



Planning Services
Development Planning & Environment



PLANNING GUIDANCE (PG)
Planning for Nature
Development Management & Wildlife

Adopted 15 April 2020

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one

How to use this guidance

- 1.1 This Planning Guidance (PG) is one of a series which supplements and supports the policies and proposals of the West Lothian Local Development Plan 2018 (LDP).
- 1.2 The LDP was adopted by the council on 4 September 2018 and is framed within the context of [Scottish Planning Policy \(2014\)](#); [Circular 3/2012: Planning Obligations and Good Neighbour Agreements](#); and [Circular 4/1998: The Use of Planning Conditions in Planning Permissions](#).
- 1.3 This guidance is intended to help prospective developers and agents understand how their proposals impact on the biodiversity (wildlife and habitats) and geodiversity (rocks, soils and fossils) of the West Lothian area and how this should be taken into account when formulating proposals for planning permission. The guidance will also be a material consideration which the council will have regard to when it considers applications for planning permission.
- 1.4 For the avoidance of doubt, all previous guidance (known as Supplementary Planning Guidance or 'SPG') and specifically relating to the natural environment and biodiversity is superseded by this PG from the date it is approved by the council.
- 1.5 Applicants are encouraged to refer to this guidance at the earliest opportunity since it contains important information on potential wildlife and habitats requirements, constraints and opportunities allied to new development.
- 1.6 Applicants can also make use of the council's pre-application enquiry service in order to identify potential wildlife and habitats issues and site specific requirements which can help avoid unnecessary delays in the planning process. Details of this service can be accessed on the [council's website](#). Please note however that this is a chargeable service.
- 1.7 Scottish Natural Heritage (SNH) is a statutory consultee for certain developments that affect wildlife. It has a particular role with regard to proposals that require an Environmental Impact Assessment (EIA) and those that could affect sites with a statutory nature conservation designation. Annex A of the guidance sets out in more detail SNH's role in the planning system.

Key to text boxes

- 1.8 A particular feature of this guidance is the incorporation of coloured text boxes.

Green Boxes

identify legislation and the key processes that require to be followed

Red Boxes

set out important points to remember

Blue Boxes

identify relevant Local Development Plan policies

Further information

- 1.9 Further relevant and practical information with regard to planning, development, habitats and wildlife can be found on the following web sites:

 West Lothian Council	http://www.westlothian.gov.uk
 Scottish Natural Heritage Dualchas Nàdair na h-Alba	http://www.snh.gov.uk
 Scottish Government Riaghaltas na h-Alba	http://www.scotland.gov.uk
 Scottish Wildlife Trust	http://scottishwildlifetrust.org.uk
 CSGN Central Scotland Green Network Trust	http://www.csqnt.org.uk/
 rspb	http://www.rspb.org.uk
 SCOTTISH BADGERS	https://www.scottishbadgers.org.uk/planning.asp
<p>It is also the case that the council's countryside ranger service has very good local wildlife knowledge and is an additional resource which can be taken advantage of.</p>	mail@beecraigs.com

- 2.1 West Lothian Council encourages high quality development that contributes positively to the local environment. The council has a broad approach to conserving nature taking into account ecosystems and natural processes, as well as conserving designated or protected sites and species. There is a recognition of the importance of green networks, wetlands and areas of open space that help to maintain biodiversity and allow ecosystems and natural processes to provide multifunctional services such as flood control, pollution control and community wellbeing (e.g. amenity and recreation).
- 2.2 This chapter provides the policy context for decisions on developments that can affect wildlife and sets out key information about the designated sites in West Lothian.
- 2.3 There are a number of designated sites within West Lothian that carry statutory protection at the European, National (UK and Scottish) and West Lothian levels – under the Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) Act 2019 and which also explicitly mandates Local Development plans to include environmental policies - the most relevant and important for biodiversity protection being those of Local Biodiversity Site Designations. These sites are referred to as international, national and local sites respectively. The West Lothian Local Development Plan 2018 policies ENV 17, ENV 18, ENV 19 and ENV 20 seek to ensure that protected habitats and species are considered appropriately when determining relevant planning decisions. Key legislation is summarised in Annex B of this guidance.

International sites

- 2.4 Internationally designated sites in West Lothian are shown in Figure 1. They have protection under European law and are commonly known as European sites. They comprise of:
- Special Areas of Conservation (SAC) – designated for their habitats and species under the EC Habitats Directive (92/43/EEC). In West Lothian there is Blawhorn Moss SAC north of Blackridge and Craigengar Moss SAC in the south west Pentlands; and
 - Special Protection Areas (SPA) – designated for their birds under the EC Wild Birds Directive (2009/147/EC). Part of the Firth of Forth SPA is in West Lothian (Figure 1).

LDP Policy ENV 17 Protection of International Nature Conservation Sites

Development proposals within or affecting areas classified as existing or candidate sites of international importance, under European Directives (Special Areas of Conservation (SAC) and Special Protection Areas (SPA)), or affecting the habitats and species listed in the Habitat Directives Annexes I and II and Birds Directive Annex 1, will not be permitted unless it can be ascertained that it will not adversely affect the integrity of a European site, or

- a. there are no alternative solutions;
- b. there are imperative reasons, of over-riding national public interest, including those of a social or economic nature, to allow development; and
- c. compensatory measures are provided to ensure that the overall coherence of the European site Network is provided.

Proposals likely to have a significant effect on a European site will only be approved if it can be ascertained by the council, by means of an Appropriate Assessment, that the integrity of the European site will not be adversely affected. Applicants will be required to provide information to inform the Appropriate Assessment. Proposals must also have regard to the requirements of Planning Guidance *Planning for Nature: Development Management & Wildlife*.

- * It should be noted that in the event of the UK leaving the EU the objectives of the EU Habitats and Wild Birds Directives and protection of sites will continue unchanged as they have been preserved by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 and the Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019.



National sites

2.5 Nationally designated sites in West Lothian are also shown in Figure 1. They include Sites of Special Scientific Interest (SSSIs) which are notified for the special interest of their habitats, flora, fauna, geology or geomorphology. There are 16 SSSIs in West Lothian. There is also a National Nature Reserve (NNR) (Blawhorn Moss) which has habitats and species that are internationally important. Wildlife is managed very carefully consistent with encouraging public access and education.

2.6 Development that affects a SSSI or NNR will only be permitted where:

- it will not adversely affect the integrity of the area or the qualities for which it has been designated, or
- any such adverse effects are clearly outweighed by social, environmental or economic benefits of national importance.

LDP Policy ENV 18 Protection of National Nature Conservation Sites

Development within or affecting areas classified as sites of national importance, including National Nature Reserves (NNR) and Sites of Special Scientific Interest (SSSI), will not be permitted unless it can be satisfactorily demonstrated that it will not compromise the objectives or integrity of the designation, taking account of the potential to appropriately mitigate any impacts.

Development that would have significant adverse impacts that cannot be mitigated will only be supported where there is an over-riding national public interest that outweighs the designation interest.

Proposals for development within such areas will require an appropriate level of environmental or biodiversity assessment. Proposals must also have regard to the requirements of Planning Guidance *Planning for Nature: Development Management & Wildlife*.

Box 1: Habitats Regulations Appraisal (HRA)

When a developer considers a particular site for development, there will be a need to establish early on whether any future development could impact on a European site. Proposals do not need to be within a European site to affect its conservation interests. Consideration must be given to any plan or project that has the potential to affect a European site, no matter how far away the site is from the proposed development.

An example is where a proposed development may affect birds that are part of the qualifying interest of a designated site, but can feed in areas several kilometres away. Therefore, the interest of the site could be affected even though the European site is outwith the development site or West Lothian Council area.

If a European site could be affected the applicant will need to provide sufficient information to allow West Lothian Council to determine whether there will be a 'Likely Significant Effect' (LSE) on the qualifying interests of the European site. If there will be an LSE, then the applicant will need to provide West Lothian Council with the information to enable it to carry out an appropriate assessment.

LSE is any effect that may reasonably be predicted as a consequence of a plan or project that may affect the conservation objectives of the features for which the European site was designated, but excluding trivial or inconsequential effects. The word 'likely' should not be interpreted as 'more probable than not' but rather as a description of the existence of a risk of a significant effect.

The plan or project can then only be consented if it can be ascertained that it would not adversely affect the integrity of the site. The competent authority must ensure the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (or the Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019) are met before undertaking or permitting any project.

More information on HRA can be found on the [SNH website](#).

Statutory Designations

2.7 Statutory designations enjoy specific legal protection. Non-statutory designations are protected through the implementation of specific planning policies. There are three types of site of local significance; Local Geodiversity Sites Local Nature Reserves and Local Biodiversity Sites.

