife and Countryside Act 1981 and the Habitats Regulations. Some animals are protected under their own legislation (for example the Protection of Badgers Act 1992).

The breach of protected species legislation can give rise to a criminal offence. The 2000 Act increased the penalties for offences relating to protected species, to a maximum fine of £5,000 and/or a custodial sentence of up to six months.

Circular 06/2005 states that: "*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 (note: now Natural England) 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. They should also advise developers that they must comply with any statutory species protection provisions affecting the site concerned. For European Protected Species further strict provisions apply, to which planning authorities must have regard.*

It is essential that the presence or otherwise of 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. The need to ensure ecological surveys are carried out should therefore not normally be left to coverage under planning conditions with the result that the surveys are carried out after planning permission has been granted. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence ..."

Protection of Badgers Act 1992

Although the badger is not a rare animal over most of England, there is specific legislation for the protection of badgers under the Protection of Badgers Act 1992. Whilst this Act deals largely with persecution, cruelty and killing of badgers, it is also an offence with certain exceptions to interfere with a badger sett. Natural England is responsible for issuing licences under section 10(1)(d) of the Protection of Badgers Act 1992 where it is necessary to interfere with a badger sett in the course of development. Any activity that takes place within 30m from a sett using machinery, or 10m from sett with hand tools will require a licence from Natural England.

The likelihood of disturbing a badger sett, or adversely affecting badgers' foraging territory, or links between them, or significantly increasing the likelihood of road or rail casualties amongst badger populations, are capable of being material considerations in planning decisions. Although consideration of the case for granting a licence is separate from the process of applying for planning permission, the planning authority will 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.

Licensing

The granting of planning permission does not negate the legal protection afforded to species under the Habitats Regulations, the Wildlife and Countryside Act (as amended by Countryside and Rights of Way Act 2000), and the Badgers Act 1992. Licences are required, in addition to obtaining planning permission, to allow activities to take place that would otherwise be prohibited.

Appendix 3: Checklist for developers

Applicant and Site details					
Applicant					
Location					
Type of Development					
Current Land Use Designation					
Is the site or adjoining land designated as a Site of Scientific Interest, Local Nature Reserve or Wildlife Site? <i>(Please tick)</i>					
Yes					
No					
Existing Habitats					
Which of the following habitats exist on the proposed development site? <i>(Please tick)</i>					
Woodland		Swamp, fen or mire			
Grassland: neutral, calcareous or acid		Cave, tunnel or mine			
Farmland		Parkland			
Boundary feature: Hedgerow		Roadside verge			
Boundary feature: Stone Wall		Scrub			
Boundary feature: Ditch		Tall herb and fern			
River or stream		Trees			
Lake, pond, reservoir or canal		Urban			
Reedbeds					
Existing Species					
Which of the protected species and other BAP species as set out in Section 3 exist on the proposed development site and what do they use the site for? <i>(Please tick)</i>					
Species	Dispersal/ migration	Nesting/ roosting	Breeding	Feeding/ hunting	Hibernation
Impact of the Proposed Development					<i>(Please tick)</i>
Indicate if the proposed development will affect the following:					
Water Courses					
Designated Sites					
Wildlife Corridors					
Habitat Isolation					
Woodland					
Adjacent Land					
Is the proposed development site adjacent to the following sites or features? <i>(Please tick)</i>					
SSSI/SAC/SPA					
Local Nature Reserve					
County Wildlife Site					
Wildlife Site					
Regionally Important Geological or Geomorphological Site					
Isolated Natural Habitat					
Water Course					
Wildlife Corridor					

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BAP Priority Habitat	
Woodland	
Biodiversity Enhancements	
Are any of the following measures planned during or after the proposed development? <i>(Please tick)</i>	
Retention of existing habitat	
Restoration or enhancement of existing habitat	
Habitat creation	
Wildlife corridors	
Habitat management	
Management plan	
Monitoring of species/habitats	
Additional Information	
Is any of the following information available? <i>(Please tick)</i>	
Biodiversity surveys of the site	
Amounts of habitats / numbers of species to be affected	
Details of consultation with Natural England, Environment Agency, Wiltshire Wildlife Trust or other relevant bodies or individuals	
Any proposed mitigation or compensation	
Relevant maps	
Summary of biodiversity for the site	
Which of the following will apply to the site after development? <i>(Please tick 1 box)</i>	
Net gain of biodiversity	
Net loss of biodiversity	
No change	

Signature

Date

Appendix 4 - Relevant Development Plan Policies

Swindon Borough Council is required to produce a Development Plan to provide planning policy on the future use and development of land. The Development Plan comprises the Wiltshire Structure Plan with strategic policies for Swindon and Wiltshire and the Swindon Borough Local Plan, which provides detailed policies and land allocations for the Borough. These Plans have a crucial role in safeguarding the important habitats and species identified in the Swindon BAP and sites of European, national and local importance. This Guidance Note is an important link showing how the Swindon BAP is implemented in part through the development plan.

Loss of biodiversity runs contrary to the aims and objectives of the development plan in terms of achieving sustainable development. As a minimum, therefore, it is important that new development avoids loss or harm to features present on a site. However, in exceptional cases, where there are over-riding material planning considerations that mean avoidance is not possible, the Council will look to secure measures from developers that firstly, minimise any adverse effects and secondly offset or compensate for those impacts that cannot be avoided or further reduced, prior to the commencement of development.

The adopted Wiltshire and Swindon Structure Plan to 2016 contains strategic level policies for the protection and enhancement of wildlife and natural features in development.

The Swindon Borough Local Plan 2011 includes policies for:

- the protection of internationally, nationally and locally designated nature conservation sites (policies ENV15 - 17);
- protected species and other features of intrinsic nature conservation value (policy ENV18);
- the implementation of the Great Western Community Forest Plan (ENV19);
- the maintenance and enhancement of Swindon's network of Green Corridors (ENV20 and ENV21);
- the protection of the water environment (policies ENV22 - 24);
- the protection and provision of public open space (R4 - R7);
- avoiding adverse effects on protected species and other environmental interests in the Southern Development Area (policy DS2); and
- the protection of Coate Water SSSI in the Coate development (policy DS3)

A number of these policies are amplified by detailed Supplementary Planning Guidance Notes. Those SPGs of particular relevance to nature conservation comprise, 'Open Space and New Residential Development', 'Tree Protection on Development Sites', 'Landscape Character Areas' and Community Forest.