Biodiversity Supplementary Planning Guidance for **Norfolk**






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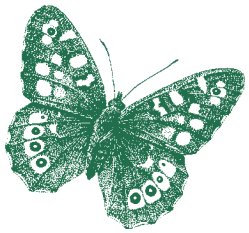


Introduction

Biodiversity is recognised as a key indicator of sustainable development, as it offers social, economic and environmental benefits in terms of quality of life, local distinctiveness, lifelong learning, recreation and tourism.

This guidance seeks to emphasise the importance of adopting a positive approach to biodiversity protection and enhancement, and sets out the key considerations relating to wildlife and biodiversity that should be taken into account in all development proposals.

The Supplementary Planning Guidance for Biodiversity has been prepared by a working group of the local authorities in Norfolk, with English Nature and the Norfolk Wildlife Trust, under the auspices of the Norfolk Biodiversity Partnership.

The information is aimed at developers operating in all districts in Norfolk. It will also provide development control and planning officers with the tools to raise the standards of planning applications, and developments, in relation to this important issue. It is relevant for all stages of the planning process, from informal enquiries to formal applications, and is also of relevance for considering potential development allocations in local plans.

This document is intended to supplement the Development Plan policies on nature conservation (see Appendix I and paragraph 4.2) and to demonstrate how the planning process, in practice, can contribute to the maintenance and enhancement of biodiversity in Norfolk.

A public consultation was undertaken on the consultation draft of this document and the varying views arising from that exercise are incorporated in this published version of the Supplementary Planning Guidance for Biodiversity. It is recommended that all the participating authorities now formally adopt this document and make biodiversity a material consideration in the determination of planning applications.

1. What is Biodiversity?

1.1 "Biodiversity" is the term applied to the variety of life on earth.

1.2 Internationally, the importance of conserving biodiversity has been recognised, with the UK being a signatory to the Convention on Biological Diversity. Following from this the UK government produced "Biodiversity: the UK Action Plan" which created a framework for action to maintain and increase indigenous species populations and habitat areas. This work was continued at a regional level with "Action for Wildlife in East Anglia" and for Norfolk through the "Norfolk Biodiversity Action Plan" (**www.norfolkbiodiversity.org**).

2. Biodiversity in Norfolk

2.1 The Norfolk Biodiversity Action Plan (BAP) was developed in 1999 to translate national objectives, set by Government in response to commitments made at the 1992 Rio '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 Norfolk's most endangered animals, plants and habitats. In the county there are currently plans for 26 of the national priority habitats eg heathland and 63 of the national priority species eg otter identified in the UK Biodiversity Action Plan as most in need of urgent attention (58% and 17% of the UK total respectively.

2.2 In addition to the occurrence of these priority species and habitats the diverse landscape of Norfolk also supports a large number of other distinctive species and habitats. This wider biodiversity resource is also of great importance and should be conserved in its own right.

2.3 Unfortunately, there are continuing pressures on biodiversity in the county, with some of the main reasons for declining species numbers and population size, and habitat area being identified as:

- development and road building
- insufficient water for wetlands
- decline in water quality
- lack of appropriate management
- agricultural intensification

This pressure has left the remaining habitats and species increasingly fragmented and isolated in the wider landscape.

3. Biodiversity Principles

3.1 Development should not lead to a loss of biodiversity and ideally should enhance it. Important habitats and species should be protected from harmful development. Any adverse effects should be avoided, minimised and/or compensated, and every opportunity should also be taken to create improvements for biodiversity, so making a significant contribution to the achievement of national, regional and local biodiversity targets.

3.2 Ecological systems must be recognised as being highly complex and influenced by a very wide range of interacting and dynamic factors and processes.

4. Role of the Planning System

4.1 The loss of biodiversity and the subsequent negative environmental impact, runs contrary to the aims and objectives of sustainable development. In principle, sustainable development should not lead to a net loss in biodiversity or natural resources.

4.2 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.

This important role for the planning system has been recognised in legislation and the Government's planning guidance, in particular Planning Policy Guidance 9: Nature Conservation (PPG9) (currently under revision) and Planning Policy Statement (PPS) 7: Sustainable Development in Rural Areas (Draft). The principle is continued through the draft Regional Planning Guidance for the East of England to 2021 (RPG14) and applied at local level through development plans for Norfolk i.e. the relevant policies in the Norfolk Structure Plan 1999, and all Local Plans (see Appendix I).

4.3 Within the Local Government Act 2000 (Part 1, Section 2.1.c), local authorities are given powers to improve the environmental well-being of their area, of which biodiversity is a key element.

4.4 Restoration and enhancement may be necessary to rebuild what has been lost as well as maintain what we have at present. It is also important that monitoring post development is undertaken through the land-use planning system.

5. Legislation

5.1 As well as through the planning system, wildlife and habitat are protected through Acts and Regulations, the main ones being the:

- Countryside and Rights of Way Act 2000
- Conservation (Natural Habitats, &c.) Regulations 1994
- Wildlife and Countryside Act 1981
- Hedgerow Regulations 1997
- Protection of Badgers Act 1992

5.2 These Acts and Regulations together provide for differing levels of protection to a variety of plants and animals, including in some cases the places inhabited by plants and animals (see Appendix II).

5.3 Whilst some species may occur within statutorily protected sites, more often they are found outside of these, and consequently are vulnerable to a range of threats including built developments and land use changes.

5.4 The presence of a protected species is a material consideration in the planning decision (see Appendix II, III, IV, V and VI). However, the law recognises that it is sometimes necessary to carry out work that will affect protected species. The granting of planning permission has the effect of deeming development activities to be legal, therefore the onus is on the Local Planning Authority, through its development control role, to ensure, as far as is reasonable, that harmful effects to the species or its habitat are avoided. Even when planning permission is granted, the developer must comply with protected species legislation whilst carrying out the development.

It is good practice and highly recommended that adequate information, and appropriate design solutions, are provided by applicants when submitting planning applications, to enable planning authorities to determine what effects, if any, the development will have on protected species and biodiversity (see Appendix VII and VIII). Some protected species can only be disturbed following the granting of a licence by English Nature or the Department for Environment, Food and Rural Affairs (DEFRA) (see Appendix II).

5.5 There is a variety of statutory (both national and international) and non-statutory designations that cover sites of nature conservation and wildlife value in Norfolk. The following table summarises the various designations for sites and habitats.

Site name/designation	Type and Level	Number and area	Responsible body
Special Area of Conservation (SAC)	Statutory International	12 areas 126,694ha	English Nature (EN)
Special Protection Area (SPA)	Statutory International	5 areas 54,689ha	EN
Ramsar	Statutory International	4 sites 1,967ha	EN
Site of Special Scientific Interest (SSSI)	Statutory National	159 sites 88,000ha	EN
SSSI Consultation Area	Statutory National	N/A	EN
National Nature Reserve (NNR)	Statutory National	18 sites 9046ha	EN
Local Nature Reserve (LNR)	Statutory Local	22 sites 833ha	County or District Authority
County Wildlife Site (CWS)	Non-statutory County	1239 sites, 13,137ha	Norfolk Wildlife Trust
Hedgerows	Statutory National		Local Planning Authorities
Ancient Woodland	Non-statutory		EN and Forestry Commission

Table 1: Nature Conservation Site Designations in Norfolk

5.6 In effect, the wildlife protection legislation and the protection provided by planning controls operate in parallel. Both aspects must be considered by the Local Planning Authority and developers.

6. The Development Process

STAGE 1: Before design work or submission of planning application

Gathering Information

6.1 On larger developments, or where a site contains any significant areas of habitat or wildlife potential, it will be necessary for the developer to gather information to assess the biodiversity value of the site and its immediate surrounding area and the presence or absence of protected species. Initial determination of the need for a survey should be apparent from walking the site to check for the presence of trees, hedges, old buildings, ponds etc which are likely to support wildlife. If a survey is then 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 are best conducted for different species and this needs to be taken into account (see Appendix VII).

6.2 It is advisable to contact the Norfolk Biological Records Centre to request site specific species data which may assist in shaping the details of any survey (Appendix IX).

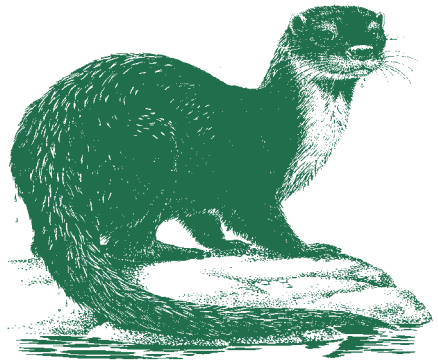
6.3 Some developments require an **Environmental Impact Assessment (EIA)** under the Town and Country Planning Regulations 1999. Even permitted development that could have a significant impact on conservation interests may require an EIA. If in doubt applicants should initially contact the local planning authority so that the application may be 'screened' to determine if an EIA is necessary.

6.4 If an application is submitted on a site with clear biodiversity interest without any survey then the local planning authority will normally request one to be carried out and this may delay an application.

Examples of when surveys may be required

Examples	Possible surveys required	Case study
Pond, river, other water feature	Otters, water voles, great crested newts, amphibians, white-clawed crayfish	Riverside development, commercial/industrial development
A barn or other building	Bats, barn owls and other nesting birds	Old building conversion
Grassland	Vegetation communities, badgers, reptiles, amphibians, nesting birds	Major residential development, landfill sites, mineral development, commercial/industrial development
Woodland / Forest	Vegetation communities, bats, badgers, reptiles, butterflies, nesting birds	Major residential development
Mature trees	Trees, bats, nesting birds, fungi, Tree Preservation Order (TPO) search	Major residential development, mineral development, commercial/ industrial development
Heathland	Amphibians, reptiles, vegetation communities, nesting birds	Mineral development, landfill sites
Reed bed, Marsh	Vegetation communities bitterns, amphibians, nesting birds, water voles, otters	Riverside, major residential development

See Appendix VII and VIII for more information on surveying practice.



