

significance of the site. Where there is a risk of damage to a designated site, the Local Planning Authority will impose planning conditions or require a Section 106 Agreement in order to secure measures that overcome any potential impacts. Such measures could include the long-term management of the site, restriction of operations, or the provision of nature conservation features to compensate for any such features lost when development takes place to ensure that there is no net loss in overall biodiversity.

Policy LE6: Protecting Species and Other Features of Nature Conservation Importance

POLICY LE6: PROTECTING SPECIES AND OTHER FEATURES OF NATURE CONSERVATION IMPORTANCE

- 1. Planning permission will not be granted on a site that would have an adverse impact on a protected species or its habitat unless it can be clearly demonstrated that there is an overriding need for the development that outweighs the significance of the nature conservation feature. In such instances, the Council will impose conditions on the planning permission or require a planning obligation to:**
 - a) facilitate the survival of individual members of the species;**
 - b) reduce disturbance to a minimum;**
 - c) provide alternative habitats to sustain at least the current levels of population of the species; and**
 - d) take opportunities to enhance their habitat.**
- 2. Planning permission will not be granted for development which would adversely affect, directly or indirectly, features of nature conservation importance unless it can be demonstrated that the justification for the development outweighs their importance for nature conservation or amenity value.**
- 3. Appropriate management of these features will be secured by the imposition of planning conditions and by entering management agreements with landowners where appropriate. Where such features are lost as part of a development proposal, the Council will use conditions and/or planning obligations to ensure there is a net gain of biodiversity.**

EXPLANATION OF POLICY LE6

Protected Species and their habitats (Point 1 of Policy LE6)

- 10.53 This policy needs to be considered with Policy D5 relating to the LEN and development proposals should be aiming to achieve a net gain in

biodiversity as set out in Policy LE8. There are numerous sites which are likely to contain species which are protected by law. For example, householder applications relating to roof materials or voids may impact upon roosting bats and nesting birds, whilst applications relating to trees and other vegetation could also impact nesting birds.

- 10.54 Protected species are principally identified under the Habitats Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 and other Acts which protect particular species, such as the Protection of Badgers Act 1992. All local authorities have a statutory obligation to conserve and enhance biodiversity under the Environment Act 2021³²³.
- 10.55 The presence of a protected species is a material consideration when determining a planning application, particularly if it is likely to result in harm to the species. Planning applications will therefore need to be supported by the relevant ecological surveys and studies if applicable, including data searches obtained from the HBIC. It is important to note that whilst some sites may appear to have little or no ecological value through a desktop survey, the ecology of a site can be unpredictable and there may in fact be some value present on site. As such, the information about a site's ecological status could change through the lifetime of the planning process and further information and/or mitigation may be needed in order to determine the application and prevent ecological harm.
- 10.56 Where relevant the Council will attach appropriate planning conditions or require planning obligations in order to secure the protection of the particular species and take opportunities to enhance their habitat.
- 10.57 The Council will also consider relevant strategies and evidence studies when determining planning applications. This includes the following:
- The Solent Waders and Brent Goose Strategy (2020 and latest supporting evidence)³²⁴ which identifies the most important sites for a variety of species and outlines a number of policies and proposals to minimise human impacts on sites.
 - The Solent Recreation Mitigation Strategy produced by Bird Aware Solent includes detailed evidence on the impact of recreational disturbance generated by proposed development around the Solent on important habitats. It includes a mitigation strategy which will be used when determining relevant proposals.

³²³ www.gov.uk/guidance/complying-with-the-biodiversity-duty

³²⁴ Produced by the Hampshire and Isle of Wight Wildlife Trust in partnership with a number of other organisations <https://solentwbgs.wordpress.com/>

Features of nature conservation importance (Points 2 and 3 of Policy LE6)

- 10.58 There are a number of habitats and features outside of designated sites that make a significant contribution to local biodiversity which may or may not contain protected species and these also form part of the LEN(see Policy D5). Such features include trees and woodland, hedgerows (Policy LE7), wetlands and ponds, river corridors and other important local habitats.
- 10.59 Planning applications affecting features of importance for nature conservation will not be determined until the impact of development is properly evaluated. The Council's requirements for supporting information are set out in its local list³²⁵.
- 10.60 Where the Council considers that development proposals are acceptable but may result in damage to identified features, it will ensure that this is minimised by use of a planning condition and/or a planning obligation to protect and enhance remaining features. Provision may be required to re-establish elements of the area affected either on-site or within the locality. The level of provision should ensure a net gain in biodiversity occurs, and should take account of time lags between the loss and replacement of important nature conservation features as well as the risks associated with delivering the appropriate quality of such features. This often requires a replacement ratio of greater than 1:1 to take account of these risks.

³²⁵ www.gosport.gov.uk/article/1237/List-of-documents-required-by-GBC-LPA