

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 LP44: 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 planning authority 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. Development proposals should ensure that habitats and species on the UK List of Priority Habitats and Species and included within Hampshire Biodiversity Action Plans are protected and populations strengthened.**
- 3. 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.**
- 4. 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 Borough Council will use conditions and/or planning obligations to ensure no net loss of biodiversity.**

EXPLANATION OF POLICY LP44

Protected Species and their habitats (Point 1 of policy LP44)

- 12.82 Development proposals should be aiming to achieve a net gain in biodiversity as set out in Policy LP41. There are numerous sites which are likely to contain animal and plant species which are protected by law. These species are principally identified under the Habitats Regulations 2010, 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 biodiversity under the Natural Environment and Rural Communities (NERC) Act 2006. The duty encourages local authorities to maximise opportunities for conserving and enhancing the natural environment.

- 12.83 The presence of a protected species is a material consideration when determining a planning proposal, 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. Where relevant the Borough 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.
- 12.84 The Borough Council will also consider relevant strategies and evidence studies when determining planning applications. This includes the following:
- The Solent Waders and Brent Goose Strategy (2010)²³⁶ which identifies the most important sites for a variety of species and outlines a number of policies and proposals to minimise human impacts on such sites.
 - Solent Recreation and Disturbance Project includes detailed evidence on whether proposed development around the Solent in-combination will have a detrimental impact on important habitats. It includes a mitigation strategy which will be used when determining relevant proposals.

Priority Habitats and Species (Point 2 of policy LP44)

- 12.85 Section 40 and 41 of the Natural Environment and rural Communities Act 2006 requires the Government to produce a list identifying habitats and species which are considered of principal importance for the conservation of biological diversity in England. This list forms the 'UK List of Priority Habitats and Species (BAP)²³⁷. The Hampshire Biodiversity Action Plan has been prepared by the Hampshire Biodiversity Partnership and highlights the habitats and species that are particularly important in Hampshire²³⁸.
- 12.86 When determining planning applications the Borough Council will have regard to the 'UK List of Priority Habitats and Species' and Hampshire Biodiversity Action Plans. Appropriate measures will be secured through the use of conditions and planning applications where applicable.

Features of nature conservation importance (Point 3 and point 4 of policy LP44)

- 12.87 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. Many of the action plans for individual species which make up the Hampshire BAP include provisions to protect important natural features that are critical for the target species as well as other species. Such features include trees and woodland, hedgerows, wetlands and ponds, river corridors and other important local habitats. Important trees and woodlands may be given specific protection through the designation of Tree Preservation Orders.
- 12.88 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 list.²³⁹

²³⁶ Produced by the Hampshire and Isle of Wight Wildlife Trust in partnership with a number of other organisations
<http://www.solentforum.org/publications/>

²³⁷ www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/prioritylist.aspx

²³⁸ <http://www.hampshirebiodiversity.org.uk/action.html>

²³⁹ <http://www.gosport.gov.uk/sections/your-council/council-services/planning-section/list-of-documents-required-by-gbc-lpa/>

- 12.89 Where the Borough 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 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 no net loss of biodiversity, 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.

Further information:

Biodiversity and Geological Conservation Background Paper (GBC 2014);
www.gosport.gov.uk/localplanreview2029

Conservation of Habitats and Species Regulations (2010);
<http://www.legislation.gov.uk/ukxi/2010/490/contents/made>

Habitats Regulation Assessment (Urban Edge 2014);
www.gosport.gov.uk/localplanreview2029

Hampshire Biodiversity Action Plan (HCC 2000-14);
<http://www.hampshirebiodiversity.org.uk/action.html>

Sites of Importance for Nature Conservation (living list and qualifying criteria);
<http://www.gosport.gov.uk/sections/your-council/council-services/planning-section/nature-conservation/local-sites/>

Solent Forum information on the Solent Disturbance and Mitigation Project; and
http://www.solentforum.org/forum/sub_groups/Natural_Environment_Group/Disturbance_and_Mitigation_Project/

Solent Waders and Brent Goose Strategy (Hampshire and IoW Wildlife Trust et al 2010). <http://www.solentforum.org/publications/>