



ASSOCIATION OF  
Local Government Ecologists

# NATIONAL UPDATE

Key issues related to biodiversity in  
Development Management and  
Spatial Planning

Sue Hooton, National ALGE Executive Committee  
and Place Services, Essex County Council

East Anglian Planning and Biodiversity Seminar  
14<sup>th</sup> November 2019



# SUMMARY



Brexit – Day 1  
Readiness



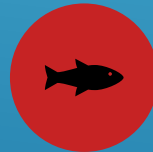
Environment Bill



NPPF 2019



HRA update



Protected  
Species update



BS42020 review

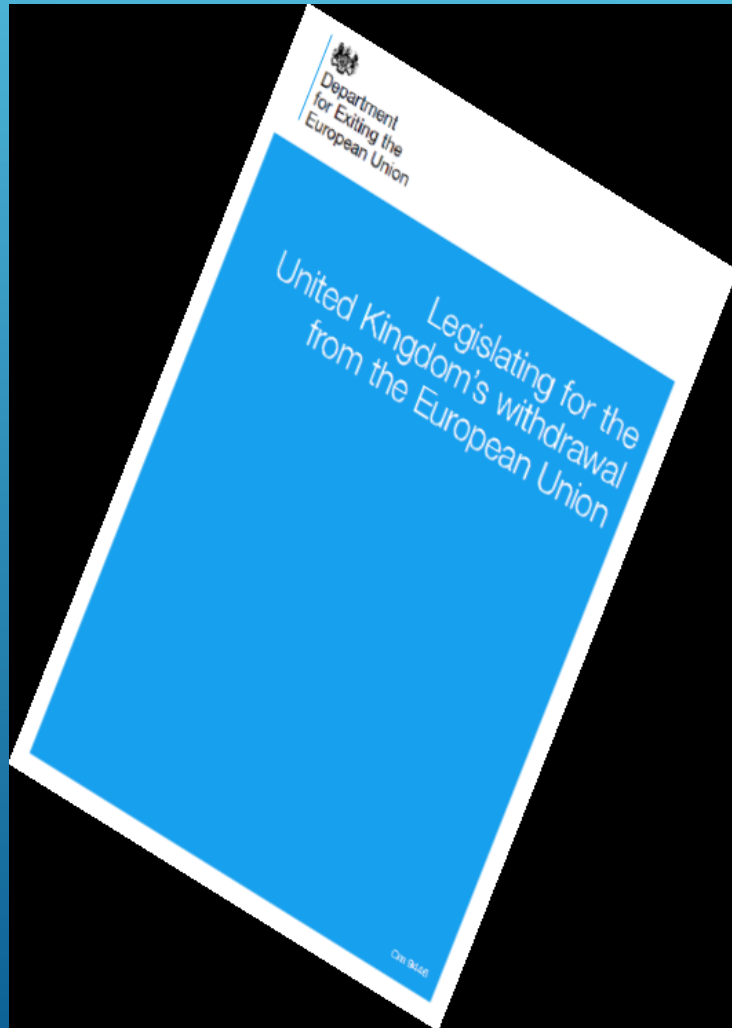


ALGE / CIEEM/  
RTPI pilot for EcIA  
Checklist



Wildlife  
Assessment  
Check tool

# BREXIT - DAY 1 READINESS



- ▶ Two years ago Greg Smith, EU Exit Manager for Natural England gave a presentation on Brexit & Biodiversity.
- ▶ Update on the EU Withdrawal Bill ?
- ▶ Defra workstreams to ensure Day 1 Readiness and ALGE involvement

# ENVIRONMENT BILL PUBLISHED 15 OCTOBER 2019

*“The Environment Bill is part of the Government’s response for a step change in environmental protection & recovery and a key vehicle for delivering the bold new vision set out in the 25 Year Environment Plan.....*



*....and helps to deliver on the government’s commitment to be the first generation to leave our environment in a better state.”*

## The Environment Bill and its Policy Statement set out a new domestic framework for:

- A new independent watchdog (OEP)
- A suite of new environmental policies and legally binding targets for four priority areas: air quality, waste and resources, nature & water.

## Strengthening the NERC Act biodiversity duty for public bodies to cover enhance nature & green spaces

- Making Biodiversity Net Gain mandatory using Defra metrics to measure habitats in planning applications & promoting Conservation Covenants

# ENVIRONMENT BILL – A NEW FRAMEWORK

In relation to the planning policy, the Environment Bill intends to:

Require the development of spatial **Local Nature Recovery Strategies (LNRSs)**

Each LNRS will underpin the ability for key stakeholders to help deliver **Nature Recovery Networks (NRNs)**.

