

Natural England Operational Standard Responding to Consultations on Development



1:0 About this standard

Who is this standard for?

The aim of this standard is to ensure Natural England staff understand how we will discharge our role as a statutory consultee by providing advice through the planning process to deliver social, economic and environmental outcomes together. It will also help our customers and partners understand our approach. It sets out areas where Natural England's Area Teams should be consistent in their approach and where there are areas of discretion. This standard should be read in parallel with our Strategic Standard on Development which sets out the overarching principles that apply to our operational response.

Introduction

Natural England is a statutory consultee on strategic plans including Marine Plans, Development Plans, (Local Plans and Neighbourhood Development Plans), as well as related Habitats Regulations Assessments (HRA) and Sustainability Appraisal/Strategic Environmental Assessments. Natural England is also a statutory consultee for Development Management Consultations including development consent orders, marine licences, certain planning applications, local development orders and associated Environmental Impact Assessments (EIA), Habitats Regulations Assessments and Marine Conservation Zone Assessments.

For some types of consultation Natural England has a duty to provide a substantive response while for others there is discretion. The standard provides for local discretion where this is consistent with our national duties and explains what we must do and what we might do.

This standard sets out:

- What issues we will engage with in the preparation of Development Plans, other land and water based plans and Marine Plans and those we will consider when responding to consultations on development proposals.
- How we will prioritise consultation responses effectively, in accordance with environmental risk and opportunity.
- What our minimum level of response will be – what we will always do irrespective of local circumstance and areas where we will apply local discretion.

2:0 The Standard

2.1 Our approach

We will apply the principles in our strategic standard to our advice on development. Specifically we will:

- base our approach on outcomes

- protect designated sites, habitats, species, landscapes and geology
- seek opportunities for positive environmental outcomes
- engage early to find solutions
- apply the ‘avoid, mitigate, compensate’ hierarchy
- reach proportionate and evidence-based decisions, and
- respond to customer needs.

We want to move consideration of the environment to earlier in the decision making process, engaging in plans and strategies and, with developers, at the pre-application stage of development proposals (through our discretionary advice service). This approach will deliver outcomes that better meet the needs of people and the environment and reduce the need for detailed engagement at later stages in the planning process.

Our advice on development will be in line with relevant EU and UK environmental legislation; national planning policy as set out in the National Planning Policy Framework (NPPF), the Marine Policy Statement and National Policy Statements and will seek to deliver relevant Government and local objectives for the natural environment, including those set out in [Biodiversity 2020: A strategy for England’s wildlife and ecosystem services](#).

Our advice will be based on transparent and objective assessment of the available evidence and will highlight any areas of uncertainty. We will consider whether plans and development proposals are based on robust, up to date environmental evidence and will advise on the need for further evidence or surveys as appropriate.

2.2 Prioritising our responses to consultations

Decision makers and developers choose to consult Natural England, or have statutory duties to do so¹, on a wide range of development related consultations including plans, proposals and environmental assessments. We will respond to all consultations received, whether we have a duty to respond² or not. However, the level of detail of our responses will vary according to the likely level of environmental impact and local risks, opportunities and priorities. We will use standard responses for lower risk casework to free up area team capacity to engage in strategic planning and higher impact development proposals. Where we consider that the plan or development proposal does not pose significant risks to the natural environment we will clearly state this.

Our area teams will, as a minimum, always provide detailed, tailored advice to decision-makers in response to consultations on:

- Marine Plans, Local Plans, Neighbourhood Plans and other land and water-based plans which have potential for significant impacts on European sites, Sites of Special Scientific Interest, Marine Conservation Zones, National Parks, Areas of Outstanding Natural Beauty, Heritage Coasts or Best and Most Versatile agricultural land
- Nationally Significant Infrastructure Projects, large housing developments and other types of development proposals which have potential for significant impacts on European sites, Sites of

¹ For land use planning consultations see <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>
<https://www.gov.uk/guidance/developers-get-environmental-advice-on-your-planning-proposals>
<https://www.gov.uk/guidance/consulting-on-neighbourhood-plans-and-development-orders>

² Those set out in schedule 4 w), zb) and y) of the Town and Country Planning (Development Management Procedure) England Order 2015; Reg 74 of the Conservation and Habitats and Species Regulations 2010((as amended) or where we are requested to give advice relating to National Parks and AONBs (under the National Parks and Access to the Countryside Act 1949 as amended and Countryside and Rights of Way Act 2000 as amended) or Marine Conservation Zones (under the Marine and Coastal Access Act 2009) .

