

LDF



June 2007

WIGAN LOCAL DEVELOPMENT FRAMEWORK



Development and Protected Species

Supplementary Planning Document



Environmental Services Department
www.wigan.gov.uk



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Development and Protected Species Supplementary Planning Document

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To assist people with particular needs this document can be made available on request in larger print, braille and in a number of alternative languages.

Arabic

"بالإمكان توفير هذه المعلومات في اللغة العربية."

Cantonese

這些資料可提供中文譯本。

Farsi

این اطلاعات به زبان فارسی هم میتواند در دسترس شما قرار گیرد.

French

Disponible en francais sur
demande

Gujurati

આ માહિતી ગુજરાતીમાં મળી શકે છે.

Urdu

یہ معلومات اُردو میں بھی دستیاب ہو سکتی ہیں۔



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ONE

Introduction

1.1 The presence of a legally protected species is a material consideration when determining a planning application. There are a whole range of species covered by different legislation that receive various levels of protection. This Supplementary Planning Document provides guidance on the level of protection species receive; the responsibilities for dealing with protected species; and the requirements for the consideration of protected species as part of the submission of a planning application

- A robust policy framework based on the legislation and associated documents.
- Clear guidance on the criteria for an assessment for protected species on proposed development sites.
- Clear guidance how to undertake an assessment for protected species on proposed development sites.
- Clear guidance on the next steps following the outcomes of an assessment.

What are the benefits of protecting species?

2.2 This document will help us maintain and enhance protected species and their habitats in Wigan. But what are the benefits of doing this?

2.3 Protecting species and their habitats can have many positive impacts that reach further than just environmental protection. For example:

TWO

Purpose of this guidance

2.1 This document aims to provide a general overview and point people in the right direction to find further information. It is not intended to provide detailed information on all the issues relating to protected species, however there are significant benefits in preparing this document. These include;

- Reference made to detailed legislation and associated documents that set out guidance in relation to specific species. These are referred to and listed within the document.
- Trees and greenery boost air quality and help make pleasant places to live and work. This can attract investment, tourism and boost productivity.
- Communities can work together towards wildlife projects helping to build stronger and safer neighbourhoods that people are happy to live in.
- Mental health and wellbeing can be improved through contact with natural surroundings.



Benefits for businesses

- **Stand out from the rest** - Good environmental performance and innovations that benefit business and biodiversity can help businesses stand out from the rest.
 - **Positive publicity** - Improved reputation with customers, investors, regulators, planners, interest groups and local communities. Businesses are being encouraged to operate in an environmentally sound way and customers are becoming increasingly knowledgeable of green issues.
 - **Meeting legislative requirements** - Reduced risk.
 - **Improving staff morale and skills** - Can improve staff retention and recruitment.
 - **Improving management** - Good environmental management can lead to cost savings through a better awareness of and management of sites, materials, products and waste.
- Your Region Your Nature – Make the links - Benefit from your biodiversity (Defra, 2005). Available online at: www.defra.gov.uk (Appendix A 'Further information and advice')
 - Speech by Barry Gardiner MP on "Business and biodiversity: a UK Government perspective" at the Earthwatch Corporate Environmental Responsibility Group, London – (Wednesday 20 September 2006). Available online at: www.defra.gov.uk (Appendix A 'Further information and advice')

2.4 You can find further information on how biodiversity can benefit your business in the following resources.

- Business and Biodiversity (Business Enterprise Partnership). Available online at: www.sniffer.org.uk (Appendix A 'Further information and advice')



THREE

What is a protected species?

3.1 For the purposes of this document a protected species is any species that is protected either fully or partially by national or international legislation. The presence of a protected species is a material consideration when the local planning authority is considering development proposals that would be likely to result in harm to a species or its habitat.

FOUR

Status of the document

4.1 This guidance holds the status of a Supplementary Planning Document. This means that it both supports and reinforces the planning policies set out in the Wigan Replacement Unitary Development Plan including policies:

- EV2: Nature Conservation;
- EV2A: Special Areas of Conservation;
- EV2B: Sites of Special Scientific interest, Sites of Biological Importance and Local nature Reserves;
- EV2C: Features of Major importance for Nature Conservation and Wildlife Corridors.

4.2 In this instance this Supplementary Planning Document specifically expands on policy EV2D Species Protection. This states:

" The Council will not permit development which would have an adverse impact on a legally protected species unless the reasons for the development clearly outweigh the protection of the species concerned.

The Conservation (Natural Habitats & c.) Regulations 1994, the Wildlife and Countryside Act 1981 (and subsequent amendments) and the Protection of Badgers Act 1992 provide legal protection for a number of species.

The presence of a protected species is a material consideration when a development proposal, if carried out, would be likely to result in harm to the species or its habitat. Where a site has the potential to support a protected species a survey should be submitted as part of the planning application. If a protected species is present on a development site a comprehensive mitigation package will need to be submitted to the Council in order to assess the impact on the species. Further guidance is contained in Supplementary Planning Guidance produced by the Council 'Protected Species and Development'.



A licence to undertake work that will impact on a protected species may be required from DEFRA.

The Council will consult Natural England on development proposals which have implications for protected species."