Statutory Designations	Non-statutory Designations
Local Nature Reserves	Local Biodiversity Sites (LBS)
	Country Parks
	Local Geodiversity Sites (LGS)

Local Geodiversity Sites - The geological sites shown in Figure 2 are split into two categories based on a geodiversity review of West Lothian carried out by the British Geological Survey. These are those sites with geological features of great value considered worthy of interpretation and conservation and those with features of some value that may be worthy of interpretation and conservation. Locally designated sites in West Lothian are shown in Figure 2.

Local Nature Reserves - An area to be designated as an LNR must be:

- at least of local importance in terms of its natural heritage
- wholly within the area of the local authority planning to designate it a reserve
- owned or leased by the local authority, or the owner(s) must formally agree to the designation

They are places to enjoy and learn more about local wildlife or geology. They include woodlands, wetlands and meadows and provide wild spaces where plants and animals, both common and rare, can thrive. They offer a more natural environment than parks and gardens, but are still readily accessible to, and for a wide range of people. Currently there is only one confirmed LNR in West Lothian, Easter Inch & Seafield Law LNR which was designated in 2006. There is another proposed LNR at Harperigg Reservoir, and while it has committee approval in principle from both WLC and City of Edinburgh Council (who own it) to progress to designation, this has yet to be taken forward.

Local Biodiversity Sites – A large number of these sites are riparian corridors straddling river banks that, due to their undeveloped nature, retain some of the best biodiversity to be found in West Lothian. There are 84 Designated Local Biodiversity Sites (LBS) and 41 known **proposed** Local Biodiversity Sites (pLBS) in West Lothian which are coordinated and managed by The Wildlife Information Centre (TWIC) on behalf of the council. **Proposed** sites are those which the council currently lacks sufficient environmental **and ecological** information about and which have yet to undergo an assessment by TWIC with regard to criteria including species status, plant diversity, habitat importance, connectivity, biodiversity features and social considerations. Assessments are ongoing and it is anticipated that the list of Designated sites will continue to increase.



Points to Remember: Designated Sites

- Take note of which designated sites may be affected by your proposals and how any effects may be avoided or mitigated.
- Your site may not lie within an SPA or SAC but there may be functional connectivity. You will then need to consider whether effects might be generated on such sites even though they may be some distance from the proposed development.

LDP Policy ENV 19 Protection of Local Biodiversity Sites and Local Geodiversity Sites

There is a presumption against development affecting areas of regional or local natural heritage importance such as Local Biodiversity and Local Geodiversity Sites, or their settings, unless it can be clearly shown that the objectives and integrity of the area will not be compromised or that the social or economic benefits to be gained from the development outweigh the nature conservation interest of the site.

In addition, measures require to be included with such development to show that the conservation interest of a designated area has been safeguarded, enhanced and sustained, insofar as is possible. Designations are: Local Nature Reserves (LNR), Local Biodiversity Sites (LBS), Peatland areas and Local Geodiversity Sites (LGS). Proposals for development within such areas will require an appropriate level of environmental or biodiversity assessment. The need for an Environmental Impact Assessment will (EIA) be considered against the EIA (Scotland) Regulations 1999. Proposals must also have regard to the requirements of Planning Guidance *Planning for Nature: Development Management & Wildlife*.

Further information

More information on **international sites** can be found by following this link

<https://www.nature.scot/professional-advice/safeguarding-protected-areas-and-species/protected-areas/international-designations>

More information on **national sites** can be found by following this link

<https://www.nature.scot/professional-advice/safeguarding-protected-areas-and-species/protected-areas/national-designations>

More information on **local sites** can be found by following this link

<https://www.nature.scot/professional-advice/safeguarding-protected-areas-and-species/protected-areas/local-designations>

More information on the **West Lothian Local Biodiversity Action Plan (LBAP)** can be found by following this link

<https://www.westlothian.gov.uk/media/2327/Planning-for-Biodiversity-Action-2005-2009/pdf/Planning-biodiversity-action2005-2009.pdf>

More information on **West Lothian geodiversity features** can be found by following this link

<https://www.westlothian.gov.uk/article/44205/West-Lothian-s-Local-Geodiversity-Sites->

Figure 1: International and National Natural Heritage Designations in West Lothian

Key:

Designated Sites

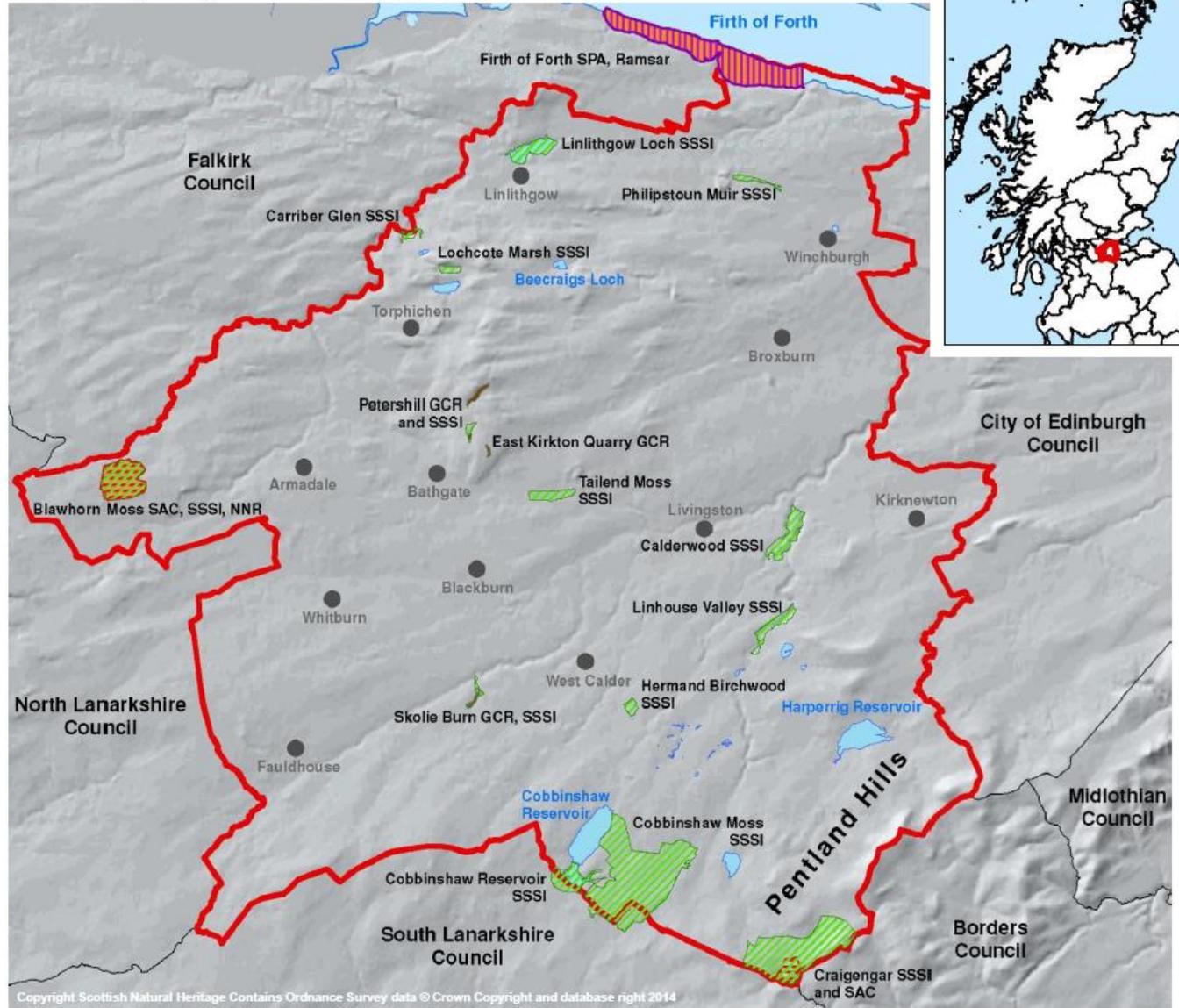
-  Ramsar Site
-  Special Protection Area (SPA)
-  Special Area of Conservation (SAC)
-  Site of Special Scientific Interest (SSSI)
-  National Nature Reserve (NNR)

Sites of National Importance

-  Geological Conservation Review (GCR) Site

Other Geographical Features

-  Open Water
-  West Lothian Council Boundary
-  Other Council Boundary
-  High Water Mark
-  Settlement



