

2a Internationally and nationally designated sites

Internationally designated sites: Special Areas of Conservation (SAC)

Oxfordshire has seven sites designated at this level which fall partly or entirely within the county; they are shown in orange on **Map 1**. The law is very strict with regard to these sites; development proposals which will adversely affect these sites are not permitted*. If a development is proposed that could possibly impact on a SAC, the applicant will need to submit an assessment of potential impacts and their significance with their planning application; this information is used by the local authority to make an 'Appropriate Assessment' of the implications for the SAC.

Impacts that will need to be considered include direct impacts, for example habitat loss through land-take, and indirect impacts such as changes to water quality or quantity, air pollution or increased recreational pressure. Indirect impacts could result from development proposals some distance from a SAC; impacts on internationally designated sites in other counties should also be considered. These might include Special Protection Areas (SPAs), designated for their importance for birds (there are no SPAs in Oxfordshire).

** In exceptional circumstances a proposal that would impact negatively on a SAC may be permitted but only where there are no alternative solutions and the proposal is necessary for imperative reasons of overriding public interest. Where this is the case, compensatory measures will be necessary.*

OXFORDSHIRE'S SPECIAL AREAS OF CONSERVATION

- **Oxford Meadows:** Lowland hay meadows including the larger of only two known sites in the UK for creeping marshwort
- **Cothill Fen:** Largest surviving example of alkaline fen in central England
- **Little Wittenham:** One of the best studied great crested newt sites in the UK
- **Aston Rowant:** One of the best remaining examples in the UK of lowland juniper scrub on chalk
- **Chilterns Beechwoods:** Extensive tract of beech forest in the centre of the UK range of this habitat
- **Hackpen Hill:** Significant population of early gentian
- **Hartslock Wood:** Yew woodland and chalk grassland supporting one of only three UK populations of monkey orchid

Nationally designated sites: Sites of Special Scientific Interest (SSSI)



SSSIs are a series of sites from across the UK, which provide a representative sample of the country's best habitats. There are 102 SSSIs in Oxfordshire, covering a total of 4,012 ha. SSSIs are designated for either their biological or geological interest; they are shown in green on **Map 1**. Oxfordshire's SACs are also designated as SSSIs – the features for which the different types of site have been designated may differ.

SSSIs are given a high level of protection through both the planning and legal system. Normally development which would adversely affect a SSSI is not acceptable. Only in special cases, where the importance of a development outweighs the impact on the SSSI, would an adverse affect be permitted. In such cases, planning conditions or obligations would be used to mitigate the impact.

There is not a requirement to undertake an 'Appropriate Assessment' for SSSIs, but for developments likely to impact on a SSSI an Environmental Impact Assessment (EIA) will probably be necessary. CIEEM provide [guidance](#) for carrying out the ecological aspects of an EIA.

LEGISLATION

Special Areas of Conservation (SACs):
[EC Habitats Directive](#)

Special Protection Areas (SPAs):
[EC Birds Directive \(Council Directive 79/409/EEC on the conservation of wild birds\)](#)

In the UK these are implemented through UK law by the [Conservation of Habitats and Species Regulations 2010 \(as amended\)](#) and [Wildlife & Countryside Act 1981 \(as amended\)](#)

PLANNING POLICY

Because these sites are strictly protected by law, no further protection is required through the National Planning Policy Framework; paragraph 113 states that:

'113. Local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'

SACs are identified on proposals maps within Local Development Frameworks.*

LEGISLATION

[Wildlife and Countryside Act \(1981\)](#)

[Countryside and Rights of Way Act \(2000\)](#)