Policy EV2D of the Wigan Replacement Unitary Development Plan (April 2006)

4.3 This document is a material consideration and will be used to help decide planning applications and defend decisions made at appeals. It has been produced in accordance with national planning policy in particular Planning Policy Statement 9: Biodiversity and Geological Conservation available online at: www.communities.gov.uk (Appendix A 'Further information and advice') and the accompanying Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System available on line at: www.communities.gov.uk (Appendix A 'Further information and advice')).

FIVE

Legislation

5.1 The two principal pieces of legislation in the UK protecting wild species are Part I of the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats, &c.) Regulations 1994. In addition to this some animals are protected under

their own legislation, for example the Protection of Badgers Act 1992.

5.2 Two pieces of further legislation the Countryside and Rights of Way Act 2000 and the Natural Environment and Rural Communities Act 2006, have also strengthened the protection of wildlife by amending the Wildlife and Countryside Act.

5.3 The following sections give a brief overview of the protection provided by this legislation in respect of protected species.

The Conservation (Natural Habitats, &c.) Regulations 1994

5.4 The Habitats Regulations are the domestic legislation that implements the European Habitats Directive. European Protected Species are listed on Schedules 2 and 4 of the Regulations available online at: www.opsi.gov.uk (Appendix A 'Further information and advice')

5.5 The Regulations make it an offence (subject to exceptions) to:

- deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2;
- deliberately destroy or take their eggs from the wild;
- damage or destroy their breeding sites or resting places; and
- pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4.



5.6 However, these actions can be made lawful through the granting of licences by the appropriate authorities. Licences may be granted for a number of purposes (such as science and education, conservation, preserving public health and safety), but only after the appropriate authority is satisfied that there are no satisfactory alternatives and that such actions will have no detrimental effect on the wild population of the species concerned.

Wildlife and Countryside Act 1981

5.7 Part I of the Wildlife and Countryside Act 1981 is concerned with the protection of wildlife. The Act protects:

- all wild birds, their eggs and nests with special penalties for offences related to birds listed in Schedule 1;
- any wild animal listed in Schedule 5;
- any wild plant listed in Schedule 8.

5.8 The Act also contains measures for preventing the establishment of non-native species which may be detrimental to native wildlife, prohibiting the release of animals and planting of plants listed in Schedule 9. It also provides a mechanism making any of the above offences legal through the granting of licences by the appropriate authorities.

Countryside and Rights of Way Act 2000

5.9 Amendments to the Wildlife and Countryside Act 1981 have been made in

the Countryside and Rights of Way (CROW) Act 2000 (in England and Wales).

5.10 This Act strengthens the legal protection for threatened species and brings the 1981 Act up to date. It has provided stronger powers for the police and wildlife inspectors and created a new offence of reckless disturbance of a protected species. It has also enabled the Courts to impose heavier fines and prison sentences for virtually all wildlife offences.

5.11 The breach of protected species legislation can often give rise to a criminal offence. The Countryside and Rights of Way Act increased the penalties for offences under the Wildlife and Countryside Act relating to protected species to a maximum fine of £5,000 (per individual, per egg) and/or a custodial sentence of up to six months.

5.12 Under Section 74(2) of the Countryside and Rights of Way Act 2000 the Government has prepared a list of habitats and species which are considered to be of principal importance for the conservation of biological diversity in England. The document is available online at www.defra.gov.uk (Appendix A 'Further information and advice'). These habitats and species are already considered under UK Biodiversity Action Plans or have plans in preparation.



Natural Environment and Rural Communities Act 2006

5.13 Following on from the Countryside and Rights of Way Act, this Act further amends the Wildlife and Countryside Act to improve wildlife protection. It also places a duty upon the Local Planning Authority to ensure due regard for the conservation of biodiversity.

Protection of Badgers Act 1992

5.14 Badgers and their setts are protected under the Protection of Badgers Act 1992. It is a criminal offence to kill, injure, take, possess or cruelly ill-treat badgers or to interfere with a badger sett. Interference with a sett includes blocking tunnels or damaging the sett in any way.

SIX

Assessing a development site

When will a survey for protected species be required?

6.1 The potential for the presence of a protected species needs to be considered on all development sites and in the preparation of all development proposals. Identifying the need for surveys at the earliest possible stage in the process will enable planning applications to be determined more quickly and should reduce the time taken to proceed to development

on site. There are some surveys that can only be undertaken at specific times of the year. If this is not properly considered early in the process it can lead to considerable delays.

6.2 Consultation with the local planning authority at the pre-application stage is encouraged to discuss many aspects of planning proposals. It can be a key part in the process of identifying when surveys for protected species are required. Surveys for protected species will be requested where there is a reasonable likelihood of the species being present and affected by the proposed development. These surveys will have to be submitted as part of a planning application as protected species are a material consideration in making planning decisions.

6.3 Some of the key questions when considering possible development proposals are:

- Is there a pond or other waterbody on site?
- Is there a pond or other waterbody within 250m of the site with suitable amphibian terrestrial habitat linking the two?
- Is there a river/ stream/ brook/ canal or ditch within or close to the site?
- Are any buildings going to be demolished?
- Are any buildings going to be converted?