Exact site boundaries can be found at: <http://gateway.snh.gov.uk/sitelink/>

Figure 2: Local Natural Heritage Designations in West Lothian



West Lothian Local Geodiversity Sites and proposed Local Biodiversity Sites

Designated and proposed sites

- RED** Local Geodiversity Sites
- BLACK** Local Biodiversity Sites

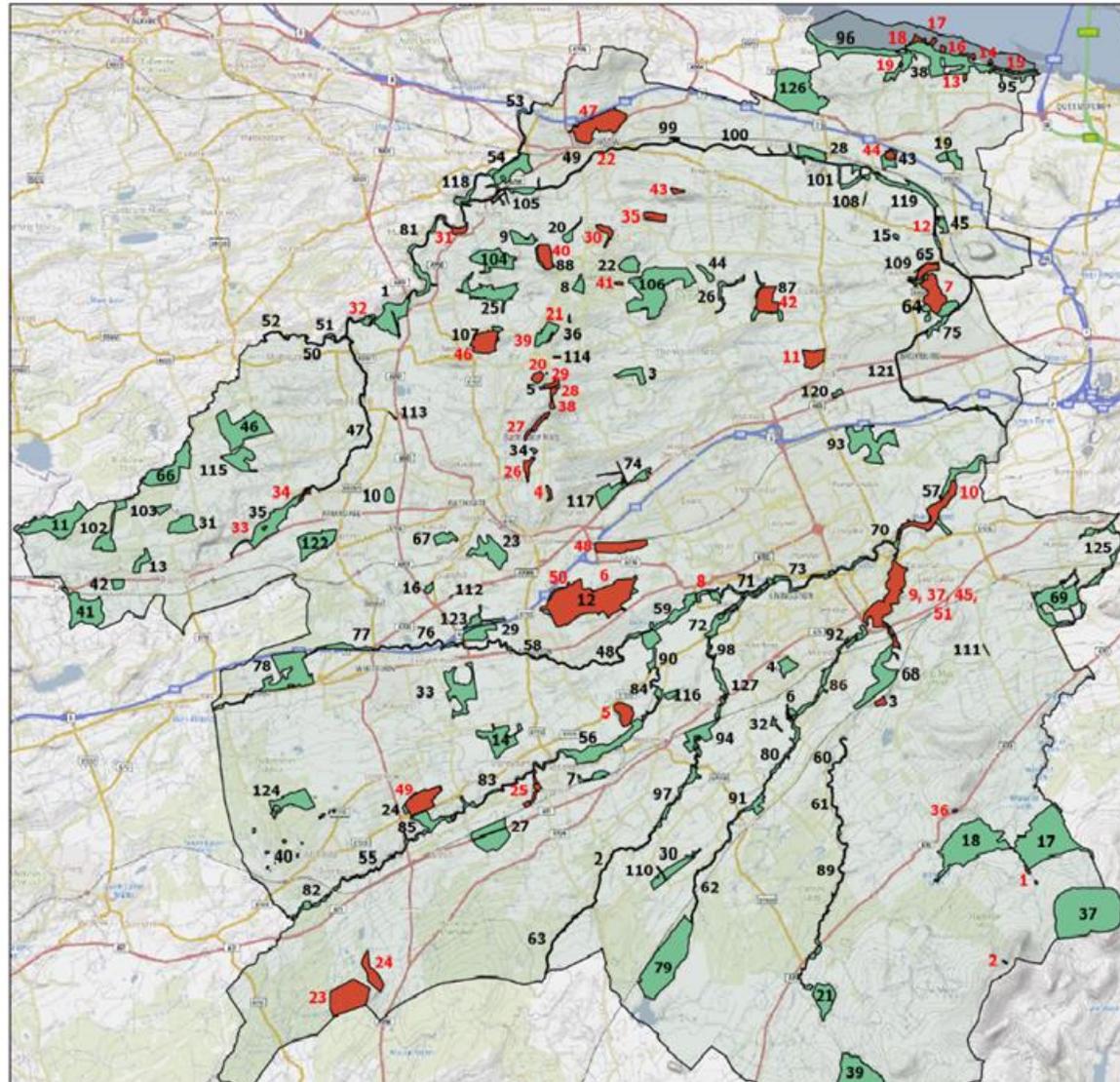
Other Features

- West Lothian Council Boundary

See table for site names.

Further information can be found at council's website www.westlothian.gov.uk

For exact site boundaries please contact: West Lothian Council



Designated and Proposed Local Biodiversity Sites continued

This data was correct at Spring 2019. Please check for the most up to date information on the [council's website](#).

1. The Desert & Wallace's Cave	27. Nether Longford Moss
2. Harwood Water - Baad's Mill to Hartwood	28. Old Philpstoun Bing
3. Bangour Reservoir	29. Swinabbey Moss
4. Bellsquarry Wood	30. West Torphin Wood
5. Silvermines Quarry	31. Westcraigs Moss
6. Skivo Quarry	32. Westfield Pond, Murieston
7. Addiewell Ponds	33. Whitrigg Bing
8. Balvormie Meadow and Pond	34. Galabraes Quarry Pond
9. Cockleroy Wood	35. Barbauchlaw Glen
10. Colinshiel Wood	36. Witch Craig
11. Drumbeg Moss	37. East Cairn Hill
12. Easter Inch Moss & Seafeld Law	38. Hopetoun House Grounds
13. Easter Redburn Moss	39. Middlemuir
14. Foulshiels Bing	40. Fauldhouse Ponds
15. Glendevon Pond	41. Raiziehill Moss
16. Half Loaf Pond	42. Mosshouse Farm Moss
17. Harperrig Moss	43. Craigton Quarry
18. Harperrig Reservoir	44. Ochiltree Fort Hills
19. Burn Craigs Wood and Bailes Muir	45. Winchburgh Clay Quarry Pond (West)
20. Cockleroy Reservoir	46. Hillhouse
21. Crosswood Reservoir	47. Barbauchlaw Burn Faucheldean Bing
22. Beecraigs Reservoir	48. River Almond - Blackburn to Seafeld
23. Bogburn Flood Lagoons	49. Union Canal - Linlithgow
24. Longridge Moss	50. River Avon - Ballenbreich
25. Lochcote Reservoir and Craigend Hill	51. River Avon - Avon Viaduct to Wallace's Cave
26. Mains Burn	52. River Avon - Wester Strath to Strath Mill

Designated and Proposed Local Biodiversity Sites continued

53.	River Avon - Linlithgow Bridge	78.	Polkemmet and River Almond to Greenrigg
54.	Avontoun Marsh & Pace Hill	79.	Cobbinshaw Main Reservoir
55.	Breich Water - Fauldhouse to Breich Crossroad	80.	Murieston Water - Annetcross to Murieston Castle
56.	North Addiewell Bing & associated Breich Water	81.	River Avon - Torphichen Bridge to Carriber Glen
57.	Almondell Country Park	82.	Breich Water - East Badallan to Fauldhouse
58.	River Almond - Blackburn	83.	Breich Water - Stoneyburn
59.	Almond Pools	84.	Breich Water - North Addiewell Bing to Easter Breich
60.	Linhouse Water - Overwilliamston to Linn Caldron	85.	Breich Water - Stoneheap
61.	Camilty Water	86.	Murieston Water - Murieston
62.	Bog Burn - Cobbinshaw to West Torphin	87.	Binny Craig
63.	Harwood Water - Woodmuir Plantation to Baad's Mill	88.	Cockleroy Hill
64.	Greendykes Bing	89.	Crosswood Burn
65.	Faucheldean Bing	90.	Breich Water - Easter Breich Wood to River Almond
66.	Drumtassie Old Workings	91.	Bog Burn - West Torphin to Annetcross Bridge
67.	Little Boghead	92.	Murieston Water - Livingston South to Manse Covert
68.	Linhouse Water - Oakbank to Linhouse	93.	Drumshoreland
69.	Kirknewton Estate	94.	Parkhead East and Hermand Quarry
70.	River Almond - Mid Calder to Sewage Works	95.	East Shore Wood and Shore
71.	River Almond - Livingston Village	96.	Wester Shore Wood
72.	Killandean Burn	97.	Harwood Water - Hartwood to Hermand Quarry
73.	River Almond - Almondvale	98.	Limefield Glen & Harwood Water to Gavieside Bridge
74.	Caputhall Moss and Woodland	99.	Union Canal - Linlithgow to Park Farm
75.	Union Canal - Winchburgh to Broxburn	100.	Union Canal - Park Farm to Philpstoun
76.	River Almond - Whitburn	101.	Union Canal - Philpstoun east to Craigton
77.	River Almond - Polkemmet to Whitburn	102.	West Blawhorn

DATA LABEL: PUBLIC

103.	East Blawhorn	116.	Briestonhill Moss
104.	Bowden Hill	117.	Caputhall Community Woodland
105.	Union Canal - Avon Aqueduct to Linlithgow	118.	River Avon - Carriber Glen to Linlithgow Bridge
106.	Riccarton Hills	119.	Canal Wood
107.	The Knuckles, Gormyre Hill	120.	Middleton Pond
108.	Mounthooly Road Verge	121.	Union Canal - Broxburn to Linn's Mill
109.	Faucheldean Road Verge	122.	Black Moss
110.	Mid Hartwood Road Verge	123.	Pottishaw Road Ponds
111.	Leyden Road Verge	124.	Fauldhouse Moor
112.	Boghead Roundabout Road Verge	125.	Greenburn and Gogar Burn
113.	Forthview Cottage Road Verge	126.	House of the Binns
114.	Lower Craigmalen Road Verge	127.	Limefield Glen & Harwood Water to Gavieside Bridge
115.	East Rhodens Bog		

Local Geodiversity Sites in West Lothian

This data was correct at Spring 2019. Please check for the most up to date information on the [council's website](#).