Special Scientific Interest, Marine Conservation Zones, National Parks, Areas of Outstanding Natural Beauty, Heritage Coasts, Best and Most Versatile agricultural land³ and minerals and waste development where significant areas are being restored to agricultural use

For all other consultations, decision-makers will receive standard responses. Exceptionally, we may provide more detailed advice on cases where we would not usually get involved in order to meet specific local objectives.

Area teams may also decide to get involved in cases, which present opportunities for the natural environment, depending on local priorities and available resources. Priority will be given to those plans or development proposals that can deliver positive environmental outcomes within locally determined priority areas.

Early advice to developers will be provided via our [Discretionary Advice Service](#).

Our responses will, where appropriate, incorporate advice on the environmental assessment (strategic environmental assessment, habitats regulations assessment and/or environmental impact assessment) of plans and projects. The aim is to ensure that relevant legislation and guidance is followed and that direct, indirect and cumulative impacts on the natural environment are addressed.

We will engage with and provide advice to developers and decision-makers on solutions to address environmental impacts and enable sustainable development to proceed. We will only object to land based development proposals where there are significant risks to the natural environment and appropriate mitigation measures are not, or cannot be put, in place.

We are keen to reduce unnecessary consultations. We encourage local planning authorities and other decision makers to use Impact Risk Zones (see [impact risk zone data](#)) which clearly set out when we need to be consulted on proposals that might impact on protected sites and how to avoid unnecessary consultations. For proposals impacting on protected species or ancient woodland we will refer developers and decision-makers to standing advice on [protected species](#) and [ancient woodland](#) on GOV.UK.

Our approach to prioritisation means that we will get involved in significantly fewer individual cases. Our lack of involvement does not necessarily mean that there will be no natural environment impacts or opportunities and other bodies may choose to engage where we are unable to.

2.3 Key considerations for our advice

The following section sets out Natural England's broad approach to our range of natural environment interests.

2.3.1 Natural Environment

We will consider whether Local Plans⁴:

- recognise the value of ecosystem services
- set out a clear strategy for the protection and enhancement of the natural environment
- include policies to address the impacts of climate change on the natural environment and
- propose sites for development with the least environmental or amenity value

³ Where this impacts on 20ha or more of best and most versatile agricultural land

⁴ References to Local Plans include Minerals and Waste Plans and other Development Plan Documents

2.3.2 Biodiversity and Geodiversity

Planning for terrestrial biodiversity and geodiversity

We will work closely with the local planning authority to ensure that the Local Plan:

- Minimises impacts on biodiversity (including clearly promoting the mitigation hierarchy⁵) and provides net gains in biodiversity wherever possible
- Incorporates a landscape-scale approach to planning for the conservation and enhancement of biodiversity, addressing cross-boundary issues and opportunities where appropriate
- Identifies, creates, protects, enhances and manages coherent ecological networks
- Sets out proposals for habitat restoration, creation or enhancement, including in Nature Improvement Areas or other identified opportunity areas
- Encourages opportunities to incorporate biodiversity in and around developments
- Incorporates policies for geological conservation, which conserve, interpret and manage geological sites and features in the wider environment
- Includes appropriate policies and proposals in relation to securing favourable conservation status for European or UK protected species. This includes strategic, plan-level approaches as well as specific measures for the preservation, maintenance and re-establishment of sufficient diversity and area of habitat for wild birds⁶ and other species
- Includes appropriate policies to promote the conservation, restoration and re-creation of priority habitats and the protection and recovery of priority species populations, linked to national and local targets. This includes policies to protect irreplaceable habitats, such as ancient woodland.
- Includes suitable indicators for monitoring biodiversity

We may also consider if neighbourhood plans include appropriate policies and proposals to protect and enhance biodiversity.

Planning for marine biodiversity and geodiversity

We will work closely with the Marine Management Organisation to ensure that Marine Plans:

- Recognise and protect natural capital in the marine environment
- Embed the ecosystem approach within marine planning and management
- Protect and, wherever possible, enhance the marine protected area network
- Include appropriate policies and proposals to help secure favourable conservation status for European or UK protected species and habitats, including specific measures for the preservation, maintenance and re-establishment of sufficient diversity and area of habitat for wild birds⁷
- Include appropriate policies to promote the conservation, restoration and re-creation of priority habitats and the protection and recovery of priority species populations throughout the wider seas
- Minimise impacts on biodiversity (including clearly promoting the mitigation hierarchy) and provide net gains in biodiversity wherever possible
- Incorporate policies for geological conservation, which conserve, interpret and manage geological sites and features in the marine environment