- Are any mature trees affected by the proposals? (Works to trees may also need to take into account the possibility of a Tree Preservation Order as well as the potential presence of a protected species.)
- Will any hedgerows be affected by the proposals? (If it is proposed to remove any hedgerow consideration will need to be given to the Hedgerow Regulations 1997.)
- What habitats are present on the site that may be affected by the proposals – e.g. woodland, grassland, wetland, reedbed?
- Are any of the habitats UK Biodiversity priority habitats? (This applies to both greenfield and brownfield sites.)
- Are there any protected sites near the development site that could be affected by the proposals - e.g. Special Area of Conservation, Site of Special Scientific Interest, Site of Biological Importance or Local Nature Reserve? (Note – designations change over time and the Replacement Unitary Development Plan Proposals Map should not be assumed to be an up to date and accurate record of all designations.)

6.4 This is by no means an exhaustive list of the circumstances that may need to be considered when assessing a site for the presence of protected species. Advice can be sought from the Council Ecologist on the ecological issues that may need to be considered for a specific site.

What the survey should include

6.5 If the need to carry out ecological and/or protected species surveys is identified then a specialist ecological consultant should be appointed as soon as possible. A list of consultants who undertake ecological survey work in this area is available from the Council's Ecologist or from Greater Manchester Ecology Unit. This list is not comprehensive and is not a recommendation, as other consultants will be qualified /licensed to carry out this work.

6.6 The ecological survey should include an assessment of all populations of protected species and Biodiversity Action Plan species or habitats. This will often require looking outside the immediate confines of the development site footprint.

6.7 A full Environmental Impact Assessment is required for some developments. This would take all ecological issues into consideration as well as a whole range of other environmental factors. Advice on the requirements for Environmental Impact Assessments can be gained from the Council's Development Control section.

6.8 The ecological survey should include:

1. A desk study to check for any historic data/previous records for the site. Suggested contacts are Greater Manchester Ecology Unit, Lancashire Wildlife Trust, Environment Agency,



local recorders e.g. South Lancashire Bat Group, County Bird Recorder and the Council's Ecologist as well as national databases such as the National Biodiversity Network (www.nbn.org.uk) and MAGIC (www.magic.gov.uk).

2. A field survey to provide current ecological data on the site by a suitably experienced and where necessary, licensed person. The survey should contain:
 - Details of the surveyor who undertook the work should be provided and the licence numbers should be given where relevant (e.g. for great crested newt and bat surveys);
 - Survey methodology should be described and conform to any guidance provided by Natural England or other relevant body;
 - Dates of when survey visits were carried out should be given along with the weather conditions at the time of the survey;
 - Results of the survey detailing any constraints in carrying out the survey and **full** details of the results;
 - Evaluation of the results and recommendations for implementation of proposals;
 - Mitigation if protected species are identified – discussed in more detail below.

6.9 If the survey is not carried out to the standards required it is unlikely to be accepted by the Council unless there are exceptional circumstances. These circumstances would need to be set out in full within the submitted reports.

What happens if protected species are not recorded on site?

6.10 It should be noted that it can be difficult to prove conclusively the absence of some protected species and some mitigation measures may be required as a precautionary measure. In addition, if a survey does not find any evidence of protected species, there may still be ecological implications for planning and undertaking a development.

6.11 A site may contain landscape features that are of major importance for wildlife e.g. hedges, streams, ditches, or it could be identified as within a wildlife corridor (see policy EV2C in the Wigan Replacement Unitary Development Plan). It may support a Biodiversity priority habitat. It may contain an important assemblage of habitats and species. In these cases there will still need to be an assessment of the impact of the development with the provision of measures to avoid or if necessary provide mitigation or compensation for any impacts.

6.12 The Council encourages the provision of new opportunities for biodiversity within development proposals through the borough's Biodiversity Strategy.



6.13 Development proposals should take into account the potential to enhance local biodiversity in other aspects of their scheme, such as:

- Access (e.g. footpaths and cycleways)
- Balancing ponds – provision of water features that function for both drainage purposes and are ecologically valuable
- Floodplain management
- Green roofs – to provide new habitats within urban development
- Landscaping – using native and where practicable, locally sourced species
- Open space management – provision of areas of different habitat types or management that allows a more diverse ecology
- Recreation
- Sustainable design and construction
- Sustainable urban drainage systems – using water features on or linked to a development to provide drainage and ecological benefits, and to prevent pollution or enhance water quality.

6.14 The potential to provide opportunities for some of the common but threatened species such as house sparrow, house martin, swift, bats, palmate newts, toads and invertebrates should be considered in all development proposals.

6.15 Proposals for the demolition or conversion of a building may have been subject to a bat survey that did not find evidence of use by bats but identified

moderate to good potential for roosting opportunities. In these circumstances a condition will be recommended to be attached to the planning permission for suitable alternatives to be provided within the new development. This will ensure that the potential opportunities for these species are not lost. Conditions may also require demolition work to be carried out at certain times of the year or the removal of some key features by hand e.g. ridge/ hanging tiles or window frames.