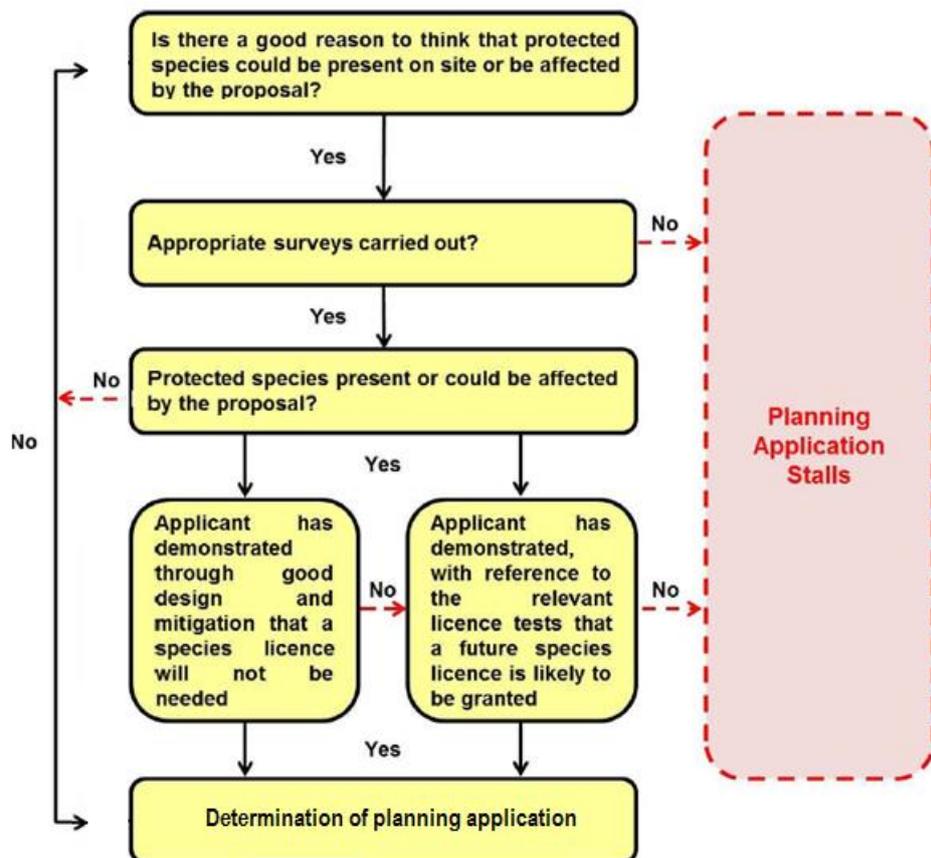
1.	Baad Park Burn	27.	Rifle Range Quarries
2.	West Cairn Hill, East Burn	28.	Hilderston Silver Mine Quarry
3.	Linhouse Water - above Carstairs Viaduct	29.	Hilderston Silver Mine
4.	East Kirkton Quarry	30.	Hillhouse Quarry and Mine
5.	Five Sisters	31.	Muiravonside, Carribber Glen
6.	Seafeld Law	32.	Wallace's Arch
7.	Greendykes	33.	Barbauchlaw Quarries
8.	Almond Valley Heritage Centre	34.	Barbauchlaw Burn Quarries
9.	Murieston Water	35.	Carsie Hill
10.	Almondell and Calder Wood	36.	Auchinoon Quarry
11.	Upper Uphall	37.	Linhouse Water - Glasgow Viaduct 2
12.	Union Canal, Winchburgh	38.	The Knock
13.	Hopetoun Obelisk Quarry	39.	Witch Craig Viewpoint
14.	Society East Shore	40.	Cockleroy
15.	Society Point	41.	Beebraigs Quarry
16.	Society Shore	42.	Binny Craig
17.	Hopetoun Shore	43.	Kildimmery Fishery Quarry
18.	Abercorn Point	44.	Craigton (Hill) Quarry
19.	Midhope Burn	45.	Linhouse Water - Calderwood 1
20.	Cairnpapple Hill	46.	Torphichen Hill
21.	Wairdlaw Quarry	47.	Linlithgow Loch
22.	Union Canal Museum	48.	Tailend Moss
23.	Levenseat working quarry	49.	Longridge Moss
24.	Levenseat quarries & mines	50.	Easter Inch Moss
25.	Skolie Burn	51.	Calder Wood
26.	Petershill Quarries		

three

Protected species in West Lothian

- 3.1 Most bird species and a wide range of wild animals and plants have general protection from deliberate damage or harm under the law. In addition to this, some species, such as otters and great crested newts have special protection from disturbance and harm under European legislation, and are known as European Protected Species (EPS).
- 3.2 A number of species, such as red squirrel, water vole and badger are protected under domestic legislation. The species referred to in this guidance as species with special protection are as follows:
- European Protected Species (protected under Schedule 2 (animals) and 4 (plants) of the Habitats Regulations 1994 (as amended)
 - Birds, animals and plants listed on Schedules 1, 5 and 8 (respectively) of the Wildlife and Countryside Act 1981 (as amended)
 - Badgers (protected by the Badgers Act 1992 (as amended))
- 3.3 Some of the protected species commonly found in West Lothian are shown in Table 1 and the process for considering development proposals is summarised in Figure 3.

Figure 3:
Protected species – the importance of providing the necessary information



LDP Policy ENV 20 Species Protection and Enhancement

Development that would affect a species protected by European or UK law will not be permitted unless:

- a. there is an overriding public need and there is no satisfactory alternative;
- b. a species protection plan has been submitted, which is based on survey result, and which includes detail of the status of the protected species on site and the possible adverse impact of development;
- c. suitable mitigation is proposed and agreed; and
- d. if it is established that European protected species are present, the development is not detrimental to the maintenance of European protected species at a favourable conservation status.

Planning Guidance on *Planning for Nature: Development Management and Wildlife* provides advice on policy context, key habitats and protected species in West Lothian, survey methods and timing, good design and mitigation measures and licensing requirements.

- 3.4 The presence on or near a site of species with special protection is a critical consideration in preparing development proposals and subsequent decisions on planning applications. *Their* presence rarely imposes an absolute block on development, however mitigation measures will often be necessary (see Section 5 ‘Good Design & Mitigation’) and this can affect the design, layout and timing of the works.
- 3.5 A licence from SNH will be needed for works which would constitute an offence involving species with special protection (see Section 7 for more details on licensing). Remember, this may still be needed for works which do not need a planning application.
- 3.6 It is vital that adequate survey work is carried out in good time to understand the site and determine the presence or absence of these species (see Section 4 for more details on survey work requirements).
- 3.7 Applicants will usually need to seek expert ecological advice at an early stage to determine the likely presence of protected species and the likely impact on them of any proposed development. Examples of development activities together with illustrative protected species that may be affected is provided in Table 2.

Table 2: Development activities that may affect protected species

Examples of Development Activities		European Protected Species	UK Protected Species
Developments adjacent to or affecting ponds and other watercourses		Otter Great Crested Newt Bats	Water Vole Breeding birds (such as Kingfisher)
Barn and rural building conversions (especially unoccupied, stone-built buildings)		Bats	Breeding birds (such as Swallow, House Martin and Barn Owl).

Table 2: Development activities that may affect protected species continued

Examples of Development Activities		European Protected Species	UH Protected Species
Alterations (or demolitions) to the roof spaces of buildings, in particular churches/chapels, institutions, schools.		Bats	Breeding birds (such as Swift, Swallow, House Martin, Starling, House Sparrow and Barn Owl).
Development affecting caves, mines, tunnels, cellars and exposed rock faces, bridges, culverts, chimneys, kilns and ice houses and/or any other structures within 200m of water or woodland. Developments affecting woodland, ancient woodland, hedgerows, lines of trees and scrub		Otter Bats	Badger Red Squirrel Breeding birds
Developments affecting old and veteran trees with a girth of over 1.5m, or containing obvious holes including any felling or lopping.		Bats	Breeding birds (such as Barn Owl)
Developments affecting derelict land, brown-field sites, railways and land adjacent, grassland and allotments.		Bats	Breeding birds (such as Barn Owl)
Developments affecting quarries, cliff faces and gravel pits.			Breeding birds (such as Peregrine Falcon)
Developments (such as wind farms) affecting open farmland, moorland and forestry sites in hilly, upland, exposed areas.		Bats Otter	Red Squirrel Badger Breeding birds (such as Hen Harrier)

Points to Remember: Protected Species

- Consider as early as possible whether protected species are present on sites for development – ideally before the land is bought and the planning application made;
- If the presence of a protected species is suspected, the applicant must inform the council in writing or by email;
- Survey work should be carried out as early as possible so that the results and recommendations can be included into the development design and timeline; and
- Supporting evidence and survey work should be carried out by a suitably qualified ecologist

four

Site appraisal and ecological survey

Initial site appraisal

4.1 Whatever development you are hoping to carry out you must ensure that you understand the characteristics of the site, including any possible wildlife and habitat significance. The extent to which ecological surveys and appraisals are required will depend on the scale, nature and location of the proposal. It may be that an initial site audit is sufficient but depending on the findings you may need to carry out further surveys for particular species or in relation to a particular habitat. For instance, if there is a watercourse on the site this could provide habitat for protected species and will need more detailed surveys.