STAGE 2: Design Stage

Protecting

6.5 In designing any development, the first step to building in biodiversity is to protect key habitats and species as a minimum. The approach should be to design biodiversity into new developments as far as possible. Site layout and design should seek to retain existing habitats and features that benefit wildlife, giving priority to Biodiversity Action Plan habitats and species where they are present.

6.6 Consideration also needs to be given to natural features just outside the application site which may be affected by the scheme. This is especially necessary where adjacent sites such as SSSIs may be designated for their biodiversity value

6.7 The design stage here should lead clearly and logically from the survey information gathered during Stage 1.

6.8 Where a site or its surroundings have clear biodiversity value and no steps, or insufficient steps, are taken to reasonably protect this value, then planning permission may be refused on these grounds once all other planning issues have been taken into account.

Enhancing

6.9 Where a site has limited biodiversity interest it will normally be necessary to enhance its provision for biodiversity to ensure that it contributes to the wider aims of enhancing urban and rural areas overall. Developers should look to design in opportunities to improve habitats for biodiversity conservation, and to increase the overall quality of the development by enhancing existing habitats or creating new areas appropriate to the wider landscape context.

6.10 Useful design measures that might achieve this would include, amongst others:

- Creating areas of new habitat such as woodland, scrubland, coarse grassland or ponds in landscaped areas or public open space
- Siting open space and landscaping so that planting within them forms a wildlife corridor and habitat link between areas of habitat adjacent to the site
- Using native species of local or regional genetic origin in planting schemes
- Making provision on new buildings for species such as bats, swallows, barn owls or other species that might live locally
- Restoring landfill and mineral sites to heathland, grassland or reedbed
- Using Sustainable Drainage Schemes so that drainage infrastructure also acts as biodiversity habitat
- Others – see Case Studies

Mitigating harm

6.11 Where it is not possible to avoid harm to existing habitats and species through design measures it may still be possible to minimise potentially damaging impacts through mitigation measures. In such cases the mitigation steps required should be proposed by the developer and will then normally be the subject of planning conditions or obligations on design, methods or timing of development.

6.12 Measures that might achieve this could include, amongst others:

- Timing the development of sites to avoid the breeding seasons of species present
- Creating buffer zones between sensitive areas and development areas to reduce disturbance to habitats
- Ensuring that new infrastructure such as bridges are built to enable movement of wildlife to continue
- Steps to ensure that the hydrological status of sensitive sites is maintained through the careful design of drainage infrastructure
- Translocation of species from destroyed habitat (to be used as a last resort)
- A financial contribution to management of nearby existing wildlife sites, through a commuted sum, can be required where the development could lead to increased pressure on those sites (e.g. noise and disturbance through increased amenity use)

6.13 It must however be remembered that mitigation still entails harm of some form. Where a site or its surroundings have clear biodiversity value, and the proposed mitigation steps are insufficient to reasonably protect this value, then planning permission may be refused on these grounds once all other planning issues have been taken into account.

6.14 English Nature provides advice about protected species. Some operations may require a DEFRA licence before work can commence (see Appendix II).

Compensating for loss

6.15 Where damage is unavoidable, and will still occur in spite of mitigation, then consideration should be given to compensating for any loss to biodiversity by creating new habitat in replacement either on site or off-site.

6.16 Where this is appropriate then the steps required will be proposed by the developer and will then normally be the subject of planning conditions or planning obligations, for example to ensure re-creation of habitat in a certain place by a certain time and normally as a duty of the developer.

6.17 Established habitat usually acquires biodiversity value over a very long period of time as its ecology diversifies and changes. Artificially recreated habitat will therefore usually be greatly inferior to established habitat. For example, newly planted woodland is of lesser value than existing ancient woodland.

6.18 There are only very limited circumstances where this loss is justified. It should not be considered unless a planning decision has been made to permit a development in the face of harm to biodiversity, once other planning issues have been taken into account.

6.19 Compensation for lost habitat will not make an unacceptable development acceptable.

Examples of what can be created on a development site

What is present?	What can be created?	Case study
Habitats		
Pond, river, other water feature	Enhance water feature or create new one Create habitat suitable for otters / water voles/ amphibians	Riverside development, commercial/industrial development
A barn or other building	Incorporate barn owl or bat 'lofts', erect bird boxes	Old building conversion
Grassland	Area of wildflower meadow glades, or grassland strip	Major residential development, landfill sites, mineral development
Woodland / Forest	Retain as many trees as possible. Plant new trees, erect bat boxes	Major residential development, mineral development, commercial/ industrial development
Mature trees	Maintain existing mature trees. Pollard or coppice. Plant new trees	Major residential development, mineral development, commercial/ industrial development
Nothing	Any of above	See Case Studies
Species		
Bats	Incorporate bat 'lofts' within conversion Bat boxes Retain mature/decaying trees Suitable planting & habitat links	Old building conversion, commercial/industrial development
Otters	Undisturbed habitat by rivers Establish wet woodland	Riverside development
Water voles	Dykes with vegetation Undisturbed bank-side vegetation Riverside development	Riverside development, commercial/industrial development
Other small mammals	Undisturbed habitats - rough grassland Native planting & habitat links	Major residential development, landfill sites, mineral development
Newts & other amphibians	Create accessible ponds with some shading	Major residential development, mineral development

What is present?	What can be created?	Case study
Common lizard & other reptiles	Create undisturbed areas of habitat and basking areas of bare ground/ short grass on south facing slopes. Create log piles.	Commercial/industrial development
Kingfishers	Trees by rivers/stream. Undisturbed bank-sides.	Riverside development
Barn owls	Barn owl loft. Grassland habitats.	Old building conversion, major residential development
Other birds	Swift, swallow and house martin boxes attached to buildings. Other bird boxes on trees etc. Native planting particularly trees with berries / seeds.	Major residential development, old building conversion, commercial/industrial development
Wildflowers	Plant native species of local or regional genetic origin and allow natural expansion/colonisation.	Major residential development, landfill site, old building conversion, commercial/industrial development
Trees	Plant native species of local or regional genetic origin and allow natural expansion/colonisation.	Major residential development, old building conversion, commercial/ industrial development, landfill site, mineral development

Stage 3: Once planning permission has been granted

Monitoring and Management

6.20 Where steps to sustain biodiversity have been set out in a planning permission then developers should monitor and manage these steps to assess the success of enhancement, mitigatory and compensatory measures.

6.21 These measures might include, where appropriate:

- A developer monitoring a site during and post construction to ascertain any effects on wildlife, especially protected species
- Ensuring that the development process complies with wildlife law after planning permission has been granted
- The monitoring of retained features and of new or enhanced habitats to gauge their success
- Provision for the appropriate management of retained features and of new or enhanced habitats for as long as necessary, possibly through a 5-year (or longer) management plan with the developer
- Agreement with the local parish council, conservation group, the relevant housing association, the local authority or local residents group, where that group may be prepared to take on management responsibility
- A commuted sum for management secured through a planning obligation to cover long-term maintenance costs

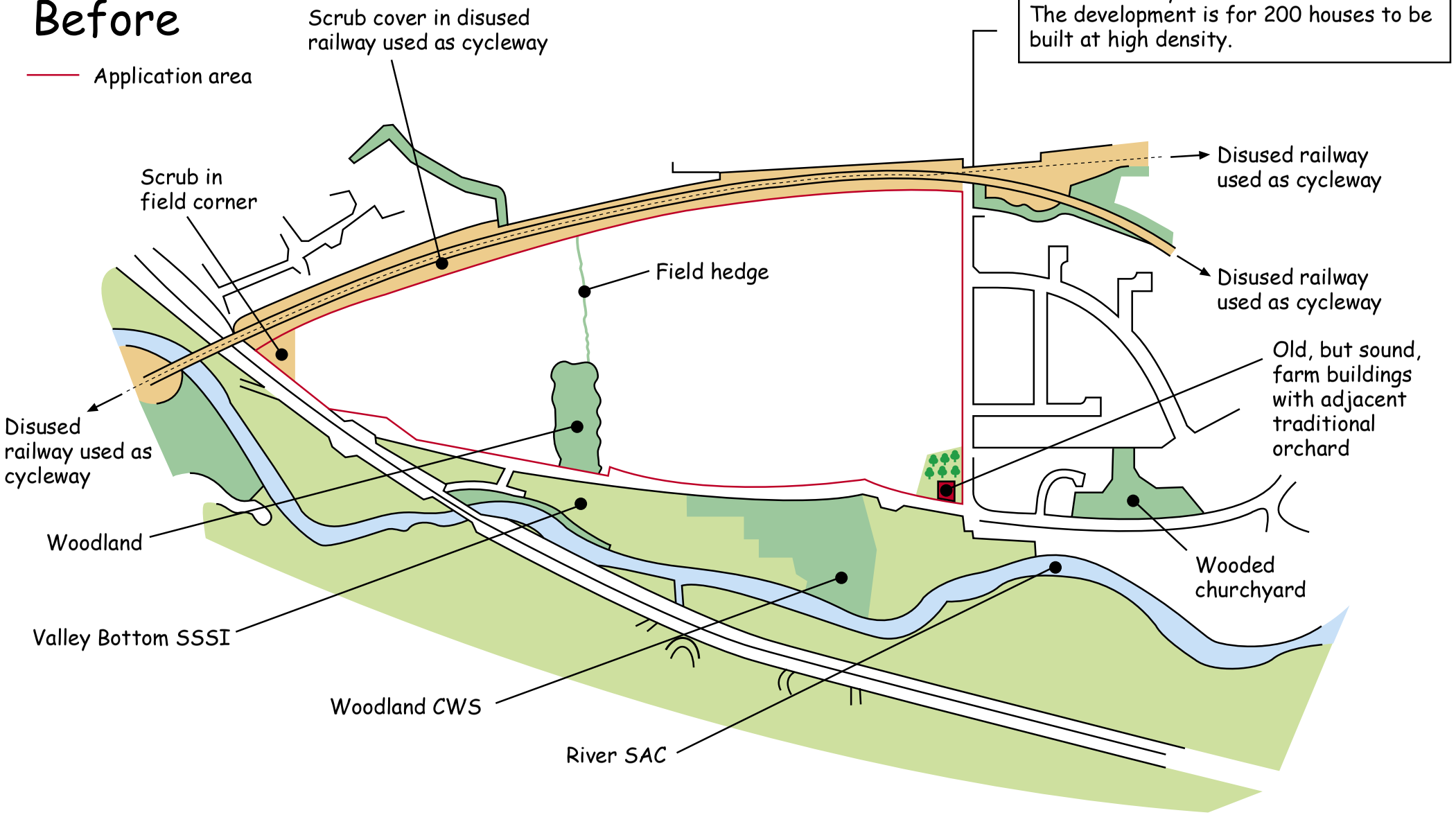
Case Studies

The following case studies demonstrate how the principles outlined above may be applied to actual developments. It is not possible to provide a case study for every type of development, however, most of the suggestions made can be used in a variety of situations.