6.16 If you have any questions or need further advice on providing new or improved opportunities for enhancing biodiversity, contacts for a variety of organisations are provided at the end of the document (see Appendix A). We encourage the discussion of development proposals and agreement of new opportunities for biodiversity enhancement at the earliest opportunity.

What happens if protected species are present on site?

6.17 If a survey identifies protected species on a development site then there are a number of questions to ask:

- Will the development affect the protected species or its habitat?
- Are there alternative ways to develop the site to protect the species and its habitat?
- Can measures or alternatives reduce the impact?



- Can measures to mitigate for the impact of the development be implemented?
- Can compensatory measures be put in place to provide alternative habitat to that being lost?
- Can the site be managed in the long term to ensure the continued maintenance and/or enhancement of habitats to be retained?
- Will the favourable conservation status of the species be maintained?

6.18 The survey report should set out a series of recommendations that provide detailed measures to answer these questions.

6.19 If the species is a European Protected Species then it will be necessary to apply to Natural England for a licence to undertake the development work (see sections 6.25 - 6.30 below). Work within 30m of a badger sett will require a licence from Natural England.

Mitigation or Compensation

6.20 Mitigation and compensation are often taken to mean the same thing. However, there is a distinct difference when dealing with the impacts of a development.

6.21 Mitigation is the reduction of the impacts of the development upon biodiversity.

6.22 Compensation is the provision of an alternative to compensate for any loss that is unavoidable. Compensation should be the 'last resort' when all other alternatives have been considered.

6.23 As no two sites are the same it is not possible to have a 'standard' response to dealing with the impacts of a development upon protected species. The measures that need to be put in place will need to be suited to the circumstances on the site, the type of development proposed and the species affected by the proposals. A suitably qualified and experienced consultant will be able to advise on the options available.

6.24 The following are examples of the types of mitigation or compensation that may be required where there will be an impact on protected species:

- Provision of buffer zones to sensitive features;
- Access routes across a site e.g. for badgers, bats, great crested newts;
- Provision of two new ponds for each pond lost (of equivalent size);
- Overall net gain in the amount of habitat available;
- Provision of additional structures/features e.g. bat barns or newt hibernacula;



- Provision of new features to enhance the biodiversity of the site or measures to be implemented off-site;
- Use of Sustainable Urban Drainage Systems.

Natural England licences

6.25 If a European Protected Species (bats, great crested newts) is identified during survey work a licence will be needed to carry out any development that may impact upon the species. This licence is granted by Natural England, to derogate from the provisions of the legislation.

6.26 A licence can only be granted once a development has received planning permission. However, receiving planning permission is not a guarantee that a proposal will be granted a licence. If Natural England is not satisfied with the submitted application then a licence may be refused. This could leave a developer in a situation where they are unable to implement their scheme.

6.27 The programme for implementing any development proposals will also need to take into consideration the timescale set by Natural England for dealing with a licence application. This is estimated to be 8 weeks.

6.28 There are three tests that are applied to any licence application and all three must be satisfied for a licence to be granted. These are:

- Preserving public health or public safety, or for reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- That there is no satisfactory alternative;
- Maintenance of the favourable conservation status of the species in its natural range.

6.29 As part of the licensing procedure Natural England will require the Council to provide details of how the presence of the protected species was considered during the determination of the planning application. The Council will therefore need to see detailed proposals for mitigation and/ or compensation as part of the planning application. Without this it is not possible to judge the impacts of the proposals.

6.30 It is the responsibility of the developer to ensure compliance with the law during the implementation of the development, not the Council.

Monitoring and enforcing the delivery of mitigation and/or compensation measures

6.31 If planning permission is granted for developments that impact upon protected species, there will be a number of conditions attached to the permission that will need to be implemented in order for the development to be carried out. These are likely to cover areas such as:



- Carrying out any necessary additional survey work;
- Providing alternative habitat prior to the commencement of work on site;
- The timing of construction works;
- Implementation of protection measures for retained habitats;
- Trapping-out of the site and relocation of caught individuals to ensure no damage to the species;
- Production of long-term management plans to protect and enhance biodiversity features.

6.32 For larger scale developments the council is also likely to seek a legal agreement which may include the provision of a commuted sum for the long term maintenance of the site.

SEVEN

Protected species in Wigan

7.1 The following sections aim to provide a general overview of the protected species that may be encountered on development sites in Wigan. This is not an exhaustive list but provides a good indication of species likely to be encountered.

7.2 There is a brief description of the species, the protection it receives and the habitat where it is likely to be found. A number of these species have been covered in detail by specific documents and these are

referred to for further information and guidance.

Wild Birds



Kingfisher (see Appendix A for Acknowledgements)

7.3 Wild birds are protected by Sections 1 – 8 (Schedules 1 to 4) of the Wildlife and Countryside Act 1981. All wild birds and their eggs are protected by law from intentional killing, injuring and taking, they cannot be in anyone's possession, whether live or dead, and their nests (whilst being built or in use) cannot intentionally be taken, damaged or destroyed.

7.4 Bird surveys – surveys can be carried out for breeding birds or wintering populations. The exact requirements, including number of visits and type of survey, will depend upon the habitat being surveyed.