4.2 A typical site audit should:

- highlight any local, national and international designations in or near to the site;
- identify potential important habitats (mature trees, woodland, hedgerows, ponds or watercourses);
- identify if protected species are likely to be in or near the site;
- identify if any 'non-native invasive species' are likely to be in or near the site;
- give an indication of the ecological data required for progressing a planning application; and
- recommend if more detailed surveys will be necessary.



Painted Lady butterfly

4.3 A checklist guide of questions to consider and the next steps to take within a site audit is provided in Annex C.

4.4 Where an important species or habitat has been identified on site, planning applications must be supported by an appropriate level of information.



4.5 At the time of submitting a planning application, applicants need to provide the following:

- as appropriate, information on specific habitats, plants, animals and geology and possibly the surrounding area, including its sensitivity, significance and value.
- an assessment of any potential effect of the development on these features.
- if adverse effects are expected, then details of proposed mitigation measures by the developer to avoid or minimise these effects.
- if there is unavoidable damage or disturbance then proposals should be included to compensate for losses.
- identify if there may be licensing requirements and with reference to the relevant licence tests, demonstrate that a future species licence is likely to be granted.

4.6 It is essential to understand your site and consider the constraints and opportunities that wildlife and habitats may have on your development at an early stage. Helpful information including species records and habitat maps may be obtained from a number of sources including:

Scottish Natural Heritage Information http://www.snh.gov.uk/snhi	The Wildlife Information Centre for the Lothians and Borders http://www.wildlifeinformation.co.uk	The National Biodiversity Network Gateway http://data.nbn.org.uk	Scottish Badgers Data Search Service https://www.scottishbadgers.org.uk/professionals.asp
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NB: Responsibility for establishing whether a site has any wildlife or habitat constraints lies with developers and the data sources identified above are not exhaustive.

4.7 Site surveys and assessments should be undertaken by a suitably qualified and experienced ecologist. A list of qualified ecologists can be found in the Chartered Institute of Ecological and Environmental Management (CIEEM) [Professional Directory](#).

4.8 Good practice also indicates that for most significant developments (e.g. a development covering several hectares) an Ecological Impact Assessment (EclA) should be required. If necessary the EclA should adopt the methodology of CIEEM.

4.9 Surveys for other natural heritage interests such as geology, geomorphology and soils should also be undertaken by a suitably qualified and experienced person (see CIEEM Directory).

Box 2: Environmental Impact Assessment (EIA)

Environmental Impact Assessment (EIA) is a statutory process which identifies the environmental effects (both negative and positive) of certain development proposals. EIA only applies to those developments that are likely to have a significant environmental effect by virtue of factors such as its nature, scale or location. These are identified under Schedule 1 and Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. If in doubt about whether your development qualifies for EIA, contact the planning authority for a screening opinion.



More information on EIA can be found in [Planning Advice Note 13 \(PAN 13\) – Environmental Impact Assessment](#) and on the [SNH website](#).

Appropriate timing of surveys

4.10 The timing of any ecological surveys is important to consider at an early stage as they often need to be carried out at certain times of year. A survey calendar indicating the most appropriate time of year to undertake surveys for various species and habitats is provided in Table 3.

4.11 Species surveys are weather dependent so it may be necessary to delay a survey or to carry out more than one survey if the weather is not suitable. All constraints must be clearly reflected in the survey.

4.12 In some circumstances surveys for certain species and habitats may be required over more than one season, and possibly covering periods measured in years, for example developments potentially affecting European sites or bird flight patterns in relation to wind farm sites. If surveys have been carried out a significant amount of time before an application is made the council may require further surveys before the application can be determined or the development is started.

4.13 For mobile species that have the ability to expand their range and whose distribution may change over time pre-construction surveys may need to be done once consent is granted.



Protected species found in West Lothian



Barn Owl



Red Squirrel



Kingfisher



Badger



Otter



Hen Harrier



Water Vole

Further information

Further details may be found on the following web sites:

- CIEEM Guidelines for Survey Methodology
<https://cieem.net/resource/guide-to-ecological-surveys-and-their-purpose/>
- SNH
<https://www.nature.scot/>

Points to Remember: Timing of Ecological Surveys

- consider what surveys may need to be done as early as possible
- discuss surveys with the planning authority
- if you are dealing with a proposal that could affect a SSSI or a European site, then consult with SNH prior to submitting the planning application to the council;
- Make sure species surveys are carried out at the optimum time of the year
- Ensure surveys are carried out in optimal weather conditions where possible
- Highlight survey limitations if necessary

Table 3: Ecological Survey Calendar

Target	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Illustration	
Habitat and Vegetation	Phase 1 only			Phase 1 and NVC Detailed habitat assessment surveys				Phase 1 only (least suitable time) No other detailed plant surveys						
	Mosses and lichens No other detailed plant surveys			Mosses and lichens		No surveys for mosses and lichens		Mosses and lichens						
Badgers	Limited sett / bait surveys	Bait marking and sett surveys			Limited bait marking and sett surveys		Sett surveys				Limited sett / bait surveys			
Bats	Inspection of hibernation roosts (difficult)			Limited activity	Summer roost emergence surveys and activity surveys (internal inspection of roof-spaces possible throughout April-October)				Limited Activity	Inspections of hibernation roosts (difficult)				
Birds	Winter species		Breeding birds / migrant species		Breeding birds	Low activity		Migrant species		Winter species				
Great Crested Newts	Newts hibernating		Pond surveys for adults / terrestrial survey Egg surveys April-mid June Larvae surveys from mid-May				Habitat survey		Newts hibernating					
Reptiles	Reptiles Hibernating		Peak survey months are April and May			Reduced basking time lowers effectiveness of refugia surveys		Peak survey month	Limited activity	Reptiles hibernating				
Red Squirrel	Optimum time		Breeding Den Surveys		Optimum time		Surveys possible, weather permitting							
Otters	Limited by vegetation cover and weather conditions rather than seasons													
Water Voles	Low activity	Initial habitat survey	Habitat and field signs / activity surveys. May be limited by vegetation cover and weather							Initial habitat survey	Low activity			
Fish	For coastal, river and stream-dwelling species, the timing of surveys will depend on the migration pattern of the species concerned Where surveys require information on breeding, the survey timings will need to coincide with the breeding period which may be summer or winter months depending on the species													

Key

Recommended period for survey
 Sub-optimal period for survey
 Surveys not possible

Table 4: Ecological Mitigation Calendar

Species	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Illustration	
Habitat and Vegetation	Planting and translocation		No mitigation for most species							Planting and translocation				
Badgers	Construction of artificial setts only (no disturbance of existing setts)							Exclusion from setts and destruction			Artificial sett construction only as per January			
Bats	Maternity roost works until mid-May				No maternity roost works				Maternity roost works from mid-September					
	Hibernation period		Hibernation roost works from mid-March							Hibernation period				
Birds	Clearance works		Nesting season - avoid ALL clearance works without a breeding bird survey					Clearance works						
Great Crested Newts	Pond management only		Both terrestrial and aquatic trapping possible				Terrestrial trapping only				Pond management only			
Reptiles	Scrub clearance		Capture and translocation programmes and scrub clearance				Weather dependent, but likely to be sub-optimal due to temperatures		Capture and translocation	Scrub clearance				
Red Squirrel	Avoid all works in red squirrel habitat								Optimum time for works		Avoid all works in red squirrel habitat			
Otters	No seasonal constraints, however restrictions are likely during breeding season													
Water Voles	Avoid all works in habitat		Trapping and exclusion		Avoid works (breeding season)				Trapping and exclusion		Avoid all works in habitat			
Fish	Mitigation for the protection of watercourses is required at all times of year Mitigation for particular species will need to be timed so as to avoid their breeding season, this varies between species													

Key

Recommended period for mitigation
 Sub-optimal period for mitigation
 Mitigation not possible

