



Net Zero
Teesside

Preliminary Environmental Information Report

Volume III - Appendices

Appendix 15A: Legislation and Planning Policy

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended)



Prepared by: **AECOM**

Table of Contents

Appendix 15A Legislation and Planning Policy	15-1
15.1 References	15-7

Tables

Table 15A-1: Summary of Relevant Legislation.....	1
Table 15A-2: Summary of Relevant National and Local Planning Policy and Associated Guidance	3

Appendix 15A Legislation and Planning Policy

Table 15A-1: Summary of Relevant Legislation

Statute	Relevant legal requirements
The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations)	<p>Consolidates the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations came into force on 30th November 2017.</p> <p>The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.</p> <p>Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.</p> <p>The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities. Licenses may be granted for a number of purposes (such as science and education, conservation, preserving public health and safety), but only after the appropriate authority is satisfied that there are no satisfactory alternatives and that such actions will have no detrimental effect on wild population of the species concerned.</p> <p>The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation). Special provisions are also made as respects general development orders, special development orders, simplified planning zones and enterprise zones.</p>
Wildlife and Countryside Act 1981 (as amended) (WCA)	<p>Part 1 of the WCA affords general protection to all species of wild bird, and specific protection to flora and fauna listed in Schedules 1 (birds protected by special penalties), 5 (other animals), and 8 (flora, fungi and lichens). It is an offence (subject to exceptions) to:</p> <ul style="list-style-type: none"> • kill, injure, or take any wild bird; • take, damage or destroy the nest of any wild bird while that nest is in use or being built; • take or destroy an egg of any wild bird;

Statute	Relevant legal requirements
	<ul style="list-style-type: none"> • disturb any wild bird listed on Schedule 1 of the WCA while nesting, or disturb the dependent young of such a bird (e.g. quail); • kill, injure or take any wild animal listed on Schedule 5 (e.g. bats, great crested newt, common lizard); • damage, destroy or obstruct places used for shelter or protection by wild animals listed on Schedule 5 and covered by Part 4A of the WCA (e.g. bats and great crested newt); • intentionally disturb wild animals listed in Schedule 5, and covered by Part 4A of the WCA, that are occupying places of shelter and protection (e.g. bats and great crested newt); and • pick, uproot or destroy any plant, fungi or lichen listed in Schedule 8. <p>In certain circumstances, licences can be granted to permit some actions prohibited under the WCA. Schedule 9 provides lists of non-native flora and fauna that it is an offence to release or cause to spread in the wild. Of primary relevance in the context of proposed developments are flora e.g. invasive non-native plant species. Part 2 of the WCA details the law regarding SSSIs and other protected areas within Great Britain.</p>
<p>Countryside & Rights of Way Act 2000 (CRoW)</p>	<p>The Act places a duty on Government Departments to have regard for the conservation of biodiversity and maintain lists of species and habitats for which conservation steps should be taken or promoted, in accordance with the Convention on Biological Diversity.</p> <p>Schedule 9 of the Act amends SSSI provisions of the Wildlife and Countryside Act 1981, including provisions to change SSSIs and providing increased powers for their protection and management.</p> <p>Schedule 12 of the Act amends the species provisions of the WCA, strengthening the legal protection for threatened species. The provisions make certain offences 'arrestable', create a new offence of reckless disturbance, confer greater powers to police and wildlife inspectors, and enable heavier penalties on conviction of wildlife offences.</p>
<p>Natural Environment and Rural Communities Act 2006 (NERC)</p>	<p>Through Section 40 of the Act, a legal duty is placed on Government Departments and public authorities to have regard for the conservation of biodiversity. This 'biodiversity duty' includes, but is not restricted to, habitats and species of principal importance for nature conservation in England published by the Government in accordance with the requirement set through Section 41 of the Act. Protecting and enhancing England's Section 41 habitats and species is considered key to delivering the Government's Biodiversity 2020 Strategy (see Table 10A.2).</p>
<p>Animal Welfare Act 2006</p>	<p>This Act contains provisions relating to:</p> <ul style="list-style-type: none"> • prohibition of certain methods for taking or destroying fish; • obstructions to the passage of fish in watercourses.