7.5 When implementing development proposals, particularly where any vegetation removal/ clearance needs to take place, the bird breeding season must be taken into account. For the majority of species this runs approximately from March to August,



but exact timings will depend upon species and weather conditions each year. Routine maintenance will also need to take into account the possible presence of nesting birds, for example the trimming/ cutting of hedgerows or trees and mowing of grasslands. If a nest is found work must stop immediately and should not resume until the young have left the nest.

7.6 Species listed in Schedule I of the Act receive special protection. In 2006 there were 88 species afforded this protection. The following are those regularly recorded in Wigan borough:

- Barn owl
- Bittern
- Kingfisher
- Little ringed plover

7.7 Other species will need to be taken into consideration in development proposals as they are classed as ‘species of principal importance’ (see section 7.6I below) and species of conservation concern.

7.8 For detailed guidance and further information:

- www.rspb.org.uk (for full web address please see Appendix A ‘Further information and advice’)
- www.bto.org
- www.bto.org/psob/index.htm
- Bird Monitoring Methods: a manual of techniques for key UK species published by RSPB 1998

7.9 Bird Monitoring Methods: a manual of techniques for key UK species published by RSPB 1998

Barn Owls



Barn Owl (see Appendix A for Acknowledgements)

7.10 Barn Owls are listed in Schedule I of the Wildlife and Countryside Act 1981. It is an offence to intentionally or recklessly disturb adults or their dependent young at any stage of their breeding.

7.11 Barn owls are known to breed and forage in a number of areas of the borough, particularly areas of open farmland and mossland.

7.12 Breeding sites can include farm buildings, church towers, derelict or unused buildings and hollow trees. The ideal foraging habitat is rough grassland where small mammals are abundant. Adult barn owls generally use the same nest and roost sites for their lifetime.

7.13 The main breeding season is March to August.



7.14 Survey reports should include details of any evidence encountered, the main signs being droppings, pellets, feathers and nest debris. During the breeding season if there is a likelihood of barn owls being present or signs of barn owl are found then a nest inspection should only be carried out by a barn owl licence holder.

7.15 For detailed guidance and further information:

- Barn Owls on Site – A guide for developers and planners published by English Nature and The Barn Owl Trust 2002. Available online at: www.naturalengland.org.uk (for full web address please see Appendix A ‘Further information and advice’)
- Barn Owl Trust leaflets are available from www.barnowltrust.org.uk

Bats



A Bat (see Appendix A for Acknowledgements)

7.16 All bat species are protected by UK and European legislation. The most

commonly recorded species in the borough are Pipistrelle, Brown Long-eared, Daubenton’s, Whiskered and Noctule.

7.17 Bats are found across Wigan borough and have been recorded in a wide variety of buildings, structures and trees.

7.18 Bats use a variety of different structures at different times of the year. Females gather in maternity roosts in summer, with females and males finding hibernation roosts in the winter. Bats roost both singly and in colonies.

7.19 Roosting and Hibernation:

- Buildings and other structures – commonly found in roofs, above soffit and behind fascia and barge boarding, between underfelt and boards/ tiles, under lead-work e.g. flashing around the chimney, along roof ridge beam, under ridge tiles, hanging from roofing felt or timbers, in joints of joists, bridges (canals, railways and roads), culverts and cellars.
- Trees – cracks, splits, under bark, holes where branches have broken off, within ivy on tree trunks.

7.20 Bats forage over a wide area and follow linear features such as hedgerows and watercourses. They are often recorded feeding around tree canopies and over grasslands and water bodies. Maintaining linkages between such features is very important.



7.21 All survey work must be undertaken by a licensed bat worker. Details of all evidence found should be provided such as droppings, feeding remains, staining. The survey report should include descriptions of all buildings/structures surveyed and the potential of each for use by bats. Ideally photographs of the buildings showing important features should be included. Weather conditions at the time of survey should be described. Summer roost emergence and activity surveys should be carried out between April and October.

7.22 For detailed guidance and further information:

- Bat mitigation guidelines English Nature 2004. Available online at: www.naturalengland.org.uk (for full web address please see Appendix A 'Further information and advice')
- Focus on bats English Nature 2003. Available online at: www.naturalengland.org.uk (for full web addresses please see Appendix A 'Further information and advice')
- Bat Conservation Trust. Available online at: www.bats.org.uk (for full web addresses please see Appendix A 'Further information and advice')

Badgers



Badger (see Appendix A for Acknowledgements)

7.23 Badgers are present within the borough. **Information on badger sett locations within the borough will not be made available in order to protect this species.**

7.24 Habitat requirements – woodland, scrub and hedgerows particularly where there are steep banks or slopes. Foraging generally occurs over a wide area using open grassland, gardens and woodland, wherever there may be food.

7.25 The date and time of the survey and the qualifications of the surveyor should be included in the survey report. The site and surrounding area within 30m should be surveyed to identify the exact location(s) of sett(s), sett entrances, and direction of tunnels and badger pathways in relation to the existing ground topography and field boundaries. The survey should establish whether or not badgers have established sett(s) (active or inactive) or use the area for foraging. All evidence of use by badgers found, for example latrines, hair caught on wire or bedding should be included.