Case Study 1: Major Residential Development

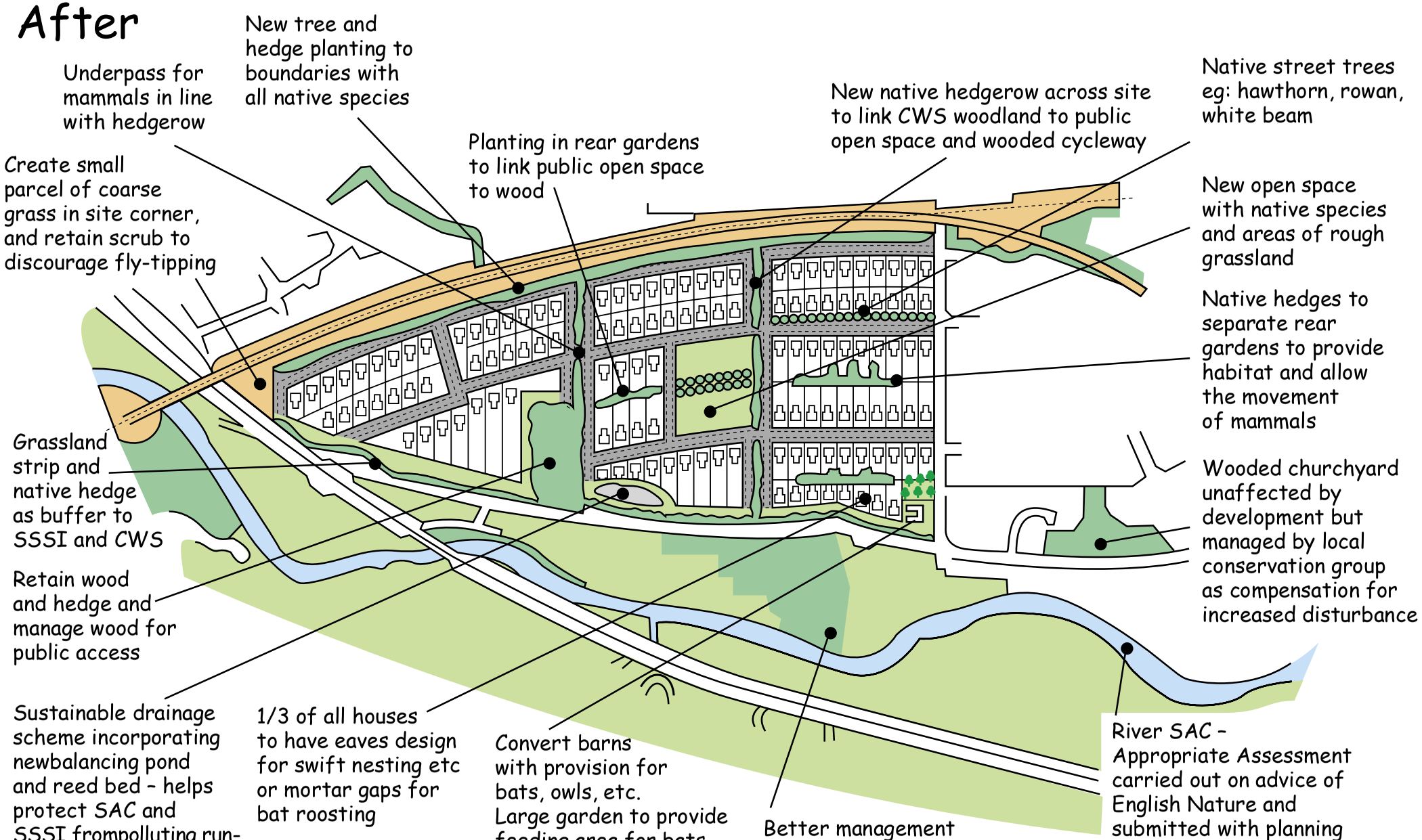
The site is a former arable field on long term set-aside. It is on the outskirts of a major settlement, bordered by a disused railway line and a river SAC. The development is for 200 houses to be built at high density.

Before



Case Study 1: Major Residential Development

After

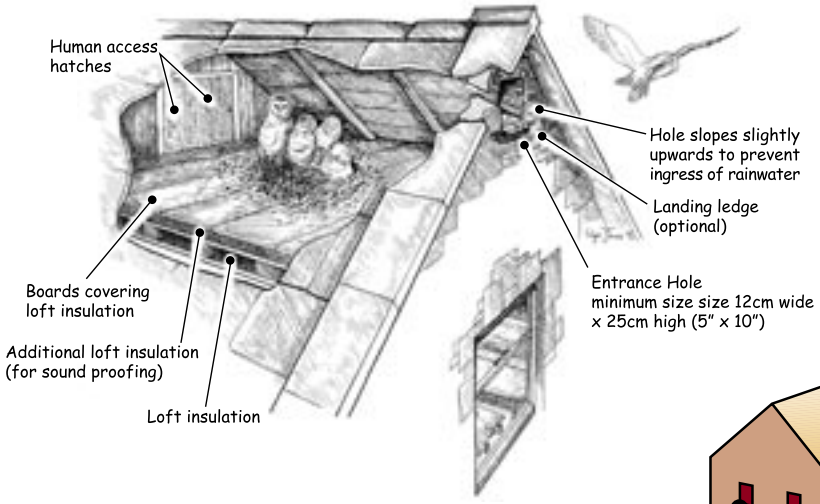


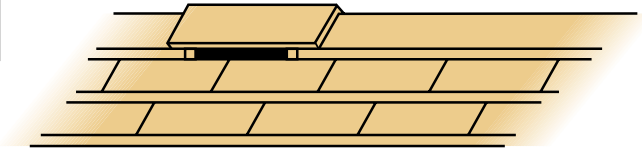
Case Study 2: Old Building Conversion – a traditionally built barn

The application is for conversion of a barn to residential dwelling. The barn is in a rural location and is thought to support barn owls and bats.

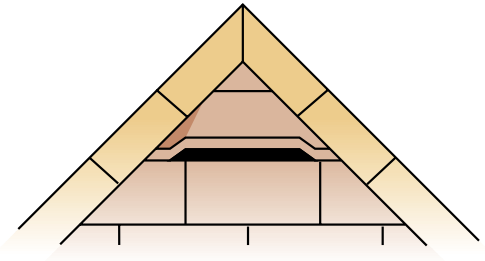
Birds
Barn owls nest in one end of barn. Swallows & swifts nest in new garage block.

Example of provision for barn owls within a small loft area of a converted barn or dwelling

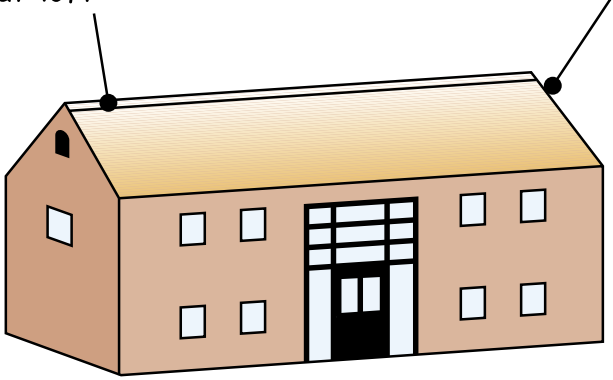


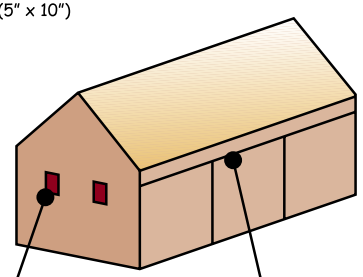


Bat access points incorporated along ridge allowing access to bat 'loft'



Lead saddle in place of a slate to allow bats access to ridge or roof void





Swift ledges in garage

Bat access bricks incorporated into cavity wall of garage

Bats
Bat consultant surveys buildings in summer & winter prior to submitting planning application.
Summer breeding roost found in roof timbers of barn.

- Retain roost in barn & ensure design plans allow for access and incorporates bat roost
- Secure using planning conditions & restraints
- Work will require a DEFRA licence
- Start conversion works outside of summer breeding season.
- Consultant to be on site in situations when bats might be found

Case Study 3: Landfill Site

The site is a former landfill site. Filling has stopped and the site has been capped and is ready to be restored to nature conservation after use. Restored habitats chosen to mimic those found locally, guided by Norfolk Biodiversity Action Plan targets.

Case Study 4: Commercial/Industrial development (On a Brownfield site)

Before

Small industrial units to be built on a brownfield site on the edge of a market town. Site is bordered by river, woodland and hedgerows. There is a residential area to one side of the development

Case Study 4: Commercial/Industrial development (On a Brownfield site)

After

Original tree retained as part of newly created nature area

Water from site discharged to balancing pond via a sustainable drainage system and then to river.