⁵ See paragraph 18 of the Planning Practice Guidance <http://planningguidance.communities.gov.uk/blog/guidance/natural-environment/biodiversity-ecosystems-and-green-infrastructure>

⁶ See <https://www.gov.uk/guidance/providing-and-protecting-habitat-for-wild-birds>

⁷ See <https://www.gov.uk/guidance/providing-and-protecting-habitat-for-wild-birds>

We may also consider if the marine plans of the devolved administrations that are adjacent to English marine plan areas include appropriate policies and proposals to protect and enhance biodiversity and address any cross-boundary impacts.

Designated sites

European or international sites

We will advise on the direct and indirect impacts of plans and development proposals on the following internationally or European designated sites, in order to ensure compliance with the Habitats and Wild Birds Directives:

- Special Protection Areas (SPA) and Special Areas of Conservation (SAC)
- Potential SPA and possible SAC
- Listed and proposed Ramsar Sites
- Sites identified or required as compensatory measures/habitat for adverse effects on European sites, potential SPAs, possible SACs and listed or proposed Ramsar sites

We will advise on plan policies and development proposals to ensure that any proposed development avoids significant impacts on European or international sites. We will advise on strategic approaches which embed avoidance and mitigation measures to address impacts on these sites and ensure plan policies and proposals can be delivered. We will encourage enhancement measures wherever possible.

We will advise Competent Authorities on Habitats Regulations Assessments where we consider the plan or project is likely to have a significant effect on a European site, either individually or in combination with other plans or projects. We will advise on any Appropriate Assessments (AA), including the measures proposed to avoid, mitigate or compensate for significant adverse effects. We will work closely with decision makers and developers to find solutions to adverse environmental impacts and to maximise common ground. We may, in the last resort, be obliged to object to plans or projects where:

- an AA does not incorporate sufficient information or necessary mitigation measures
- adverse effects on site integrity cannot be ruled out or
- where there are imperative reasons of overriding public interest to justify the development and the proposed compensatory measures are not sufficient to ensure the overall coherence of the Natura 2000 network

Sites of Special Scientific Interest

We will work closely with decision makers and developers to ensure that plans and development proposals protect Sites of Special Scientific Interest from adverse impacts, either individually or in combination with other developments, and set out measures to enhance SSSIs wherever possible. We will advise on suitable measures to avoid or mitigate for damage to SSSI interest features and will consider objecting to development proposals where this has not been secured. We will advise on appropriate compensation measures as a last resort.

Marine Conservation Zones

We will work closely with the Marine Management Organisation and developers to further the conservation objectives of Marine Conservation Zones and protect them from adverse development impacts. We will advise on suitable measures to avoid or mitigate for unacceptable adverse impacts

and will advise on Measure of Equivalent Environmental Benefit where the decision maker decides to proceed with a damaging development.

Local Wildlife and Geological Sites

We will consider whether Local Plans incorporate criteria-based policies for the conservation and enhancement of local sites. We will not provide advice on development proposals that may impact on local sites.

Protected Species⁸

We will not assess land based development proposals for impacts on protected species outside of designated sites. We will instead refer developers and planning authorities to our [standing advice](#) on protected species.

We will only provide detailed advice in exceptional cases where significant harm is likely (for example to an important but non-designated population), or on specific issues not covered by the standing advice.

Our advice on a planning proposal linked to a designated site will be clearly distinguished from any regulatory advice we may give on a species mitigation licence that may be required from Natural England.

If requested, we may provide advice to the MMO on impacts, mitigation and need for marine protected species licences.

Priority species⁹ and priority habitats¹⁰

We will not advise on development proposals that might impact on priority species unless they are also a notified feature of a SSSI, MCZ or European site or there is a functional linkage. Priority species on land which are also protected species are covered by Natural England's [standing advice](#).

Where a development proposal coincides with a Priority Habitat, we may advise decision-makers of relevant provisions in the Natural Environment and Rural Communities Act 2006, and for land based development, the NPPF.

For development proposals impacting on ancient woodland and aged or veteran trees, we refer developers and planning authorities to the joint Natural England/Forestry Commission [standing advice](#).

We will only provide detailed advice on specific issues not covered by the standing advice or, in exceptional cases, where we consider significant loss or harm is likely.