Table 15A-2: Summary of Relevant National and Local Planning Policy and Associated Guidance

Statute	Relevant policies	Purpose
Overarching National Policy Statement for Energy (EN-1)	Part 5.3: Biodiversity and geological conservation	<p>Sets out national policy for energy infrastructure. Where the development is subject to EIA the applicant should ensure that the ES clearly sets out any effects on internationally, nationally and locally designated sites of ecological or geological conservation importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity.</p> <p>Requires that the applicant shows how the project has taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests.</p>
Redcar and Cleveland Local Plan (2018)	Policy N2: Green Infrastructure	<p>Sets out support for development which protects and improves the green infrastructure network of the region. Particular reference to the '<i>green wedge between Wilton Works and Redcar, extending North to the coast.</i>' (Green Wedges are areas of open space in the Tees Valley which link suburban and urban areas with the wider countryside and are part of the Tees Valley Green Infrastructure Strategy (Tees Valley Joint Strategy Unit, 2008))</p>
	Policy N4: Biodiversity & Geological Conservation	<p>Sets out policy support for protection and enhancement of biodiversity and ecological features as a result of development. Particular reference and weight are given to internationally designated sites such as Teesmouth and Cleveland Coast Special Protection Area (SPA), and nationally designated sites, habitats and species. Policy also sets out protection of ecological features of particular value as wildlife corridors such as river corridors and hedgerows.</p>
Stockton-on-Tees Local plan (2019)	Policy ENV5: Preserve, Protect and Enhance Ecological Networks, Biodiversity and Geodiversity	<p>The Council will protect and enhance the biodiversity and geological resources within the Borough. Development proposals will be supported where they enhance nature conservation and management, preserve the character of the natural environment and maximise opportunities for biodiversity and geological conservation particularly in or adjacent to Biodiversity Opportunity Areas in the River Tees Corridor, Teesmouth and Central Farmland Landscape Areas.</p> <ol style="list-style-type: none"> 1. The Council will preserve, restore and re-create priority habitats alongside the protection and recovery of priority species.

Statute	Relevant policies	Purpose
		<ul style="list-style-type: none"> 2. Ecological networks and wildlife corridors will be protected, enhanced and extended. A principal aim will be to link sites of biodiversity importance by avoiding or repairing the fragmentation and isolation of natural habitats. 3. Sites designated for nature or geological conservation will be protected and, where appropriate enhanced, taking into account the following hierarchy and considerations: <ul style="list-style-type: none"> a. Internationally designated sites – Development that is not directly connected with or necessary to the management of the site, but which is likely to have a significant effect on any internationally designated site, irrespective of its location and when considered both alone and in combination with other plans and projects, will be subject to an Appropriate Assessment. Development requiring Appropriate Assessment will only be allowed where: <ul style="list-style-type: none"> i. It can be determined through Appropriate Assessment, taking into account mitigation, the proposal would not result in adverse effects on the site's integrity, either alone or in combination with other plans or projects; or ii. as a last resort, where, in light of negative Appropriate Assessment there are no alternatives and the development is of overriding public interest, appropriate compensatory measures must be secured. b. Nationally designated sites - Development that is likely to have an adverse effect on a site, including broader impacts on the national network of Sites of Special Scientific Interest (SSSI) and combined effects with other development, will not normally be allowed. Where an adverse effect on the site's notified interest features is likely, a development will only be allowed where: <ul style="list-style-type: none"> i. the benefits of the development, at this site, clearly outweigh both any adverse impact on the sites notified interest features, and any broader impacts on the national network of SSSI's; ii. no reasonable alternatives are available; and ii. mitigation, or where necessary compensation, is provided for the impact. c. Locally designated sites: Development that would have an adverse effect on a site(s) will not be permitted unless the benefits of the development clearly outweigh the harm to the conservation interest of the site and no reasonable alternatives are available. All options should be explored for retaining the most valuable parts of the sites interest as part of the development proposal

Statute	Relevant policies	Purpose
		<p>with particular consideration given to conserving irreplaceable features or habitats, and those that cannot readily be recreated within a reasonably short timescale, for example ancient woodland and geological formations.</p> <p>Where development on a site is approved, mitigation or where necessary, compensatory measures will be required in order to make development acceptable in planning terms.</p> <p>4. Development proposals should seek to achieve net gains in biodiversity wherever possible.</p> <p>It will be important for biodiversity and geodiversity to be considered at an early stage in the design process so that harm can be avoided and wherever possible enhancement achieved (this will be of particular importance in the redevelopment of previously developed land where areas of biodiversity should be retained and recreated alongside any remediation of any identified contamination). Detrimental impacts of development on biodiversity and geodiversity, whether individual or cumulative should be avoided. Where this is not possible, mitigation and lastly compensation, must be provided as appropriate. The Council will consider the potential for a strategic approach to biodiversity offsetting in conjunction with the Tees Valley Local Nature Partnership and in line with the above hierarchy.</p> <p>5. When proposing habitat creation it will be important to consider existing habitats and species as well as opportunities identified in the relevant Biodiversity Opportunity Areas. This will assist in ensuring proposals accord with the 'landscape scale' approach and support ecological networks.</p> <p>6. Existing trees, woodlands and hedgerows which are important to the character and appearance of the local area or are of nature conservation value will be protected wherever possible. Where loss is unavoidable, replacement of appropriate scale and species will be sought on site, where practicable.</p>
<p>Biodiversity 2020: A strategy for England's wildlife and ecosystem services</p>		<p>Sets out the strategic direction of the Government for biodiversity policy for the next decade on land (including rivers and lakes) and at sea, and how international commitments will be implemented.</p>