Further native hedging planted around the boundary of the site, particularly adjacent to woodland.
This provides new nesting sites for birds and also screens development from the surrounding resident housing.

Nature area
- Log and rubble piles to provide shelter and basking sites for reptiles
- South facing bank provides good basking site.
- Wild flower area planted in corner of site, company agree to cut annually and remove arisings
- Benches installed for staff to use during lunch hours.

Specimen native trees planted to replace mature trees lost in development

Fuel Storage
All fuel tanks on site bunded to prevent pollution to river.

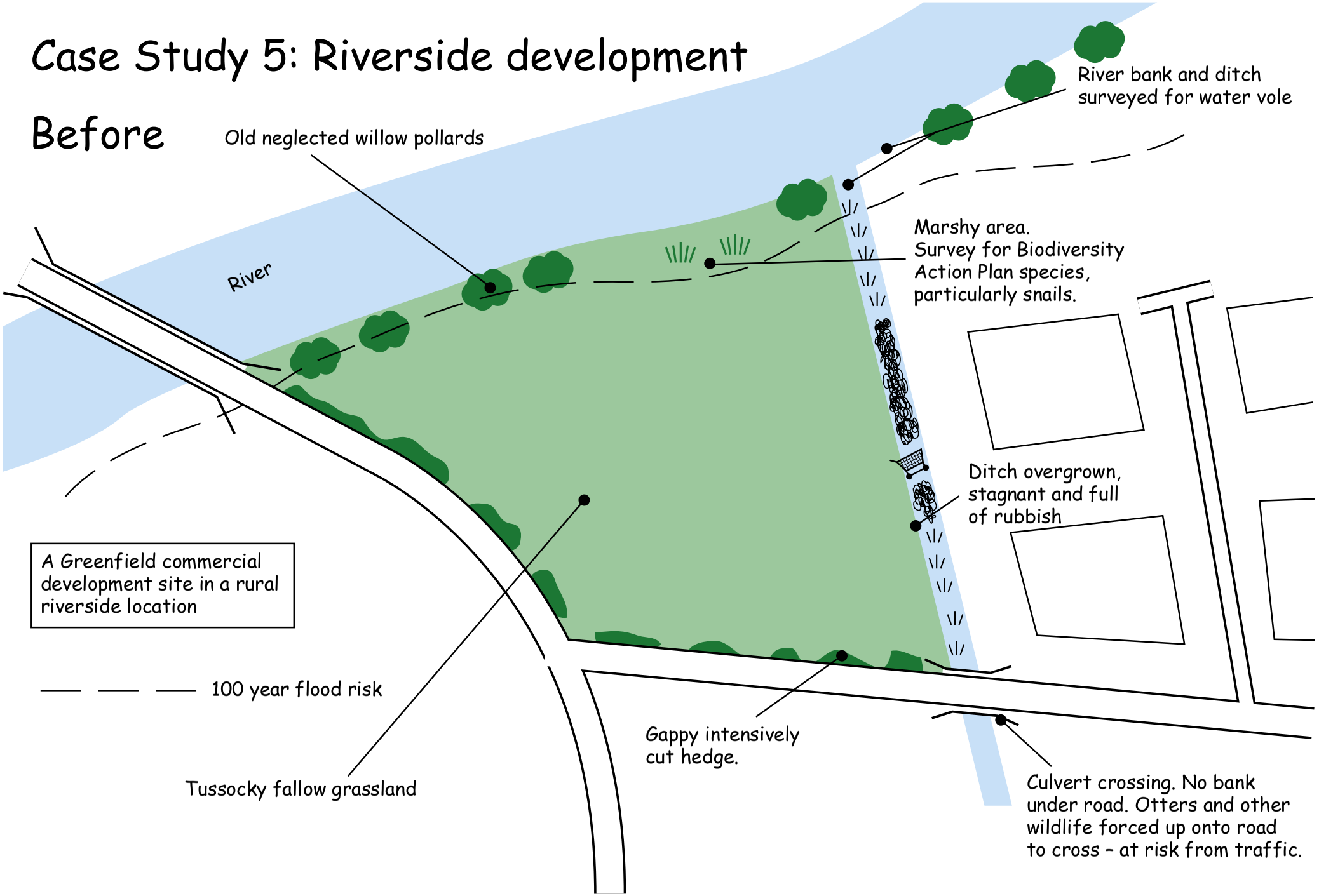
Bat cavity bricks used on new buildings, and eaves of roofs designed to encourage use by swallows, martins and swifts.

Water voles present, development kept clear of river with good buffer zone.

Boundary hedge retained and gaps filled with new native planting. Phased removal of Leylandii over 1-3 years, replaced with native species.