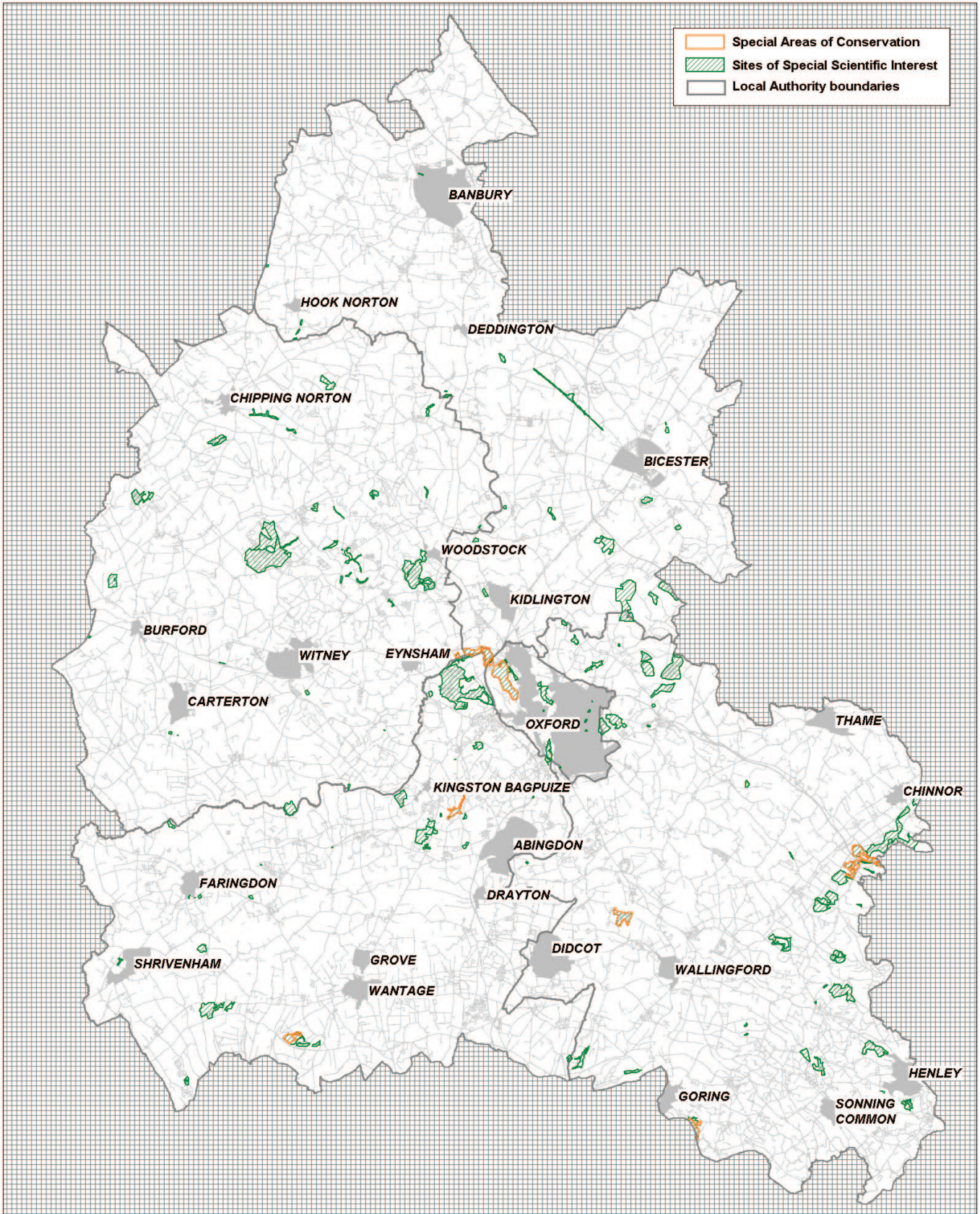
PLANNING POLICY

National Planning Policy Framework paragraph 118 states that:

'Proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest.'

*Check the relevant District Council's Local Plan for local policy.

Special Areas of Conservation and Sites of Special Scientific Interest in Oxfordshire



Map produced by TVERC in 2008

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KEY ORGANISATIONS

- [Environment Agency](#)
- [Local authorities](#)
- [Natural England](#)

2b Legally protected species

Protected species occur throughout the county

An indication of current records is provided on **Map 2**. A full list of protected species occurring in Oxfordshire, and the level of protection they receive, can be downloaded from the [Protected and Notable Species page on the TVERC website](#). Species receiving the strictest protection are often referred to as 'European Protected Species', as they are protected under European Directives (see right). The European Protected Species found in Oxfordshire are bats, dormouse, great crested newt, natterjack toad, otter. These are protected against killing, injury, disturbance in their place of shelter, taking or selling. Cruelty to wild mammals is a criminal offence under The Wild Mammal (Protection) Act 1996.

Examples of activities that could breach the legislation include: in-filling or earthworks near to a great crested newt pond, felling of trees or demolition of buildings used by bats, clearance of woodland or hedgerows supporting dormice, or work on water course banks near an otter holt.

Species can receive varying levels of protection under the Wildlife and Countryside Act (WCA); Oxfordshire species receiving protection under this act include water vole, common lizard, grass snake, slow worm and roman snail; all these species are protected against killing, injuring, sale and advertisement for sale. It is also illegal to take a roman snail or freshwater crayfish. Water voles receive full protection under this Act, additionally making it illegal to obstruct access to, or destroy a water vole burrow, or to disturb a water vole in its burrow. The WCA makes it illegal to pick, uproot or destroy certain rare plants, of which there are records of 18 species in Oxfordshire.