Statute	Relevant policies	Purpose
Redcar and Cleveland Borough Council Local Validation Checklist (2015);		<p>The checklist states that:</p> <p>“Information should be provided on existing biodiversity interest and possible impacts. Where proposals are being made for mitigation and / or compensation measures information to support those proposals will be required. Where appropriate, accompanying plans should indicate any significant wildlife habitats or features and the location of habitats of any protected species. Information will also be required relating to protected species, any potential impacts and any mitigation proposals.</p> <p>This information might form part of an Environmental Statement, where one is necessary.</p>
Tees Valley Green Infrastructure Strategy (2008);		<p>The strategy States that: ‘Green infrastructure should be fundamental to the planning of major new development and re-development schemes [...]’. It also states that new development should protect and enhance wildlife sites and corridors where possible and management should promote wildlife linkages.</p>
Standing Advice issued by Defra, Natural England and the Forestry Commission	Protected sites and species	<p>Guidance has been published covering protected sites, habitats and species. This includes guidance on providing and protecting wild bird habitats to address legal requirements set out in the Habitats Regulations.</p> <p>The purpose of standing advice is to guide decision-makers on the determination of proposals with potential to affect protected sites, habitats and species. The guidance sets out responsibilities and minimum requirements for survey and mitigation, including the need to consider objectives for no net loss and provision of net gain. Where impacts cannot be avoided, then planning applications should be determined with regard to ensuring:</p> <ul style="list-style-type: none"> • no more habitat is lost than is replaced (no net loss); • as a minimum like-for-like habitat replacements; and • consideration of options to secure better alternative habitat in terms of quality or area, compared to what will be lost.

15.1 References

Animal Welfare Act 2006 (c. 45). London: The Stationery Office.

Countryside and Rights of Way Act 2000 (as amended) (c. 37). London: The Stationery Office.

Department of Agriculture, Environment and Rural Affairs (DAERA) (2018). *Standing advice for development of land that may affect Natural Heritage Interests* [Online]. Available at: <https://www.daera-ni.gov.uk/publications/standing-advice-development-land-may-affect-natural-heritage-interests>

Department for Environment, Food and Rural Affairs (DEFRA) (2011). *Biodiversity 2020: A strategy for England's wildlife and ecosystem services*. Version 1, published August 2011. London: Department for Environment, Food and Rural Affairs.

Defra and Natural England (2016). *Protected species: how to review planning applications: Standing Advice issued by Defra and Natural England* [Online]. Available at: <https://www.gov.uk/guidance/protected-species-how-to-review-planning-applications>

Department of Energy and Climate Change (2011). *Overarching National Policy Statement for Energy (EN-1)*. London: The Stationery Office.

Ministry of Housing, Communities and Local Government (2019). *National Planning Policy Framework*. London: The Stationery Office.

Natural Environment and Rural Communities Act 2006 (c. 16). London: The Stationery Office.

Redcar and Cleveland Borough Council (2015). *Redcar and Cleveland Borough Council Local Validation Checklist* [Online]. Available at: <https://www.redcar-cleveland.gov.uk/resident/planning-and-building/planning-permission/apply-for-planning-permission/Documents/Redcar%20and%20Cleveland%20Local%20List%20-%202015.pdf>

Redcar and Cleveland Borough Council (2018). *Redcar and Cleveland Borough Council Local Plan* [Online]. Published May 2018. Available online at: <https://www.redcar-cleveland.gov.uk/resident/planning-and-building/strategic%20planning/Documents/Local%20Plan%20Adopted%20May%202018.pdf>

Stockton-on-Tees Borough Council (2019). *Stockton-on-Tees Local Plan* [Online]. Published January 2019. Available online at: <https://www.stockton.gov.uk/media/1585775/localplanmainreportcontents.pdf>

Tees Valley Joint Strategy Unit (2008). *Tees Valley Green Infrastructure Strategy* [Online]. Available online at: [https://www.middlesbrough.gov.uk/sites/default/files/PlanLib-TV Green Infrastructure Strategy.pdf](https://www.middlesbrough.gov.uk/sites/default/files/PlanLib-TV%20Green%20Infrastructure%20Strategy.pdf)



The Conservation of Habitats and Species Regulations 2017 (as amended) (SI 2017/1072). London: The Stationary Office.

Wildlife and Countryside Act 1981 (as amended) (c. 69). London: The Stationary Office.