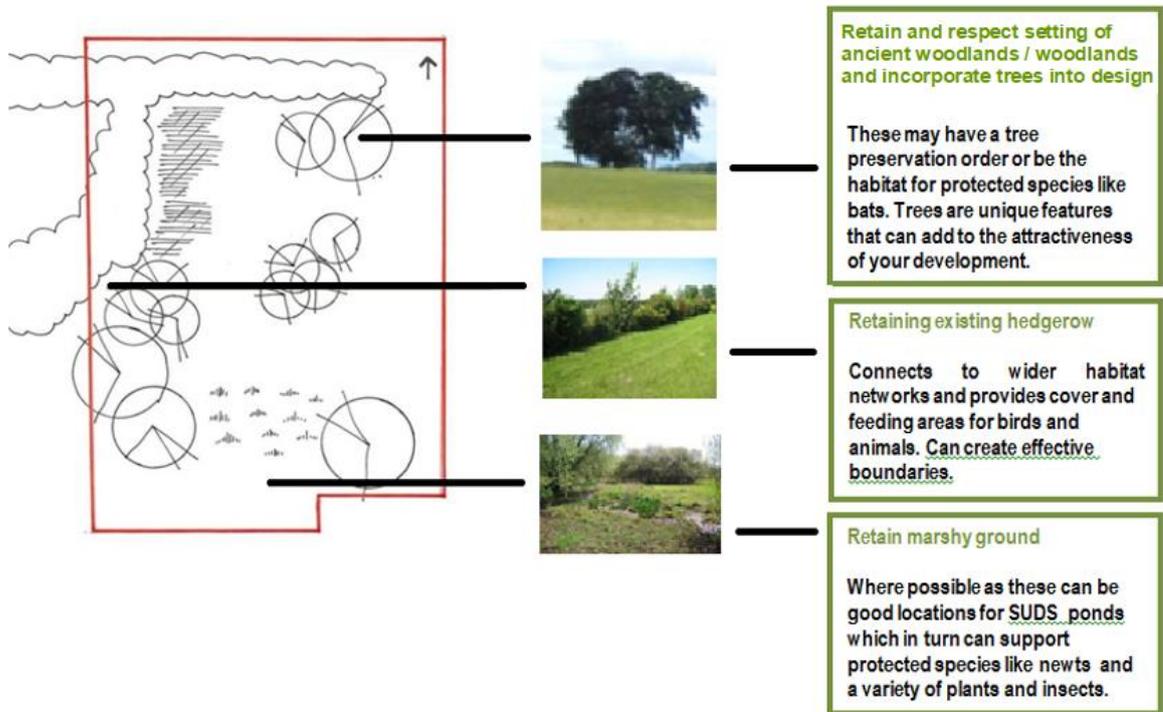
five

Good design and mitigation

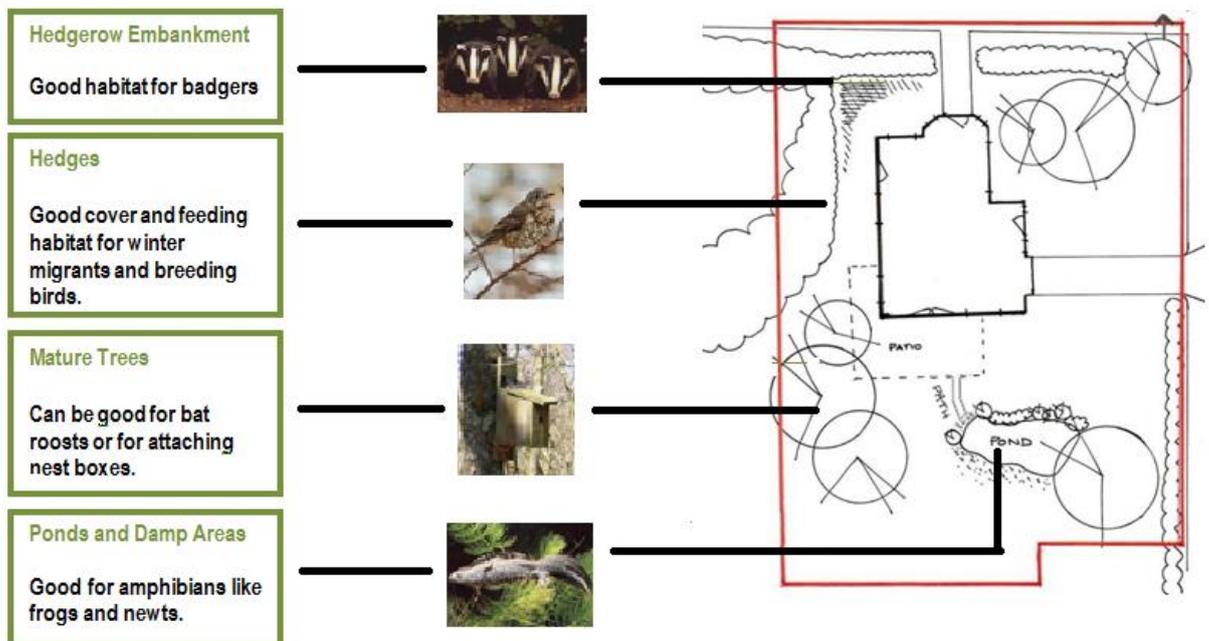
- 5.1 In view of declarations by both the Scottish and UK Governments of a 'climate emergency' in 2019 it is increasingly important for developers to identify and deploy nature-based solutions in developments and to actively engage in delivering climate change mitigation and adaptation..
- 5.2 Developers are therefore required to demonstrate how they will protect and enhance biodiversity in Design and Access statements. These statements must set out the baseline ecological value of the site and proposals to enhance biodiversity. To do this a full ecological survey should be carried out by an appropriately qualified ecologist using a recognised methodology.
- 5.3 Good design can make an important contribution to creating sustainable and resilient places and opportunities for enhancing wildlife and habitats within a site must therefore be considered as part of the overall design of the project. It is often possible to combine biodiversity benefits with other site requirements. For instance, a pond as part of the site's Sustainable Urban Drainage System (SUDS) can provide a great habitat for a number of species as well as contributing to attractive open space. Features and habitats on site and in the surrounding area should be considered (see Figure 4).
- 5.4 There may be an opportunity to enhance 'green networks', providing an attractive setting to new housing development whilst also benefiting West Lothian's wildlife and habitats. For more information on green infrastructure/networks, see Scottish Government's Publication '[Green Infrastructure: Design and Placemaking](#)'. The council has also given notice of its intention to bring forward separate guidance on Place Based Green Networks and this will be posted on its [website](#) in due course once approved. In the interim, a copy of the [draft guidance](#) can be accessed for information.

Figure 4: Utilising on-site opportunities to enhance development design

(A) Site Appraisal



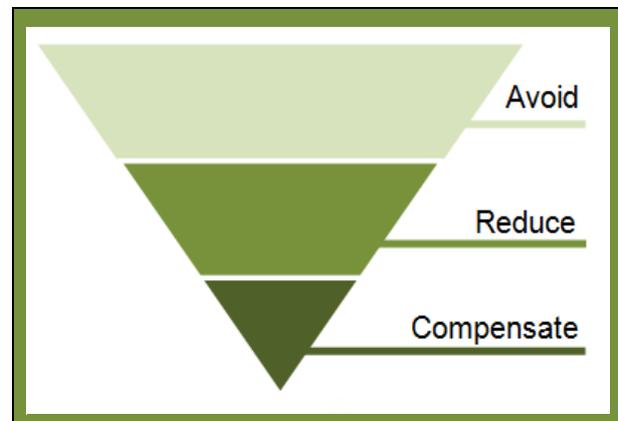
(B) Site Design



Mitigation

5.5 The mitigation hierarchy should apply when considering how to manage the risks of adverse impacts on wildlife and habitats (see Figure 5). Depending on what type of mitigation is proposed, it may be that there are certain times of the year when mitigation activities are inappropriate. An ecological mitigation calendar is provided in Table 4. Efforts should first be proposed to prevent or avoid impacts, if this is not possible then measures should be made to minimise and reduce any unavoidable impacts. The last resort should be some sort of compensation planting or habitat provision and this would likely be secured by conditions allied to the grant of any planning permission.

Figure 5: The Mitigation Hierarchy



Enhancement

- 5.6 Developers are encouraged to consider how spaces are going to be shared with people and and wildlife consideration should be given to the potential conflicts that could arise and how they can be best managed.
- 5.7 Most developments are suitable for the incorporation of a range of measures for positive effects on wildlife and habitats. The planning authority will expect such measures to be proposed and then implemented if planning permission is granted. These can be discussed at the pre-application stage (see Table 5 for examples of enhancing biodiversity within certain developments).



The inclusion of a green roof in urban developments can provide habitats (such as meadows) that are attractive to bees and a range of other insects and birds.



The simple addition of nest boxes for birds and roost boxes for bats attached to mature trees or even a wall on site will be beneficial.



The inclusion of a Swift nest box in appropriate locations provides safe and protected nesting opportunities.