2.3.3 Landscape and Seascape

Protected landscapes

⁸ European Protected Species and UK protected species are referred to as “**Protected Species**” in this document. They are the species that are afforded protection under both EU and UK law and include the species set out in Schedule 2 and 5 of the Habitats Regulations, Schedule 1, 5 and 8 of the Wildlife and Countryside Act 1981, and the Protection of Badgers Act 1992. There is a comprehensive list of Protected Species [here](#)

⁹ Previously known as Biodiversity Action Plan (BAP) species, these are as specified in the Natural Environment and Rural Communities (NERC) Act section 41 and identified on the Joint Nature Conservation Council [website](#)

¹⁰ Previously known as Biodiversity Action Plan (BAP) habitat, these habitats are those set out in Biodiversity 2020 and included in the Section 41 list in The Natural Environment and Rural Communities Act 2006

- Our advice on plans and development proposals will seek to ensure that the highest level of protection is given to the conservation of landscape and scenic beauty of National Parks, the Broads and Areas of Outstanding Natural Beauty (AONBs) and that appropriate development respects the locally distinctive character of these areas and wherever possible takes opportunities to enhance them
- We will provide detailed advice on those development proposals that may have very significant adverse impacts on the statutory purposes of designation for National Parks, the Broads and Areas of Outstanding Natural Beauty, including proposals within the settings of designated landscapes
- We will provide detailed advice on development proposals with very significant adverse impacts on Heritage Coasts which are outside of National Parks or AONBs

Wider landscapes

- For other landscapes and seascapes, we will advise that plans take account of the intrinsic character and beauty of the countryside, contain policies for protecting and enhancing the landscape and provide for development that respects and, wherever possible, enhances local landscape character and distinctiveness
- Exceptionally, we will provide detailed advice on development proposals outside protected landscapes, where we consider the scale or impact of development is such that it merits our input or it relates to a novel or precedent setting type of development

2.3.4 Green infrastructure and access to natural environment

- We will consider whether Local Plans set out a strategic approach to the creation, protection, enhancement and management of networks of green infrastructure to deliver a range of ecosystem services and may choose to provide advice on development proposals that can enhance local green infrastructure provision
- We will consider whether Local Plans:
 - make appropriate provision for greenspace to meet identified local needs
 - protect and enhance National Trails, rights of way and other access land, recognising their value to health and wellbeing, access to nature and the visitor economy
- We will provide detailed advice on development proposals with very significant impacts on National Trails

2.3.5 Soils

- We will consider whether Local Plans include appropriate policies to protect soils and safeguard the long term capability of Best and Most Versatile agricultural land by providing for development on lower quality agricultural land wherever possible
- We will provide advice on development proposals with significant impacts on Best and Most Versatile agricultural land¹¹, including on the restoration and aftercare of minerals and waste sites where significant areas are being restored to agricultural use

2.3.6 Coast

We will consider whether Marine Plans, Local Plans and other land or water based plans:

- include appropriate policies on coastal change and climate change adaptation, working with natural coastal processes;

¹¹ Where this impacts on 20ha or more of best and most versatile agricultural land.

- protect the distinctive character of Heritage Coasts, seascapes and the undeveloped coast elsewhere
- include appropriate policies to achieve Good Environmental Status in marine and coastal waters by 2020 and
- make provision for coastal access

Quick reference	Main Author: Jo Russell
Type of Standard	Operational standard.
Purpose:	To set out how Natural England responds to Development Plans and Development Management Consultations
Owner(s):	Sustainable Development
Sign-off:	Ian Fugler
Publication:	4 th October 2016
Review date:	

Document Amendment Record			
Issue	Amendment detail	Author	Date
V0.1	Draft outline	Jeanette Richardson	05/01/2016
V0.2	Partial draft	Mike Wilkinson	05/05/2016
V0.3	Update and edits	Jo Russell	23/05/2016
V0.3	Update and edits	Des O'Halloran	26/05/2016
V0.3	Review comments and insertion of biodiversity text.	Mike Wilkinson	27/05/2016
V.04	Further edits	Jo Russell	01/06/2016
V.05	Further edits to incorporate task and finish group feedback	Jo Russell	16/06/2016
V.06	Edits to incorporate marine text	Jo Russell	23/06/2016
V.07	Edits in response to internal consultation	Jo Russell	29/07/2016
	Further edits	Des O'Halloran	02/08/2016
V.08	Further revisions in response to SD and area team feedback	Jo Russell	15/08/2016
V.09	Minor revisions in response to area manager feedback	Jo Russell	01/09/2016
V1.0	Signed of for immediate use	Ian Fugler	04/10/2016