7.26 When a survey is carried out for badgers the report should be issued under a separate cover to any other documents and marked as confidential. This document will be covered by the Environmental Information Regulations.

7.27 In the planning context, the disturbance of a badger sett, adversely affecting a badgers foraging territory or significantly increasing the likelihood of road or rail casualties amongst badger populations are all potentially material considerations in determining a planning application. If planning permission is granted in these circumstances the development would also need to be licensed by Natural England.

7.28 There is provision within the legislation to allow action to be taken under licence if badger issues cannot be resolved by alternative means. However, it should be noted that licences to kill or take badgers are not issued in relation to development proposals. The majority of issues posed by badgers can be resolved non-lethally, normally by the design of the proposal or the partial/ complete closure of the sett. Sett closures require a licence and can only be carried out during a limited season. Closures of main setts will only be considered in exceptional circumstances.

7.29 For detailed guidance and further information:

- Badgers and development – English Nature 2002. Available online at:

www.naturalengland.org.uk (for full web addresses please see Appendix A ‘Further information and advice’)

- General guidance on badgers. Available online at: www.defra.gov.uk (for full web addresses please see Appendix A ‘Further information and advice’)

Great crested newts

7.30 Great crested newts are protected by the Habitats Regulations and the Wildlife and Countryside Act 1981. They have suffered a major decline in Britain.

7.31 Wigan borough is well-recognised in the Greater Manchester area as a stronghold for great crested newts. They are recorded in many locations across the borough.

7.32 Great crested newts only spend a part of the year actually in the water/ponds. The terrestrial habitat surrounding breeding ponds is essential to the species. During the winter months great crested newts hibernate and use rocks, logs and gaps in the ground, particularly in moist, shaded places or under dense ground cover.

7.33 Surveys need to follow the standards set out in the English Nature document ‘Great crested newt mitigation guidelines’. The requirements are a minimum of four survey visits with at least two of these between mid-April and mid-May and using the preferred survey methods where practicable (bottle trapping, torchlight survey



and egg searching). As any disturbance or handling of great crested newts requires a licence all amphibian surveys need to be carried out by a suitably licensed consultant.

7.34 The survey report should provide details on who carried out the survey, their licence number, the dates of each survey visit and the weather conditions on each visit (including air temperatures).

7.35 For detailed guidance and further information:

- Great crested newt mitigation guidelines English Nature 2001. Available online at: www.naturalengland.org.uk (for full web address please see Appendix A 'Further information and advice')
- Great crested newt conservation handbook Froglife 2001. Available online at: www.froglife.org (for full web address please see Appendix A 'Further information and advice')

Otter

7.36 Otters are known to be expanding their range having suffered significant declines in Britain in the 1950's and 1960's. There is the possibility that their range will again include Wigan as there have been very occasional unconfirmed reports.

7.37 Otters use a range of running and standing freshwaters. These must have an

abundant supply of food (normally associated with high water quality), together with suitable habitat, such as vegetated river banks, islands, reedbeds and woodland, which are used for foraging, breeding and resting.

7.38 For further information please contact the Council's Ecologist.

Red squirrel



Red Squirrel (see Appendix A for Acknowledgements)

7.39 Red squirrels are listed under Schedule 5 of the Wildlife and Countryside Act 1981. A remnant population is known to exist in the west of the borough. Any proposal that has potential to impact upon this species must be discussed at the earliest opportunity with the Council's Ecologist.

Reptiles

7.40 At the present time there are no species of reptile regularly recorded in the



borough. However, as this group is generally under-recorded this does not mean that reptile species do not occur. Further advice should be sought from the Council's Ecologist.

Water Vole



Water Vole (see Appendix A for Acknowledgements)

7.41 As at 2007 water voles are afforded partial protection by the Wildlife and Countryside Act 1981. Their places of shelter or protection are protected but not the voles themselves.

7.42 It is an offence to intentionally or recklessly:

- Damage or destroy or obstruct access to any structure or place which water voles use for shelter or protection.
- Disturb water voles while they are using such a place.

7.43 The schedules of the Wildlife and Countryside Act are reviewed by government every five years. The latest review has proposed full protection for the water vole. This would make it illegal to:

- Intentionally kill, injure or take a water vole;
- Possess, alive or dead a water vole;
- Intentionally or recklessly damage, destroy or obstruct a place used for shelter or protection or disturb an animal occupying such a place.

7.44 In 2007 there is no clear date for this change; however it should be borne in mind.

7.45 Water voles have been recorded on many watercourses and in many waterbodies across Wigan borough.

7.46 Water voles feed on the stems and leaves of waterside plants. Each vole uses a number of burrows along the bank. The majority of their activity occurs within 2 to 5 metres of the water's edge. The signs of water vole activity are faeces, latrines, feeding stations, burrows, lawns and footprints.

7.47 Surveys for water voles will need to be carried out where development may impact directly upon a watercourse or waterbody or on or within close proximity to the banks (within 10 metres) of a watercourse or waterbody.

7.48 The methodology for surveys for water voles is set out within the 'Water Vole Conservation Handbook'. The survey should be carried out from late April through to early October, the period when water voles are most active. Any signs of activity – faeces, latrines, feeding stations,



burrows, lawns, nests, footprints or runs within the vegetation need to be recorded. A water vole survey form is included in the Handbook and should be completed and included within the survey report.