Other useful resources:

(Raingardens – Advice on a range of raingarden types and suitable situations)

<http://www.10kraingardens.scot/what-can-you-do-to-help/>

Greener Gardens – Advice incorporating green infrastructure into built developments)

<http://www.centuralscotlandgreennetwork.org/campaigns/greener-gardens>

(Pollinators in Planning and Construction – Guidance on accommodating habitats for pollinators [bees] into the design and construction process)

<https://www.nature.scot/sites/default/files/2019-09/Pollinators%20in%20Planning%20and%20Construction%20Guide.pdf>

Management

- 5.8 On sites where wildlife features are retained or new habitats and features are created, appropriate ongoing management must be put in place to ensure long lasting benefits. This is likely to be part of the planning conditions placed on an application and subject to enforcement if necessary. In these cases a management plan would be expected to be produced and submitted as part of the planning application. It should identify specific actions required for good management and include details of the phasing of the works.

Points to Remember: Good Design and Mitigation

- Avoid any detrimental impacts on biodiversity or species through good design;
- Incorporate into the design features that will enhance biodiversity;
- Follow the mitigation hierarchy; and
- If appropriate, include a management plan

Table 5: Opportunities for enhancing biodiversity within different developments



Residential and business development

- Incorporate and manage existing habitat in green space requirement
- Create a network of green corridors e.g. plant hedges, long grass, wetland corridors, wildflower grasslands
- Design for sustainable drainage systems e.g. balancing ponds, reed bed systems
- Increase the amount of green infrastructure into new developments
- Green walls and raingardens
- Landscape with locally appropriate native species
- Incorporate bird and bat boxes in developments
- Create new features for wildlife in green spaces e.g. traditional orchards or woodlands to meet Local Biodiversity Action Plan targets, creation of wildlife pond and scrapes
- Consider green roofs
- Promote wildlife gardening amongst households
- Consider involving community groups and residents
- Create pollinator habitats

Public open space and recreational features

- Create a network of green corridors
- Plant hedges
- Allow areas of grassland to grow long to encourage wildflowers
- Create woodland or pond areas
- Plant more trees
- Create pollinator habitats

Smaller road schemes

- Mitigation measures to include under passes for otter, badger crossings etc.
- Create new habitats e.g. semi-natural grassland, woodland and ponds
- Design for sustainable drainage systems e.g. swales, balancing ponds
- Creation of otter holt
- Conserve geological exposures
- Landscape and screen with locally appropriate native species
- Design in bat bricks, bird boxes etc. on bridges
- Create pollinator habitats along road verges

Conservation of rural buildings

- Install barn owl box or make provision for nest space
- Install swift boxes
- Incorporate other bird and bat boxes in design

Windfarms

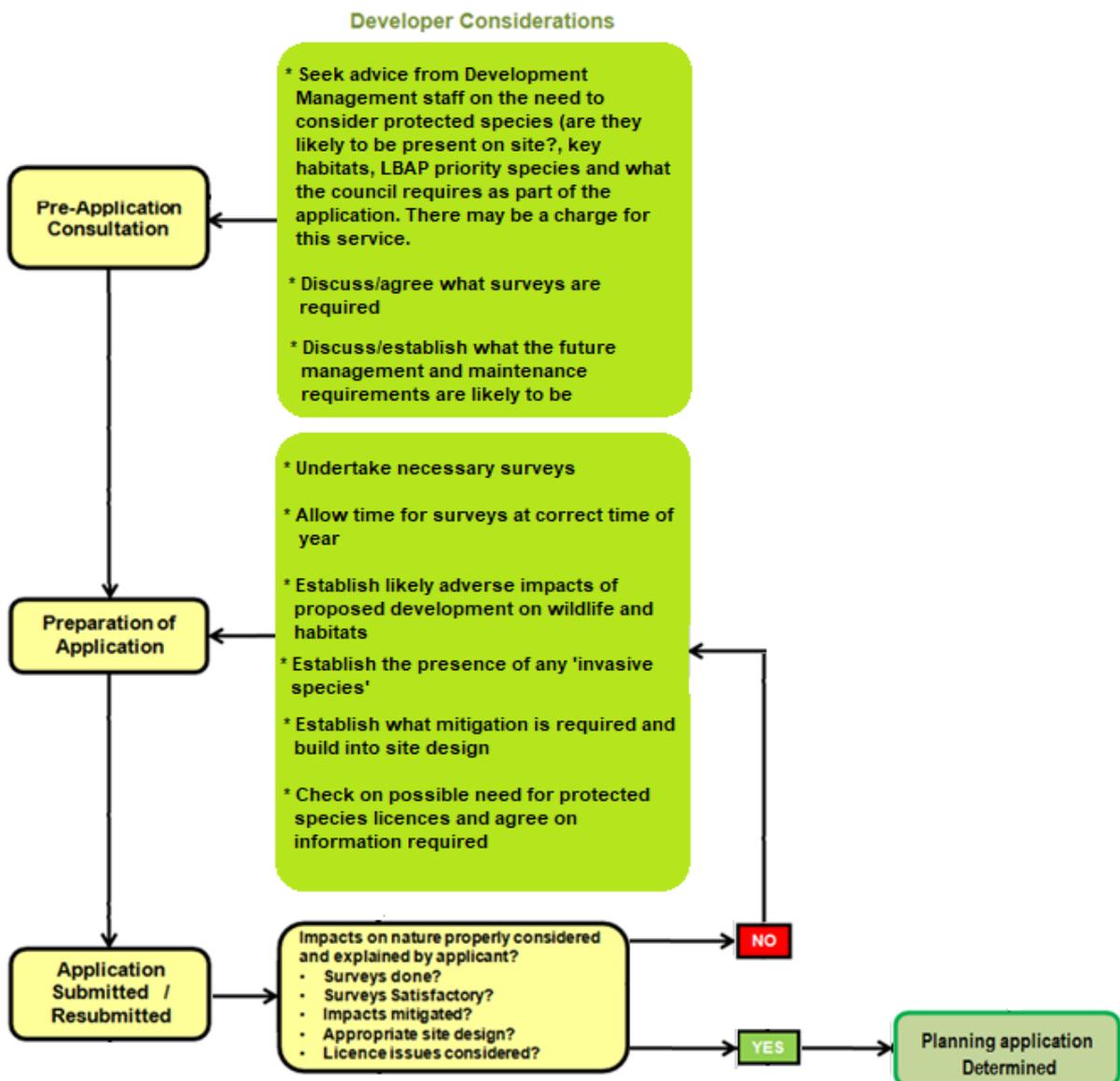
- Hydrological management for restoring or maintaining bogs (such as drain blocking)
- Restore appropriate habitats where possible
- Incorporate and manage existing habitat species and geological exposure on unworked land

six

Assessment of planning applications

- 6.1 The design of any new any development should be based on a good knowledge of the site, including the habitats and species present on and adjacent to the site. This understanding will help applicants to put forward development proposals that respond appropriately to the constraints and opportunities of a site, and to identify ways in which they can contribute to conserving and enhancing wildlife and habitats in addition to providing opportunities for people to experience nature close to where they live (see Section 5).
- 6.2 Key issues in the development management process with regard to wildlife and habitat considerations are summarised in Figure 6. Addressing the points raised in the chart below will help to ensure that the planning application process does not encounter unnecessary complications and delays.

Figure 6: The Development Management process and ecological considerations



Wildlife and habitat considerations when determining planning applications

- 6.3 As well as seeking to protect legally protected sites and species, the council, as planning authority, has a duty to protect, and where appropriate, enhance the wider biodiversity and geodiversity of West Lothian. Encouraging developers to maximise the opportunities for enhancing biodiversity are ways in which this duty can be delivered. This approach can also contribute to wider goals to improve green infrastructure and networks and encourage Local Biodiversity Action Plan priority species and enhance habitats and ancient woodland.



Swales, ponds, trees and permeable surfaces visually enhance hard surfaces and provide benefits to runoff and drainage.

- 6.4 When considering planning applications the council will consider biodiversity and geodiversity in accordance with the following hierarchy of importance:

- International Sites and Protected Species
- National Sites and Protected Species
- Local Sites and
- Other wider biodiversity and geodiversity interests including green networks.

Points to Remember: Wildlife and Habitat Considerations in determining a Planning Application

- **Early design action:** ensure that wildlife and geological conservation forms a positive part of early development design rather than being an afterthought;
- **Clarity of understanding:** ensure your development team have a clear understanding of the planning authority requirements concerning biodiversity and geological conservation; and
- **Provide sufficient information:** make sure your application does not get held up unnecessarily or refused because insufficient information on wildlife and habitats has been submitted

seven

Licensing requirements

Licences for protected species

7.1 If it is discovered that there are potential impacts on protected species that cannot be avoided through mitigation then a licence may be required before works can proceed. This is in order to prevent a possible offence being committed. Licences will only be granted if strict tests are met. SNH is responsible for the administration of most protected species licences in Scotland (except most marine species where Marine Scotland is the licensing authority). For some species in specific circumstances (see Boxes 3 to 5) licences can be issued which allow disturbance for the purpose of development or for the purpose of survey and research.

Box 3: European Protected Species (EPS) and Licensing Requirements

There are three strict legal tests which must all be passed before a licence can be granted. In summary they are:

- Test 1: that there is a licensable purpose.
- Test 2: that there is no satisfactory alternative; and
- Test 3: that 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 (the qualified ecologist should be able to provide advice on this or alternatively seek advice from SNH).