Promote policy & SPD for **Biodiversity Net Gain**

## ENVIRONMENT BILL - SPATIAL PLANNING

# ENVIRONMENT BILL - DEVELOPMENT MANAGEMENT



In relation to planning applications the Environment Bill intends to:



Ensure that impacts of development on habitats are measured using **Defra biodiversity metrics v2** and secure **mandatory Biodiversity Net Gain**.



Enable landowners to make long term commitment to conservation using **Conservation Covenants** where developers need to create or restore wildlife rich habitats off site.

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**Defra has been keen to engage with stakeholders on BNG and is holding LA engagement groups and workshops. They want to discuss options relating to the application of BNG condition to development affecting protected sites.**

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What are the potential risks around interpretation ?

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It is likely to cause confusion and undermine the existing statutory & policy protection for these sites?

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Should protected sites be exempt from BNG ?

# ENVIRONMENT BILL - DEVELOPMENT MANAGEMENT





# ENVIRONMENT BILL BIODIVERSITY DUTY STRENGTHENED TO COVER ENHANCEMENT

In relation to the NERC Act s40 biodiversity duty for public bodies in the exercise of their functions, the Environment Bill will:

- ▶ Require public authorities to actively carry out strategic assessments of the actions they can take to enhance and conserve biodiversity. Designated public authorities will also be required to produce a five-yearly report on the actions taken to comply with the new duty.
- ▶ Carrot or stick ?



Ministry of Housing,  
Communities &  
Local Government

- ▶ Strengthened protection for ancient woodlands, veteran trees and other irreplaceable habitats in the revised NPPF.
- ▶ Introduced “Brexit-proof” language for European sites = Habitats sites.

# NATIONAL PLANNING POLICY FRAMEWORK 2019

# HABITATS REGULATIONS UPDATE



Dutch court rulings



Natural England Supplementary Advice for Conservation Objectives



Project level HRA proforma for RAMS adopted by LPAs to deliver strategic mitigation



Applicants should provide “Information to support HRA” for LPAs to prepare an assessment

**Natural England  
review of  
Standing Advice**

**Gt Crested Newts  
- national roll out  
of District  
Licensing**

**Bats - New  
guidelines on bats  
and onshore wind  
turbines;**

**Statement by Bat  
Conservation Trust  
on "Batsafe" BRMs**

**Beavers – added  
as European  
Protected Species  
in Scotland**

**Appeal decision  
on EPS survey  
information prior  
to determination**

## **PROTECTED SPECIES UPDATE**

# APPEAL DECISION DETAILS ON PROTECTED SPECIES

- ▶ **Appeal Ref: APP/D3505/W/18/3212219 Vine Farm, Nedging Road, Nedging Tye, Ipswich IP7 7HJ** Dismissed.

*“I am not satisfied that I have sufficient and up to date information on bats and great crested newts to conclude that there would be an acceptable impact on protected species. It would not be appropriate to leave this matter to a planning condition or a note informing the appellant of their responsibilities, as the information is needed to inform the planning decision.”*

- ▶ **Appeal Ref: APP/P1560/W/18/3201067 Land off Grange Road, Lawford, CO11 2JB** Dismissed.

*“Paragraph 99 of Circular 6/2005 advises that 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 planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. A precautionary approach must be adopted.”*

- ▶ **Appeal Ref: APP/W3520/W/17/3174638 Pooles Farm, Thorney Green Road, Stowupland IP14 4AJ.** Dismissed

*“Although an Ecological Report was submitted with the application, it did not include surveys to establish the presence of protected species. Bearing in mind advice in the Circular and notwithstanding that it might well be possible to mitigate the impact on any protected species should they be present, without the requisite surveys, it is not possible to ascertain the effect of the development on a protected species and a precautionary approach should be adopted. “*

# ECOLOGICAL IMPACT ASSESSMENT CHECKLIST



# WILDLIFE ASSESSMENT CHECK TOOL

## Planners



Helping local authorities meet their statutory duties by encouraging consideration of ecology in planning applications

## Developers & householders



Reducing risks of delay and extra cost by considering ecology early in the planning application process for development projects

## Ecologists



Pointing developers towards expert ecological advice early in development projects, and improving the consistency of wildlife assessment

Partnership for Biodiversity in Planning  
[www.biodiversityinplanning.org](http://www.biodiversityinplanning.org)

# BS42020:2013

BS 42020:2013



BSI Standards Publication

**Biodiversity — Code of  
practice for planning and  
development**



# THANKS FOR LISTENING ....



Representing professional ecologists working in local government

<https://www.alge.org.uk/alge-membership/>

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