Development needs to avoid impacts on protected species, and where this is not possible, mitigation or compensation will be necessary. If there is a possibility that a development proposal will impact on a protected species, surveys will need to be submitted with a planning application to determine the impacts. Please note: surveys to determine the presence of protected species need to be provided upfront with a planning application and should not be made a condition of planning permission since the local authority will need this information to inform their decision (see Circular 06/05, page 9). If planning permission is granted, a development licence, or conservation licence, from Natural England may be required.

BIRDS

All bird nests (while in use or being built), eggs and young are protected under the Wildlife and Countryside Act (WCA). Therefore, removal of any bird nesting habitat such as trees or scrub (or buildings in the case of birds such as barn owls, swifts, swallows, house martins and house sparrows) should only take place outside of the bird breeding season.

Some birds, listed on Schedule 1 of the WCA receive an extra level of protection which means that they cannot be disturbed during the breeding season; those likely to be found in Oxfordshire include red kite, kingfisher, barn owl, peregrine, hobby, harriers, little ringed plover, and Cetti's warbler. A full list can be downloaded from the [Protected and Notable](#)

[Species page on the TVERC website](#).

[Amendments to the Habitats Regulations](#) in 2012 mean that, when making decisions as a competent authority, local authorities must use "all reasonable endeavours" to avoid any pollution or deterioration of wild bird habitats. Public bodies, such as local authorities, in carrying out their normal duties must also take steps to preserve, maintain and re-establish habitat for wild birds. The objective of this duty is to maintain the populations of wild birds, while taking account of economic and recreational requirements.

In time, guidance will be issued by the Secretary of State for DEFRA on how to interpret the requirements, and compliance will be reviewed by Natural England. Until guidance is issued, authorities will, themselves, have to

LEGISLATION

[The Conservation of Habitats and Species regulations 2010 \(as amended\)](#)

[The Conservation of Habitats and Species \(Amendment\) Regulations 2012](#)

[Wildlife and Countryside Act \(1981\)](#)

[Protection of Badgers Act 1992](#)

[ODPM Circular 06/2005](#)

PLANNING POLICY

National Planning Policy Framework does not cover protected species specifically since they are protected by law. However, the National Planning Policy Framework paragraphs 109 and 118 state that net gains in biodiversity should be sought and net loss of biodiversity avoided.

Check the relevant District Council's Local Plan for local policy.