7.49 For detailed guidance and further information:

- Water Vole Conservation Handbook Second Edition 2006 published by Wildlife Conservation Research Unit, University of Oxford
- Water vole Guidance for planners and developers English Nature 2001 www.naturalengland.org.uk (for full web address please see Appendix A 'Further information and advice')

Plants



Bluebells (see Appendix A for Acknowledgements)

7.50 It is an offence to intentionally uproot any plant without the permission of the landowner or occupier.

7.51 Schedule 8 of the Wildlife and Countryside Act lists those plant species

that receive special protection from picking, uprooting and sale. The only plant species on this list currently recorded in Wigan is the Bluebell (*Hyacinthoides non-scripta*) which receives a partial protection making its collection from the wild for commercial purposes illegal.

7.52 For detailed guidance and further information:

- <http://www.jncc.gov.uk/page-1377>
- <http://www.jncc.gov.uk/page-1816>

Species of principal importance for the conservation of biological diversity in England

7.53 There are 462 species listed under Section 74(2) of the Countryside and Rights of Way Act 2000. Planning Policy Statement 9 states that:

7.54 “Local authorities should take measures to protect the habitats of these species from further decline through policies in local development documents. Planning authorities should ensure that these species are protected from the adverse effects of development, where appropriate, by using planning conditions or obligations. Planning authorities should refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm.”



7.55 Species recorded in Wigan include great crested newt, skylark, bittern, linnet, reed bunting, spotted flycatcher, tree sparrow, grey partridge, bullfinch, song thrush, water vole, brown hare, pipistrelle and red squirrel.

7.56 Under-recorded species groups such as invertebrates, mosses and lichens etc. are not listed here. A full list of all species is available at www.defra.gov.uk. (for full web address please see Appendix A 'Further information and advice')

7.57 Proposals that impact upon these species and habitats will need to provide detailed proposals for the protection and enhancement of opportunities on site and the creation of new opportunities wherever possible. This information will need to be submitted as part of the planning application.

Species identified in Local Biodiversity Action Plans

7.58 All species and habitats identified in the Greater Manchester Biodiversity Action Plan and Wigan's Biodiversity Strategy and Biodiversity Action Plans need to be taken into consideration when development proposals are being planned. As well as protecting these habitats and species it is important to identify new opportunities for their enhancement.

7.59 Proposals that impact upon these species and habitats will need to provide detailed proposals for the protection and

enhancement of opportunities on site and the creation of new opportunities wherever possible. This information will need to be submitted as part of the planning application.

7.60 Information on the Greater Manchester Biodiversity Action Plan is available at: www.gmbp.org.uk

7.61 Information on Wigan's Biodiversity Strategy and Local Action Plans is available at:

- www.wigan.gov.uk
- www.wlct.org (for full web addresses please see Appendix A 'Further information and advice')

Invasive species



Giant Hogweed (see Appendix A for Acknowledgements)

7.62 As well as protected species development also needs to take into



consideration the presence of invasive species.

7.63 Species that must be considered are:

- Japanese knotweed
- Giant hogweed
- Himalayan balsam
- Common ragwort
- Aquatic species – Azolla filiculoides, Australian swamp stonecrop (Crassula helmsii), Floating pennywort (Hydrocotyle ranunculoides), Parrot's-feather (Myriophyllum aquaticum)

7.64 These need to be identified as early as possible in the planning process to allow for the broadest range of treatment options to be considered. Vegetation surveys should record the presence, locations and extent of any invasive species.

7.65 It is the responsibility of the landowner to ensure these problem species are dealt with.

7.66 For detailed guidance and further information:

- Guidance for the control of invasive weeds in or near fresh water Environment Agency 2003, Available online at: www.environment-agency.gov.uk (for full web address please see Appendix A 'Further information and advice')

- The Knotweed Code of Practice – Managing Japanese knotweed on development sites Environment Agency 2006. Available online at: www.environment-agency.gov.uk (for full web address please see Appendix A 'Further information and advice')
- Code of Practice on how to prevent the spread of Ragwort DEFRA 2004. Available online at: www.defra.gov.uk (for full web address please see Appendix A 'Further information and advice')

7.67 For general advice please visit:

- www.wigan.gov.uk (for full web addresses please see Appendix A 'Further information and advice')