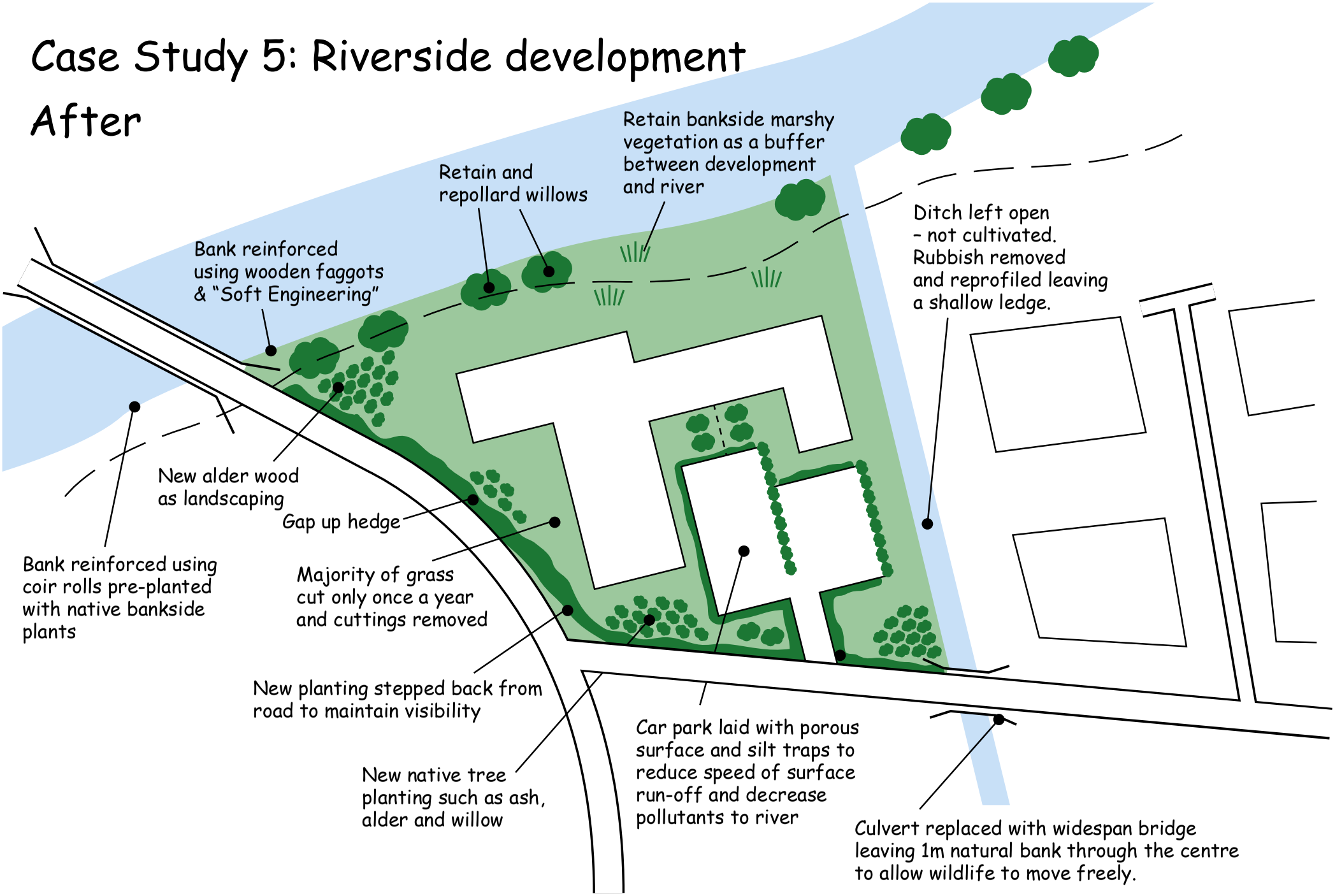
Case Study 5: Riverside development

Before



Case Study 5: Riverside development

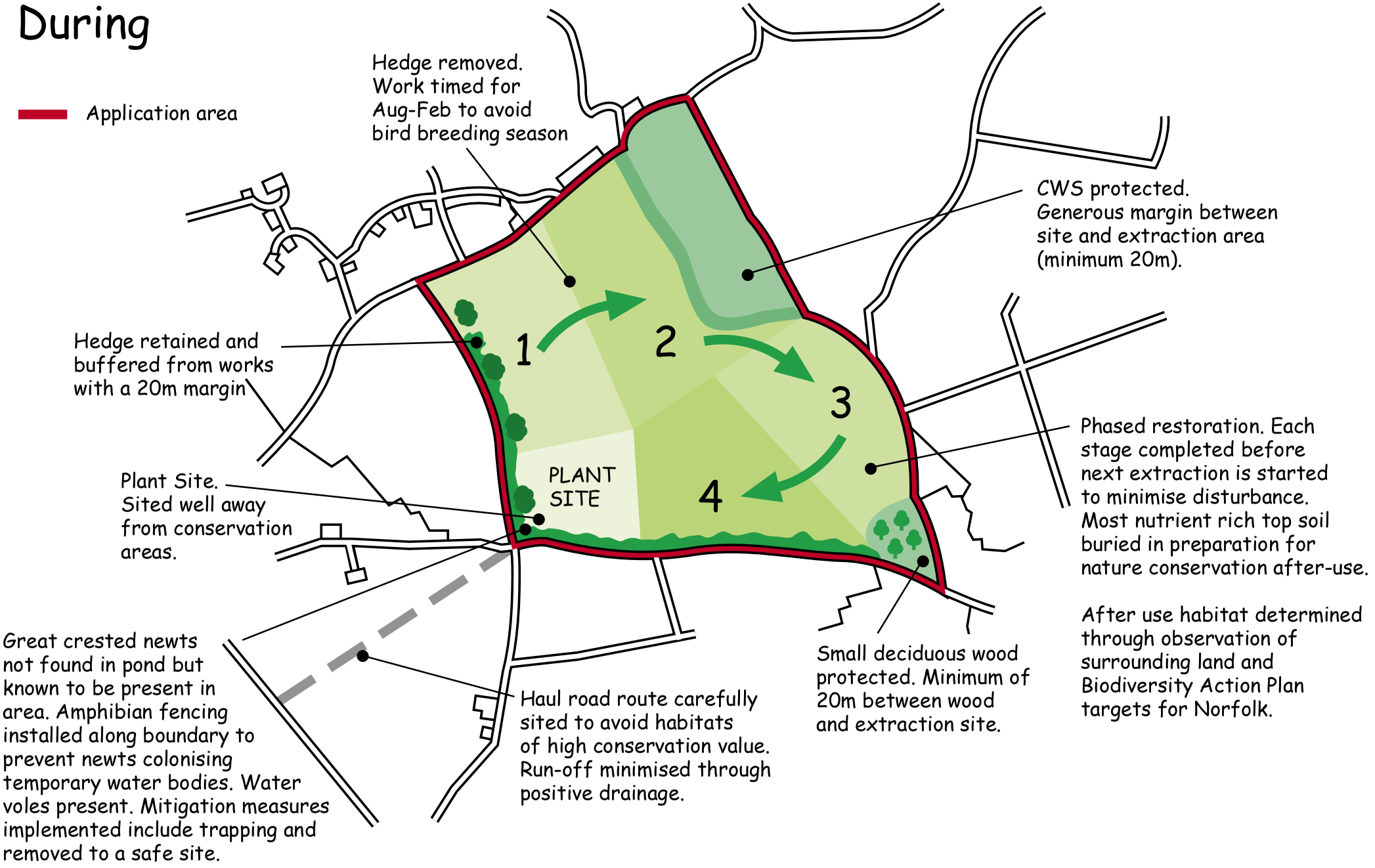
After



Case Study 6: Mineral Development Before

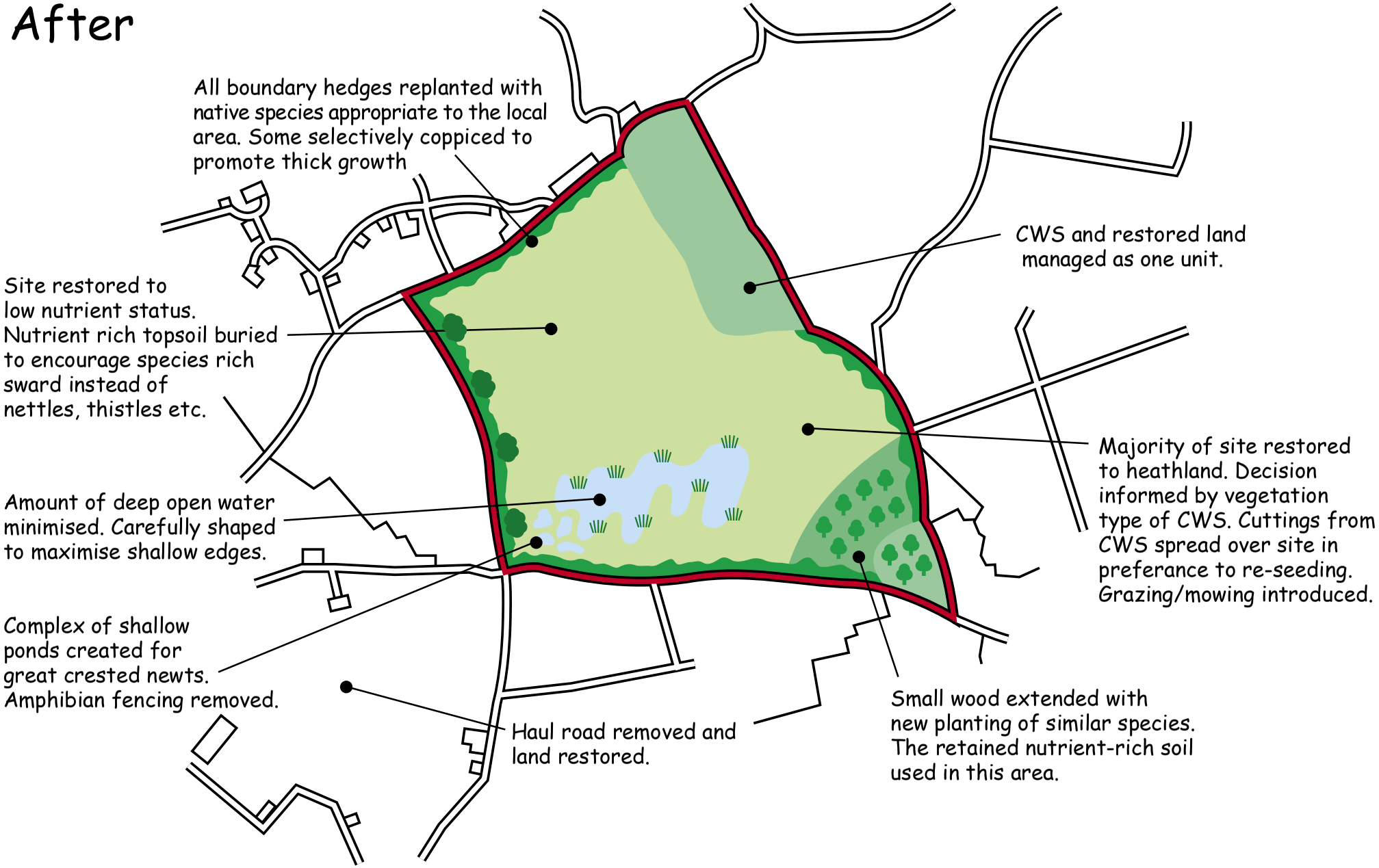
The site is currently in arable use with hedges of variable quality, some with standard trees. The application is for extraction of sand and gravel with associated plant. The site will be active for 12 years.

Case Study 6: Mineral Development During



Case Study 6: Mineral Development

After



Appendices

Structure Plan Policies

Norfolk County Council

ENV1 – High priority will be given to protecting the environmental assets of the County and conserving and enhancing biodiversity. In particular there will be special emphasis given to the protection, conservation and enhancement of areas of local landscape character, wildlife value, historic urban or rural environment, the setting of urban areas, towns and villages and the quality and character of the environmental generally.
Refer also to Policies: ENV2, ENV3, ENV4, ENV5, ENV6, ENV7, ENV8, ENV9, ENV10, ENV11.

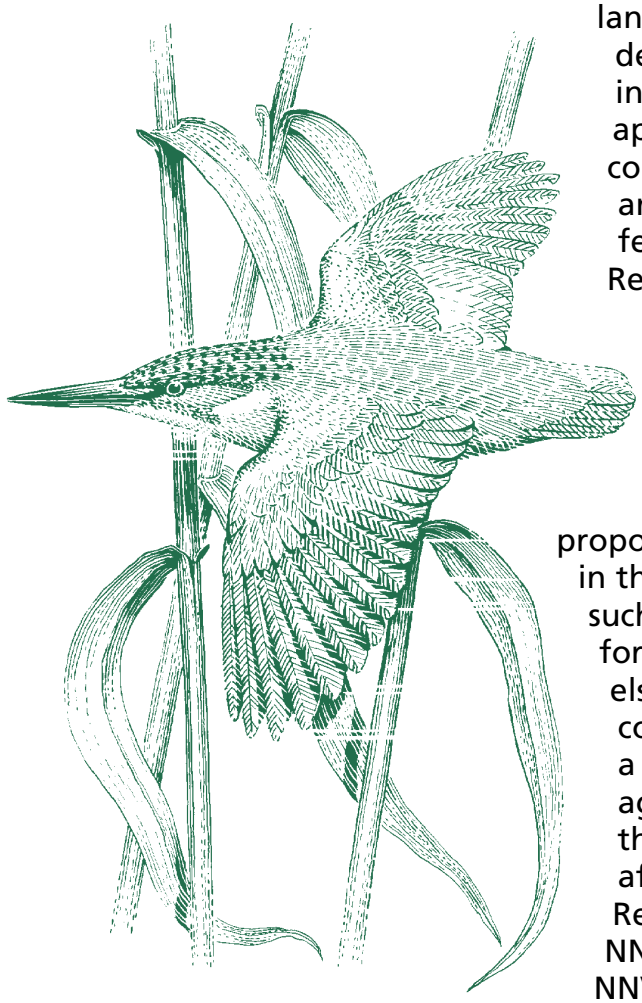
Local Plan Policies

Breckland Council

Policy ENV6 - The District Council will, through development control and positive action, seek to protect habitats or other features which are of value for nature conservation, biodiversity, particularly where rare species are known to be present.