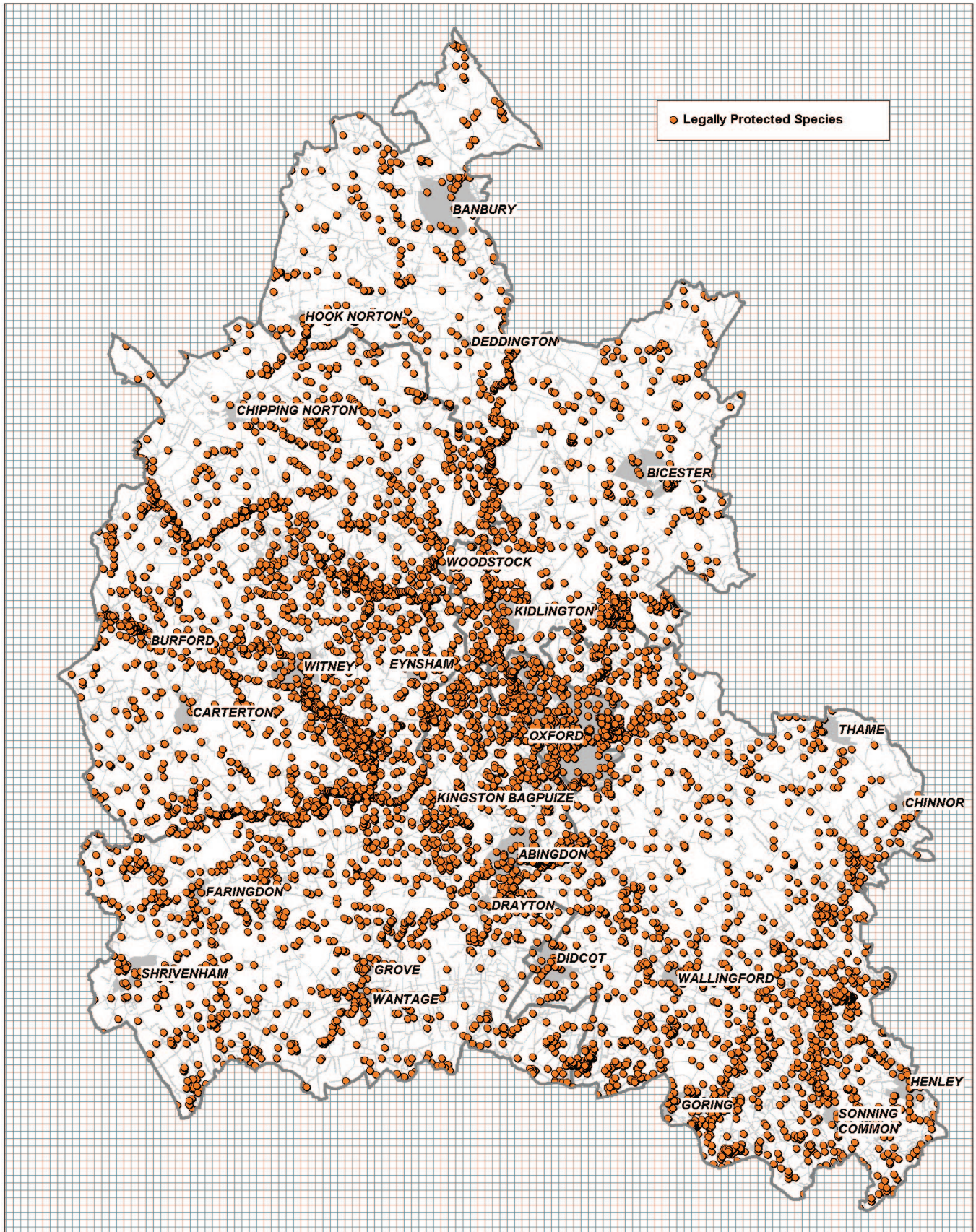
BADGERS

Badgers are a fairly common species, and are, therefore, quite likely to be encountered on a potential development site. Whilst not a rare species, badgers receive legal protection due to persecution and animal welfare issues.

Badgers are protected under the Protection of Badgers Act 1992 against killing, injury or taking. Badger setts are also protected against damage, destruction or obstruction and it is illegal to disturb a badger in its sett.

An up-to-date badger survey and report will be needed if a development is likely to impact on a badger sett, and appropriate mitigation will need to be put in place if impacts cannot be avoided.

Legally Protected Species in Oxfordshire



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This map is an example and may be out of date – for current information contact [TVERC](#)

KEY ORGANISATIONS

[Environment Agency](#)

[Local authorities](#)

[Natural England](#)

[RSPB](#)

2b Legally protected species

Where are protected species likely to occur?

As **Map 2** demonstrates, there are many records for protected species across the county.

There is a licensing process for impacts on protected species. There is case law that demonstrates that Local Planning Authorities need to take into account the likelihood of any impacts on protected species.

More information on how to determine when a protected species survey is required has been produced by Natural England in a Standing Advice Note.

It is important to bear in mind that protected species surveys can usually only be undertaken at certain times of year. For example, surveys of ponds for great crested newts must be undertaken between mid-March and mid-June when newts return to ponds to breed.

Great crested newt (David Kilbey)



THE THREE TESTS

The 'Three Tests' (extract from [Natural England website](#)):

Wildlife licences permit otherwise unlawful activities, and can only be granted for certain purposes. Natural England has published [guidance on how we apply the three tests](#) set out in Regulation 53 of the Habitats Regulations 2010 when granting licences.

These tests are:

- The consented operation must be for 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'; and
- There must be 'no satisfactory alternative'; and
- The action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.'



Pipistrelle bat (Amy Lewis)

THE MORGE CASE

R (Vivienne Morge) v Hampshire County Council [2011] UKSC 2 and [2011] UKSC 2 (Morge)

Local Planning Authorities have a duty to have regard to the requirements of the Habitats Directive (See Regulation 9(5) of the 2010 Habitats Regulations). The judgement in the recent case of Morge (FC) (Appellant) v Hampshire County Council [2011] UKSC 2 considered the application of this duty. It came to the conclusion that, if the Planning Authority concludes that the carrying out of the development for which permission has been applied for even if it were to be conditioned, would be likely to offend Article 12(1), by for instance, causing the disturbance of a species with which that Article is concerned, then it must consider the likelihood of a licence being granted.

FURTHER INFORMATION

- [ALGE – Biodiversity Planning Toolkit](#)
- [British Standard BS 42020:2013 Biodiversity. Code of practice for planning and development.](#)
- [British Standard BS 5837:2012 Trees in relation to design, demolition and construction. Recommendations.](#)
- [Badgers and Development \(Natural England\)](#)
- [Bat Mitigation Guidelines \(Natural England\)](#)
- [Circular 06/05: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System](#)
- [Dormouse Conservation Handbook \(Natural England\)](#)
- [Great Crested Newts Mitigation Guidelines \(Natural England\)](#)
- [Natural England Standing Advice on Protected Species](#)
- [Reptile Mitigation Guidelines \(Natural England\)](#)
- [Water Voles \(Natural England advice\)](#)



Water vole (Terry Longley/seemg.org.uk)