Appendix A

Further information and advice

Wigan Council

Senior Ecologist

Telephone: 01942 404232

e-mail: ecologist@wigan.gov.uk

website: <http://www.wigan.gov.uk>

Wigan Leisure and Culture Trust

Wildlife and Countryside Development Manager,

Telephone: 01942 828906

e-mail: wildlife@wlct.org

website: <http://www.wlct.org>

DEFRA

website: <http://www.defra.gov.uk/>

Environment Agency

Tel: 08708 506 506

website: <http://www.environment-agency.gov.uk/>

Greater Manchester Ecology Unit

Tel: 0161 371 9171

website: <http://www.tameside.gov.uk/corpgen1/ecologyunit.htm>



Greater Manchester Police Wildlife Liaison Officer

Tel: 0161 856 7228

website: <http://www.gmp.police.uk/mainsite/pages/GMPWildlifeContacts.htm>

Groundwork

Tel: 01942 821444

e-mail: wigan@groundwork.org.uk

website: <http://www.groundwork.org.uk/>

Natural England

Tel: 01942 820342

e-mail: northwest@naturalengland.org.uk

website: <http://www.naturalengland.org.uk/>

Red Rose Forest

Tel: 0161 872 1660

e-mail: team@redroseforest.co.uk

website: <http://www.redroseforest.co.uk/>

RSPB

Tel: 01484 861148

website: <http://www.rspb.org.uk/>

Barn Owl Trust

Tel: 01364 653026

e-mail: info@barnowltrust.org.uk

website: <http://www.barnowltrust.org.uk/>



Bat Conservation Trust

Bat helpline: 0845 1300 228

website: <http://www.bats.org.uk/>

List of full web addresses

Business and Biodiversity (Business Enterprise Partnership). Available online at:

- http://www.sniffer.org.uk/exe/download.asp?sniffer_news/Business%20and%20Biodiversity%20%20Presentations.pdf

Your Region Your Nature – Make the links - Benefit from your biodiversity (Defra, 2005). Available online at:

- <http://www.defra.gov.uk/wildlife-countryside/pdfs/biodiversity/20060810YourRegion.pdf>

Speech by Barry Gardiner MP on "Business and biodiversity: a UK Government perspective" at the Earthwatch Corporate Environmental Responsibility Group, London – (Wednesday 20 September 2006). Available online at:

- <http://www.defra.gov.uk/corporate/ministers/speeches/barry-gardiner/bg060920.htm>

Statement 9: Biodiversity and Geological Conservation. Available online at:

- <http://www.communities.gov.uk/index.asp?id=1143832>

Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System. Available online at:

- <http://www.communities.gov.uk/index.asp?id=1144318>

European Protected Species listed on Schedules 2 and 4 of the Habitats Regulations are available online at:

- http://www.opsi.gov.uk/SI/si1994/Uksi_19942716_en_1.htm

Section 74(2) of the Countryside and Rights of Way Act 2000. Available online at:

- <http://www.defra.gov.uk/wildlife-countryside/cl/habitats/index.htm>



RSPB guidance on wild birds available online at:

- <http://www.rspb.org.uk/policy/wildbirdslaw/index.asp>

Barn Owls on Site – A guide for developers and planners published by English Nature and The Barn Owl Trust 2002. Available online at:

- <http://naturalengland.twoten.com/naturalenglandshop/docs/IN7.4.pdf>

Bat mitigation guidelines English Nature 2004. Available online at:

- <http://naturalengland.twoten.com/naturalenglandshop/docs/INI3.6.pdf>

Focus on bats English Nature 2003. Available online at:

- <http://naturalengland.twoten.com/naturalenglandshop/docs/IN9.4.pdf>
- http://www.bats.org.uk/documents/WoodlandManagementForBats_web.pdf

Badgers and development – English Nature 2002. Available online at:

- <http://naturalengland.twoten.com/naturalenglandshop/docs/IN7.5.pdf>

DEFRA advice on badgers online at:

- <http://www.defra.gov.uk/wildlife-countryside/vertebrates/badger.htm#advice#advice>

Great crested newt mitigation guidelines English Nature 200. Available online at:

- <http://naturalengland.twoten.com/naturalenglandshop/docs/newt1.pdf>

Great crested newt conservation handbook Froglife 2001. Available online at:

- <http://www.froglife.org/GCNCH/GCNCH.htm>

Water vole Guidance for planners and developers English Nature 200. Available online at:

- <http://naturalengland.twoten.com/naturalenglandshop/docs/IN6.9.pdf>



Under-recorded species groups such as invertebrates, mosses and lichens etc. are not listed here. A full list of all species is available at:

- <http://www.defra.gov.uk/WILDLIFE-COUNTRYSIDE/cl/habitats/index.htm>.

Information on Wigan's Biodiversity Strategy and Local Action Plans is available at:

- <http://www.wigan.gov.uk/Services/Environment/NaturalEnvironment/Biodiversity.htm>
- <http://www.wlct.org/Leisure/biodiversity/biodiv.htm>

Guidance for the control of invasive weeds in or near fresh water Environment Agency 2003, Available online at:

- http://www.environment-agency.gov.uk/commondata/105385/booklet_895604.pdf

The Knotweed Code of Practice – Managing Japanese knotweed on development sites Environment Agency 2006

- http://www.environment-agency.gov.uk/commondata/acrobat/jpknot_2_1463056.pdf

Code of Practice on how to prevent the spread of Ragwort DEFRA 2004

- http://www.defra.gov.uk/farm/wildlife/weeds/pdf/cop_ragwort.pdf

General advice:

- <http://www.wigan.gov.uk/Services/Environment/NaturalEnvironment/InvasiveWeeds.htm>

Acknowledgements

Photographs provided courtesy of:

Wildlife and Countryside Services – Wigan Leisure and Culture Trust

Dave Green – Wigan Council Environmental Services

Wild About Britain – Charity Number 1104184