Broadland District Council

Policy ENV4 - The local planning authority will, where appropriate, protect and promote the establishment and appropriate management of natural or semi-natural features such as trees, woodland, hedgerows, rivers, streams, lakes and ponds, river floodplain marshes and other areas rich in wildlife such as former railway land, meadows and roadside verges. Where development is allowed which would result in the unavoidable loss of important features, appropriate measures will be required to conserve, as far as possible, the wildlife interest and provide replacement or other compensating features.
Refer to Policies: GS3, ENV2, ENV3, ENV5, ENV6, ENV7



Great Yarmouth Borough Council

Policy NNV13 – Except where an applicant is able to demonstrate that the benefits of a proposed development would exceed the decrease in the nature conservation of the site, and that any such decrease is minimal and fully compensated for by habitat creation or local enhancement elsewhere within the site or the local area, the council will safeguard a local nature reserve or a site of importance for nature conservation against development, including changes of use, that would destroy or significantly adversely affect it.
Refer also to Policies: NNV1, NNV2, NNV3, NNV6, NNV7, NNV9, NNV10, NNV11, NNV12, NNV14, NNV15, NNV22, NNV24, NNV25, NNV26.

King's Lynn and West Norfolk Borough Council

Policy 4/4 – The Council will seek to conserve the ecological value of sites of local wildlife interest. In considering applications the Council will have special regard to their nature conservation importance and may impose conditions to avoid harmful impacts, or refuse permission where the damage to local habitats outweighs the development benefits.
Refer also to Policies: SS1, SS2, 4/1, 4/2, 4/3, 4/5, 4/6, 4/7, 4/8.

North Norfolk District Council

Policy 33 – Development proposals that could be significantly detrimental to a County Wildlife Site, either directly or indirectly, will not be permitted unless the proposed development is in the public interest and cannot be accommodated elsewhere.
The Council will seek to protect the wildlife interest of other areas of nature conservation importance.
Refer also to Policies: 28, 29, 31, 32, 34.

Norwich City Council (Second draft deposit version)

Policy NE11 – All areas of important wildlife quality, whether designated or not, will be protected and the sympathetic management of features of the landscape which are of importance for wild fauna and flora, including protected species, will be encouraged.

In considering proposals for new development, where areas of important wildlife quality could be adversely affected, an impact assessment will be required. Where conflict of interest is unavoidable, appropriate mitigation measures will be required and consideration must also be given to opportunities for management and for creating new wildlife habitats.

Where development proposals are likely to have an impact on a protected species, any application for planning shall include a properly conducted survey of the presence of and impact on that species.

Development proposals that do not reasonably address opportunities for enhancing biodiversity through their design, layout and landscaping will not be permitted.
Refer also to Policies: NE2, NE4, NE7, NE8, NE8a, NE9, NE10, NE12, SR1, SR2, SR4, SR8, SR13.

South Norfolk District Council

Policy ENV14: Habitat protection – Where sites include features or habitats which are identified in a national or local biodiversity action plan or which, either individually or cumulatively, are of demonstrable importance to wildlife or nature conservation, development will not be permitted unless:

i. The development would not harm those features and habitats; or
ii. The features and habitats can, and would be, fully reinstated; or
iii. The integrity of the features and habitats would be maintained through the establishment of regime of protective management.

Refer also to Policies: ENV1, ENV3, ENV4, ENV5, ENV6, ENV8, ENV11, ENV12, ENV13, ENV15, ENV16, ENV17, ENV18, ENV19, ENV20.

Wildlife and Countryside Act 1981 (as amended)

This is the main piece of wildlife legislation in England. To reflect the format of the WCA, the following different protected species have been divided into groups - birds, animals other than birds, and plants. Information relating to the broad distribution of protected species across Norfolk is given in Appendices III, IV, V and VI, although this should be considered as being for guidance only and the Act consulted for further information.

Birds

Under Section 1 of the Wildlife and Countryside Act 1981 it is an offence to intentionally kill, injure or take (handle or remove) any wild bird (with the exception of a few pest species which may be controlled under licence), take or damage a nest whilst in use or being built, or take or destroy eggs.

In addition to the above, a number of bird species listed in Schedule 1 of the Act are given greater protection, it being an additional offence to intentionally disturb these birds while nesting or rearing young, or to disturb the dependent young. Those Schedule 1 species of relevance to Norfolk are shown in Appendix III. As birds are very mobile, the information in the table should be taken as guidance only.

Animals other than birds

Under Section 9 it is an offence to intentionally kill, injure, disturb or take certain species listed in Schedule 5 of the Act. These offences relate to all life stages of the animal including eggs. Information relating to the species that are applicable to Norfolk, the relevant legislation, degree of protection and distribution by district, is given in Appendix IV and V.

Badgers

Badgers are protected specifically by the Protection of Badgers Act 1992. Although aimed primarily to protect badgers against baiting, of relevance to development matters is that under the Act it is an offence to wilfully kill, injure or take a badger, or attempt to do so. Furthermore, it is an offence to damage, destroy or obstruct a badger sett, or disturb an animal whilst it is occupying a sett. An offence is committed if such damage, destruction or disturbance arises from either a reckless or deliberate act.

Plants

Under Section 13 of the Wildlife and Countryside Act 1981 all wild plants are protected against unauthorised intentional uprooting. However, a greater amount of protection is given to the plants listed in Schedule 8 of the Act. The intentional picking, uprooting or destruction of a Schedule 8 listed plant by any person, including the owner, is forbidden. The species that are relevant to Norfolk are shown in Appendix VI.

The Conservation (Natural Habitats, &c.) Regulations 1994 and European Protected Species

In the UK European protected species (those species of plant and animal listed in Annex IV to EC Directive 92/43/EEC ('the Habitats Directive') are protected through Schedules 2 and 4 of the Conservation (Natural Habitats &c.) Regulations 1994.
Those European protected species found in Norfolk are shown marked with a * in Appendix IV & V.

It is an offence to deliberately capture, kill or disturb a European protected species, or to damage or destroy the breeding site or resting place of such an animal. Note that in the Regulations, the term 'deliberate' rather than 'intentional' is used and that the destruction or damage of breeding sites and resting places, is made an offence, whether the act is deliberate or not.

In considering planning applications which may affect European protected species, local planning authorities are bound by Regulation 3(4) of the Conservation (Natural Habitats, &c.) Regulations 1994 to have regard to the Habitats Directive when exercising their functions.

DEFRA Licences

In some circumstances, licences are available from Department for Environment, Food and Rural Affairs (DEFRA) to permit actions affecting European species or the places used by them that would normally be prohibited by law. Licences are available for actions that are to preserve public health or safety or for imperative reasons of overriding public interest. The applicant must demonstrate that there is no satisfactory alternative and that the action will not adversely affect the favourable conservation status of the European species concerned. Mitigation to reduce or compensate for any impact of development is likely to be a condition of the licence and must be proportionate to the impact. Monitoring of the effect of the mitigation is usually required. See Appendix IX for DEFRA contact details.

Other licences

English Nature issues licences for scientific, education and conservation purposes only.

The Birds Directive

The Birds Directive addresses the conservation of all wild birds throughout the European Union, including marine areas, and covers their protection, management, control and exploitation.

It applies to the birds, their eggs, nests and habitats. It places a broad requirement on the UK and other member states to take necessary measures to maintain the populations of all wild birds at levels determined by ecological, scientific and cultural needs. In doing so, Member States must also consider economic and recreational needs. Further information available on the RSPB website (www.rspb.org.uk).

Appendix III: Distribution of protected birds in Norfolk (Wildlife and Countryside Act 1981, Schedule 1)

	District						
	Breckland	S. Norfolk	Broadland	W. Norfolk	N. Norfolk	Norwich	Great Yarmouth
Avocet			•	•	•		
Barn owl	•	•	•	•	•		•
Bearded tit		•	•	•	•		•
Bewick swan				•			
Bittern			•	•	•		•
Black redstart				•		•	•
Black-tailed godwit				•			•
Cetti's warbler		•	•	•	•		•
Crossbill	•			•	•		
Firecrest	•			•	•		
Garganey	•	•	•	•	•		•
Golden oriole				•			
Goshawk	•		•	•	•		
Hobby	•	•	•	•	•		•
Honey buzzard				•	•		
Kingfisher	•	•	•	•	•	•	•
Little-ringed plover	•	•	•	•	•	•	•
Little tern				•	•		•
Marsh harrier		•	•	•	•		•
Montague's harrier				•			
Quail	•		•	•	•		•
Red kite		•					
Roseate tern				•	•		
Stone curlew	•			•	•		
Woodlark	•		•	•	•		

This table is indicative of the main range only and variations may occur

Appendix IV: Other protected animals occurring in Norfolk (WCA 1981 Schedule 5, Conservation (Natural Habitats, etc.) Regulations 1994 Schedule 2, Protection of Badgers Act 1992)

Protective Legislation	Wildlife and Countryside Act 1981 (as amended)				Conservation Regulations 1994	Protection of Badgers Act 1992
Level of Protection	Killing or injury	Taking (handling)	Damage, destruction or obstruction of place of shelter or protection	Disturbance in place of shelter or protection	Killing, capturing, taking and destruction of eggs, disturbance, damage or destruction of breeding or resting sites	Killing, injury, taking, damage, disturbance while in sett, destruction or obstruction of sett
Adder	•					
Badger						•
*Bats (all species)	•	•	•	•	•	
Common lizard	•					
Fen raft spider	•	•	•	•		
Grass snake	•					
*Great crested newt	•	•	•	•	•	
Lagoon sand shrimp	•	•	•	•		
Large copper butterfly	•	•	•	•		
*Natterjack toad	•	•	•	•	•	
Norfolk aeshna (dragonfly)	•	•	•	•		
*Otter	•	•	•	•	•	
Red squirrel	•	•	•	•		
Slow worm	•					
Starlet sea anemone	•	•	•	•		
Swallowtail butterfly	•	•	•	•		
Water vole			•	•		
White-clawed crayfish		•				

* indicates is also a European protected species

Appendix V: Distribution of other protected animals occurring in Norfolk

	District						
	Breckland	S. Norfolk	Broadland	W. Norfolk	N. Norfolk	Norwich	Great Yarmouth
Adder	•	•	•	•	•		•
Badger	•	•	•	•	•		•
*Bats (all species)	•	•	•	•	•	•	•
Common lizard	•	•	•	•	•	•	•
Fen raft spider		•					
Grass snake	•	•	•	•	•	•	•
*Great crested newt	•	•	•	•	•	•	•
Lagoon sand shrimp					•		
Large copper butterfly			•				
*Natterjack toad				•	•		•
Norfolk aeshna (dragonfly)		•	•		•		•
*Otter	•	•	•	•	•	•	•
Red squirrel	•						
Slow worm	•	•	•	•	•	•	•
Starlet sea anemone					•		
Swallowtail butterfly		•	•		•		•
Water vole	•	•	•	•	•	•	•
White-clawed crayfish	•	•	•	•	•		•

This table is indicative of the main range only and variations may occur

* indicates is also a European protected species

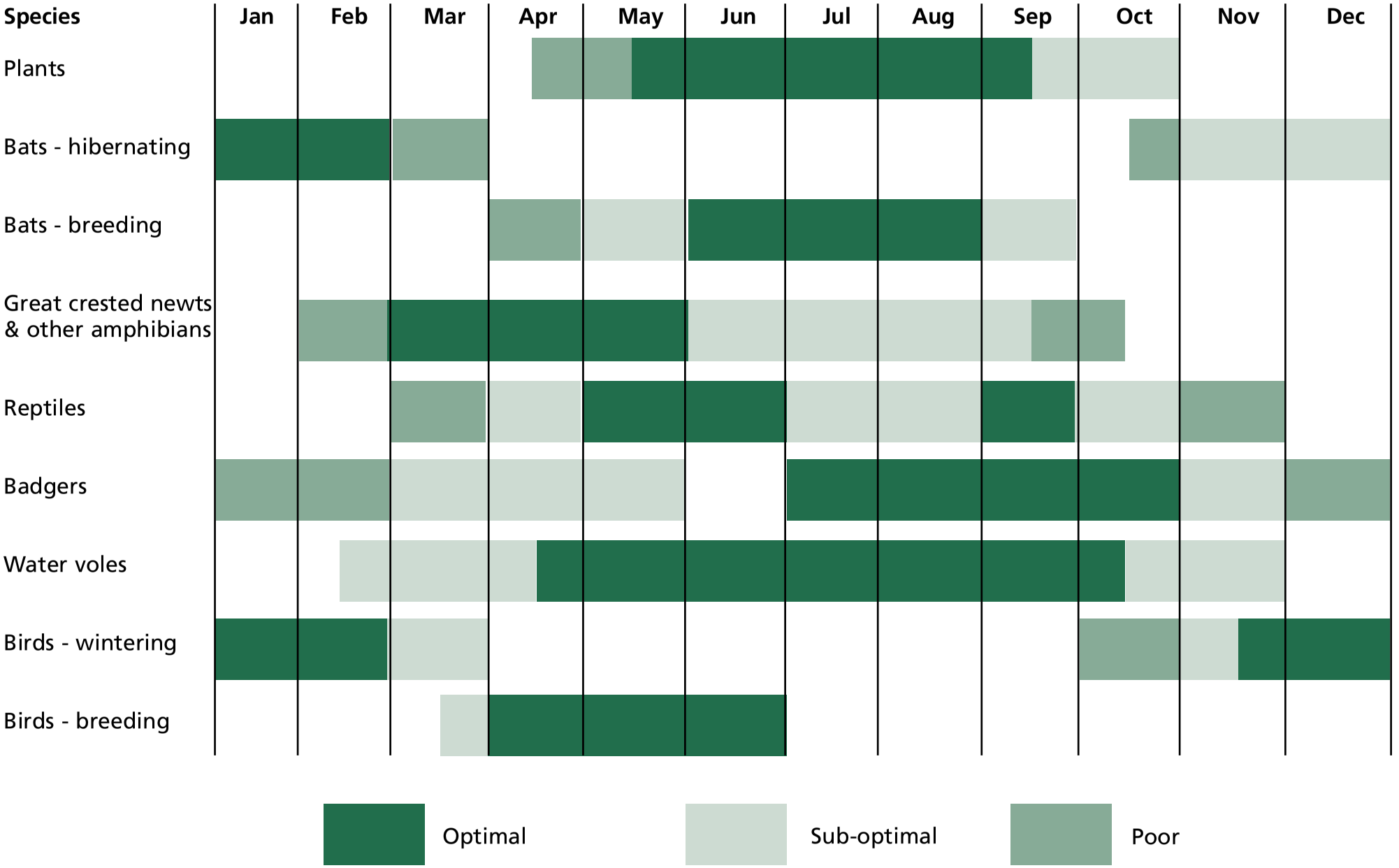
Appendix VI: Distribution of protected plants occurring in Norfolk (WCA 1981 Schedule 8)

		District						
	Usual Habitat	Breckland	S. Norfolk	Broadland	W. Norfolk	N. Norfolk	Norwich	Great Yarmouth
Churchyard lecanactis *(Lecanachis memisphaerica)*	Churches					•		•
*Fen Orchid *(Liparis loeselii)*	Fens			•		•		
Field Wormwood *(Artemesia campestris)*	Heaths	•						
Fingered speedwell *(Veronica triphyllos)*	Arable & roadside	•						
*Floating water-plantain *(Luronium natans)*	Dikes					•		
Holly-leaved naiad *(Najas marina)*	Open water			•		•		•
Jersey Cudweed *(Gnaphalium luteoalbum)*	Dunes				•			
Norfolk flapwort *(Leiocolea rutheana)*	Fens	•		•				
Orange-fruited elm-lichen *(Caloplaca luteoalba)*	Roadside & parkland		•					
Perennial knawel *(Scleranthus perennius)*	Heaths	•						
Sandy slit puffball *(Batterrraea phalloides)*	Roadside			•			•	
Scaly breck-lichen *(Squamarina lentigera)*	Heaths	•						
Slender green feather –moss *(Drepanocladus vernicosus)*	Fens			•				
Spiked speedwell *(Veronica spicata)*	Heaths	•						
Starry breck-lichen (Buellia asterella)	Heaths	•						

This table is indicative of the main range only and variations may occur

* indicates is also a European protected species

Appendix VII: Timing of field surveys for various groups of animal/plant



Appendix VIII: Ecological Surveys

Ecological surveys must be carried out to the required standards by suitably qualified and experienced people, and survey work for many species can only be undertaken at a particular time of year.

The Institute of Ecology and Environmental Management (IEEM) will provide lists of recognised professional ecologists (see Appendix IX). Where available, local authority Conservation/Wildlife Officers should also be consulted.

The ecologist should be able to:

- assess the relevance of the existing information about the site (if such information exists); and
- advise on the need for, and undertake where necessary, a site survey to determine the habitats and species present, and the impacts of the proposed development and appropriate and necessary mitigation

1. When should a survey be undertaken?

As there is scope for wildlife to occur almost everywhere in both rural and urban areas, and on both green field and brown field land, it is impossible to provide a definitive list of all the development types where an ecological survey of habitats and species should be undertaken in advance of submitting a planning application. The casework examples in this SPG should be used as a guide to the types of development where it is advisable to have an ecological survey carried out. Applicants and local planning authorities should seek expert ecological advice if unsure whether a survey should be undertaken or not as early as possible in the process.

2. Planning a survey

When planning an ecological survey the following points should be considered:

- the geographical area which the survey should cover (this may well extend beyond an application site in order to incorporate areas which may be affected by the application)
- what existing ecological information there is for the site and its surrounds (see 3 below)
- the level of detail that is required, and hence what survey methods should be used
- the time of year/times of year in which the survey(s) should be carried out (see 4 below)
- the way/ways in which the results should be presented

3. Existing ecological information

A search for any existing records of habitats or species for the survey area should be made early on in the process. Such records may be held by the Norfolk Biological Records Centre (see Appendix IX for contact details). The occurrence of other species may be recorded and held by specialist groups or individuals but this information is likely to be dispersed and not readily accessible.
(**Note**: the absence of a past record does not necessarily mean a protected species is absent).

4. Timing of survey

Remember that these surveys are about looking for living animals and plants which in turn are affected by the seasons. Surveys for habitats and species must be undertaken at an appropriate time of year for the habitats and species concerned, using appropriate survey methods.

For example, the optimum time to survey a site for great crested newts, using a variety of techniques, is March to mid-June inclusive. As newts hibernate, a survey conducted in winter would not provide any useful information regarding their presence or absence on site. As the timing will vary depending on the habitat and species concerned, it is advisable to seek expert ecological advice.

5. Habitat survey

The standard method for habitat surveys is found in the Nature Conservancy Council Handbook for Phase 1 Habitat Survey (1990) - see Appendix XI. The survey provides a broad picture of the main habitat types present on the site and an indication of any significant features. Note that detailed habitat surveys may be required and these require different survey methods. The habitats identified during the survey will inform what species surveys should be undertaken.

6. Species survey

A species survey should accompany the habitat survey. Recommended good practice is for local planning authorities to request relevant information for all proposed developments of a type where protected species are most likely to be encountered, such as barn conversions, as a matter of course.

Where protected species are known or suspected to be present on a site, the applicant should submit the results of an ecological survey in conjunction with the planning application to the local planning, and include:

- What is/are the species concerned?
- What is the population level at the site affected by the proposal?
- What impact is the development likely to have upon the species?
- What can be done to avoid/mitigate/compensate the impact on the species concerned?
- Is the impact acceptable, are the mitigation proposals possible and would the mitigation operations require a licence from English Nature or DEFRA ?

Where there are insufficient survey data, or data gathered at an inappropriate time of year, local planning authorities should consider refusal on the grounds of indetermination. A High Court decision (R v Cornwall County Council ex parte Jill Hardy, 22 September 2000) supports this course of action. This could also be applied where a developer has failed to propose a mitigation package. It should also be noted that DEFRA may have grounds to refuse a licence application even where planning permission has been granted.

Appendix IX: Contacts and Roles

Organisation	Role in Planning Process	Contact Details
Norfolk County Council	Minerals and Waste Planning Authority – will decide whether planning consent is granted for minerals and waste applications. Will state whether an Environmental Impact Assessment is required or not for a given development Can also give advice on location of designated sites, protected species and other site planning constraints. Consultee to road issues for any planning application	County Hall, Martineau Lane, Norwich, NR1 2SG Tel: 01603-222770 www.norfolk.gov.uk
Breckland District Council	Local Planning Authority for all applications other than minerals and waste and County Council developments in the Breckland district. Also advise on location of designated sites, protected species, other site planning constraints and scoping of EIA.	Planning & Development, Elizabeth House, Walpole Loke, Dereham, NR19 1EE Tel: 01362-656332 www.breckland.gov.uk
Broadland District Council	As above, but for Broadland District.	Planning Control Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, , NR7 0DU Tel: 01603-431133 www.broadland.gov.uk
Great Yarmouth Borough Council	As above, but for Great Yarmouth Borough.	Planning & Development Maltings House, Malthouse Lane, Gorleston, Great Yarmouth, NR31 0GY Tel: 01493 846475 www.great-yarmouth.gov.uk
King's Lynn and West Norfolk Borough	As above, but for the King's Lynn and West Norfolk Borough.	Planning Department King's Court, Chapel Street, King's Lynn, PE30 1EX Tel: 01553-616406 www.west-norfolk.gov.uk
North Norfolk District Council	As above, but for the North Norfolk District.	Planning Department Holt Road, Cromer, NR27 9EL Tel: 01263-513811 www.northnorfolk.org

Organisation	Role in Planning Process	Contact Details
Norwich City Council	As above, but for Norwich City	Spatial Planning Department City Hall, Norwich, NR2 1NH Tel: 01603-212542 www.norwich.gov.uk
South Norfolk District Council	As above, but for the South Norfolk District.	Planning Department South Norfolk House, Swan Lane, Long Stratton, Tel: 01508-533633 www.south-norfolk.gov.uk
English Nature	Has a statutory role as consultee or advisor on protected species and development affecting statutory sites	60 Bracondale, Norwich, NR1 2BE Tel: 01603-598400 www.english-nature.org.uk
Environment Agency	Management of water at catchment level. Consent requirements for water abstraction, land drainage, impoundment and discharge as well as management affecting drainage or flood defence. Pollution potential of discharges Consultee to all minerals and waste applications	Cobham Road, Ipswich, IP3 9JE Tel: 01473-727712 **or** Bromholme Lane, Brampton, Huntingdon PE18 8NE Tel: 01480-414581 www.environment-agency.gov.uk
Norfolk Wildlife Trust	Consultee to many planning applications affecting CWS and other statutory and non-statutory wildlife sites. Able to offer advice on location of sites and habitat management Can offer advice on some species e.g. water vole and otter	Bewick House, 22 Thorpe Road, Norwich, NR1 1RY Tel: 01603-625540 www.norfolkwildlifetrust.org.uk
Norfolk Biological Records Centre	Able to offer general species distribution data for development sites.	Union House, Gressenhall, Dereham, Tel: 01362-869293 www.nbrc.org.uk
DEFRA	Consultee to all minerals and waste planning applications. Soil conservation issues and loss of agricultural land. Licensing body for European protected species	122a Thorpe Road, Norwich, NR1 1RN Tel: 01603-660334 **or** European Wildlife Division, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6EB, Tel: 0117 372 8291 www.defra.gov.uk

Organisation	Role in Planning Process	Contact Details
RSPB	Consultee on planning applications affecting sites of national and international importance for birds. Can provide information on bird distribution and offer advice on survey methodologies and habitat management	Stalham House, 65 Thorpe Road Norwich NR1 1UD Tel: 01603 660066 www.rspb.org.uk
Broads Authority	Local planning authority for parts of the Norfolk districts of Broadland, Great Yarmouth, North Norfolk, Norwich and South Norfolk, and Waveney in Suffolk. Developers should follow the principles advocated by the district councils in this SPG. The Broads Local Plan contains detailed policies covering the protection and enhancement of biodiversity. Detailed advice on specific proposals should be sought from the Authority prior to applications being submitted.	18 Colegate, Norwich, Norfolk, NR3 1BQ Tel: 01603-610734 www.broads-authority.gov.uk email: planning@broads-authority.gov.uk
Institute of Ecology & Environmental Management (IEEM)	Provide details of professional ecologists and consultants. Developing Guidelines for Ecological Impact Assessment.	45 Southgate Street, Winchester, Hants SO23 9EH Tel: 01962 868626 www.ieem.org.uk enquiries@ieem.demon.co.uk
Norfolk Biodiversity Partnership	Co-ordinate the implementation of the Norfolk Biodiversity Action Plan	County Hall, Martineau Lane, Norwich Tel: 01603 222112

Appendix X: Glossary

Ancient Woodland
Land that has been continuously wooded since 1600.

Appropriate Assessment
Under the Habitats Directive an appropriate assessment needs to be undertaken in respect of any plan or project which either alone, or in combination with other plans or projects, would be likely to have a significant effect on a European designated site, and which is not directly connected with the management of the site for nature conservation.

Biodiversity
Biological diversity. The total range of the variety of life on earth, or any given part of it. This includes diversity within species, between species and of ecosystems.

Biodiversity Action Plan (BAP)
A framework for the achieving the conservation of biodiversity based on the targeting of resources towards priority habitats and species. A cross-sectoral partnership identifies priorities and establishes an action plan for the conservation and sustainable use of locally and nationally important biodiversity. BAPs can be prepared at a national level such as the UK BAP or at a county level such as the Norfolk BAP, where the latter is known as a Local Biodiversity Action Plan.

Convention on Biological Diversity
This Convention was signed by the Prime Minister and 150 other Heads of State or Governments at the Earth Summit in Rio de Janeiro in June 1992. Under article 6A of the Convention signatories must develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity.

County Wildlife Site (CWS)
Sites identified within Norfolk which are outside statutory sites but are protected, maintained and enhanced for their existing wildlife resource which is of local or county importance.

Ecosystem
A community of interdependent organisms and the environment they inhabit, such as ponds and pond life.

Environmental Impact Assessment (EIA)
A process of predicting and evaluating the effects of an action or series of actions on the environment, then using the conclusions as a tool in planning and decision-making.

Environmental Statement (ES)
The written output of an environmental impact assessment with the primary purpose of informing decision makers of the likely significant environmental impacts of a project. The environmental statement must contain a non-technical summary to enable non-experts to understand the findings.

Habitat
A place in which a particular plant or animal lives, feeds and breeds. Often used in a wider sense, referring to major assemblages of plants and animals found together such as woodlands or grasslands.

Habitat Action Plan
A conservation plan for a habitat based upon knowledge of its ecological and other requirements, which identifies the actions needed to stabilise and improve its status.

Habitats and Birds Directives
The European Union requires member states to designate and protect some of the most important areas for wildlife under these two directives. They are or will be classified as Special Protection Areas (SPAs) and/or Special Areas of Conservation (SACs). These sites are also Sites of Special Scientific Interest (SSSI) but meet specific criteria for international importance. In the case of marine SACs the SSSI designation only applies down to the low water mark.

Habitat Fragmentation
The process of isolation whereby areas of habitat become broken into smaller parts as a result of factors such as road building, housing development and agriculture

Hedgerow Regulations 1997
Regulations brought in to protect important hedgerows and are administered by local authorities.

Local Nature Reserve (LNR)
A place that is of special nature conservation interest locally. LNR's are declared and managed by local authorities under the National Parks and Access to the Countryside Act 1949.

Material consideration
In principle, any consideration which relates to the use and development of land is capable of being a planning consideration. Whether a particular consideration falling within that broad class is material in any given case it will depend on the circumstances.

National Nature Reserve (NNR)
A site of national importance for its nature conservation value declared under The National Parks and Access to the Countryside Act 1949, and managed to protect wildlife and natural features. NNR's provide opportunities for scientific research and most have some public access.

Native Species
Species that occur naturally in an area, and therefore have not been introduced by humans either accidentally or intentionally.

Precautionary Principle
Defined in the 1990 White Paper in the following terms: 'Where there are significant risks of damage to the environment, the Government will be prepared to take precautionary action to limit the use of potentially dangerous materials or the spread of potentially dangerous pollutants, even where scientific knowledge is not conclusive, if the balance of likely costs and benefits justifies it".

RAMSAR Site
A wetland site of international importance, designated under the Ramsar Convention of Wetlands of International Importance, especially as a waterfowl habitat.

Site of Special Scientific Interest (SSSI)
An area of land or water notified under the Wildlife and Countryside Act 1981 as being of national importance for nature or geological conservation. The statutory designation applies throughout Great Britain.

Special Area of Conservation (SAC)
A site of international importance designated by the UK Government under the EU Habitats Directive on the conservation of natural habitats and of wild fauna and flora.

Special Protection Area (SPA)
A site of international importance for birds designated under the EU Directive on the conservation of wild birds.

Species Action Plan (SAP)
A conservation plan for a species based upon knowledge of its ecological and other requirements, which identifies the actions needed to stabilise and improve its status.

Sustainable Development
Responsible development, usually defined as development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

Sustainable Drainage Systems (SUDS)
These are designed to control the quantity, and improve the quality, of run-off from developments, and to enhance the wildlife, landscape and amenity value of developments.

Tree Preservation Orders (TPO)
Legal order made by a local planning authority that makes it an offence to cut, top, lop, uproot or wilfully damage or destroy a tree without that authority's permission.

Wildlife Corridor
A linear habitat (or habitats) that links two or more areas of wildlife significance, which may facilitate the dispersal of species.

Appendix XI: Further information

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