For more information on the three species licensing tests, visit the [SNH website](#).



Box 4: Water Voles and Red Squirrels

It is possible to licence activities that could affect water voles and red squirrels for social, economic or environmental reasons. This could cover a range of activities including development. However, it is important to note that licences may only be issued for this purpose provided that:

- the activity authorised by the licence will contribute to significant social, economic or environmental benefit; and
- there is no other satisfactory solution.

For more information on licencing scenarios relating to Water Voles and Red Squirrels, see the special licensing guide on the [SNH website](#).



Box 5: Badgers

If you are planning any development works that could result in disturbance to badgers in their setts, or damage or obstruction to setts then you are likely to require a licence. Licences can be issued (for activities that would otherwise constitute an offence) under the Protection of Badgers Act 1992 (as amended) for the purpose of development. It is important to note that licences can only permit someone to 'interfere with a badger sett' for the purpose of development. It is not possible to licence removal, translocation or killing of badgers for the purpose of development.



The [SNH website](#) provides specific and detailed guidance on badgers, development and licensing.



Box 6: Birds

It is not possible to licence actions that would otherwise be an offence in relation to wild birds, for the purpose of development. Most developments are unlikely to result in the intentional or reckless killing of wild birds, but if they are carried out during the breeding season then there could be a risk of damage or destruction of nests or eggs, or disturbance to nesting birds. Because there is no development licensing purpose for wild birds, this means that any development that could result in these actions should not proceed until the breeding season is over for these species.

The [SNH website](#) provides more detailed guidance on birds and development.



Points to Remember: Species Licensing

- Identify any needs for licensing as soon as possible;
- Check out the SNH web site for all the information needed at: www.nature.scot/professional-advice/safeguarding-protected-areas-and-species/licensing/species-licensing-legislation
- Make sure the relevant licensing tests can be met for any protected species present; and
- Allow enough time in the project programme for the issuing of licences

Further information

Species licence application forms can be downloaded from the [SNH website](#).

Invasive Non-Native Species

7.2 There are many species of non-native plants that have been introduced to Scotland over time which we enjoy in our gardens and countryside. However, a few are very invasive in the natural environment and cause serious problems. They out-compete our native plants for light, space and nutrients. The environmental damage caused by invasive non-native plants can be irreversible so it is important that they are controlled. The most common invasive species in West Lothian are:

- Japanese Knotweed (*Fallopia japonica*);
- Giant Hogweed (*Heracleum mantegazzanum*) and
- Himalayan Balsam (*Impatiens glandulifera*)



Japanese Knotweed



Giant Hogweed



Himalayan Balsam

7.3 The Wildlife and Natural Environment (Scotland) Act 2011 (see Annex B) has introduced measures to deal with non-native species. If a survey shows these or other invasive non-native species are present on a site, the developers must ensure that they do not spread from the site. The most likely way in which invasive non-native species may be introduced to a development site is through soil contaminated with seed or root material.

7.4 If large volumes of soil are moved or introduced to a site, the planning authority will require a soil sustainability management plan. If a development is responsible for the introduction of an invasive non-native species, either within or outwith the site, then the developer will have to remove the species and dispose of material appropriately.

7.5 Japanese Knotweed, Giant Hogweed and Himalayan Balsam are regarded as 'controlled waste' and while individuals cannot be prosecuted for having them growing on their land it is an offence for landowners to knowingly let them spread onto other land. If it is proposed to remove them from site there is an obligation on the land owner to notify the Scottish Environment Protection Agency (SEPA) who are responsible for regulating the disposal of such waste. In the first instance developers are directed to the SEPA website, for more information www.sepa.org.uk and www.netregs.gov.uk

7.6 The Scottish Government has also produced a [Non-Native Species Code of Practice](#) that will help those developing land that contains these plants to understand their legal responsibilities.

Annex A

Development and the role of SNH

When Scottish Natural Heritage (SNH) will be consulted on planning proposals

- 1.1 SNH's main focus is on proposals that require an Environmental Impact Assessment (EIA) and/or could affect sites with a statutory nature conservation designation.
- 1.2 West Lothian Council must consult SNH in the following cases:
 - Those affecting designated and proposed European sites (Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) collectively known as European sites, and Ramsar sites;
 - EIA scoping requests and Environmental Statements related to development proposals (see discretionary consultations below);
 - Development proposals affecting Sites of Special Scientific Interest (SSSIs);
 - Cases that involve the winning and working of peat for commercial purposes; and
 - Cases that could have significant repercussions on major accident hazards.
- 1.3 West Lothian will also consult SNH on all applications for developments that require an EIA.

Discretionary consultations

- 1.4 All other consultations are discretionary and West Lothian Council must choose whether or not to consult SNH. In the first instance, planning officers should talk through the case with SNH before sending a formal written consultation with regard to the following:
 - Advice in relation to an EIA screening request;
 - Where a recent survey (undertaken in relation to the proposal) shows that protected species could be affected, but the council is uncertain that the mitigation proposed by the applicant is sufficient to avoid an offence under relevant legislation; and
 - Small scale renewables that meet the criteria for consultation with SNH, as set out in [Assessing the impact of small-scale wind energy proposals on the natural heritage](#)

SNH, protected species and proposed development

- 1.5 SNH have two separate but related functions with regard to protected species and development:
 - Advisory function - the provision of advice (in line with SNHs Service Statement) about impacts of certain development proposal on protected species; and
 - Licensing function – dealing with applications for licences for actions to be undertaken affecting protected species that would otherwise be illegal (referred to in this document as 'species licence').

SNH has recently made available *Species Planning Advice*, a comprehensive resource specifically designed to provide developers with all the necessary information required to ensure that development can proceed without adversely impacting on protected species. Unless there are exceptional circumstances that are not covered by this standing advice it should not ordinarily be necessary to contact SNH directly.

The Species Planning Advice sheets can be viewed on the SNH website

<https://www.nature.scot/search?query=species+planning+advice>

or by clicking [here](#).

- 1.6 West Lothian Council will identify situations where it is appropriate to ask the developer to carry out a survey and (where relevant) submit a mitigation plan. Developers will be expected to demonstrate either that a species licence is not required or that one is likely to be able to be granted.
- 1.7 West Lothian Council will consult SNH where:
 - It is uncertain that the mitigation proposed by an applicant will mean that a species licence is not required, or
 - It does not consider it likely (with reference to the relevant licence tests) that a licence will be able to be granted by SNH to enable a planning permission to be used.

Further information

For further information on the service that planning authorities and other stakeholders can expect from SNH in relation to advice on planning and development proposals please see SNH's [Service Statement for Planning and Development](#)

Annex B

Relevant legislation

- 1.1 There are European Directives, UK implementing Regulations and Acts of Parliament and Scottish Regulations that need to be considered by councils for the protection and enhancement of wildlife and habitats. These obligations have a significant influence on shaping policy. The following table identifies the most relevant:

European and International		
Legislation Name	Legislation Summary	Web-link
Habitats Directive 92/43/EEC	Requires Special Areas of Conservation (SACs) to be designated for habitats and species listed on Annex I and II of the Directive and outlines the protection afforded to these sites. Outlines species protection provisions, including those for species commonly known as European Protected Species. Transposed into law in Scotland by the Conservation (Natural Habitats, &c.) Regulations 1994 as Amended.	https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31992L0043:EN:HTML
Birds Directive 2009/147/EC	Protects all wild birds, their nests, eggs and habitats within the European Community. It gives member states of the European Union the power and responsibility to classify Special Protection Areas (SPAs) to protect birds which are rare or vulnerable in Europe, as well as migratory birds which are regular visitors.	https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:020:0007:0025:EN:PDF
(Ramsar) Convention on Wetlands of International Importance	Outlines protection of internationally important wetland sites protecting wildfowl habitat.	http://www.ramsar.org
UK		
Legislation Name	Legislation Summary	Web-link
Wildlife and Countryside Act 1981 (as amended)	Chief mechanism for providing legislative protection of wildlife in Great Britain. Transposes Birds Directive and 'Bern Convention' into national law.	http://www.legislation.gov.uk/ukpga/1981/69/contents
Protection of Badgers Act 1992	Makes it a serious offence to injure or take a badger, or to damage or interfere with a sett unless a license is obtained from a statutory authority (SNH).	https://www.legislation.gov.uk/ukpga/1992/51/contents
Conservation (Natural Habitats, &c.) Regulations 1994 as amended	Transposed the Habitats Directive into national law.	http://www.legislation.gov.uk/uksi/1994/2716/contents/made
Conservation of Habitats and Species Regulations 2010	Transposes the Habitats Directive into law in England and Wales. Also applies to reserved matters.	http://www.legislation.gov.uk/uksi/2010/490/contents/made

Scottish		
Legislation Name	Legislation Summary	Web-link
Environmental Impact Assessment (Scotland) Regulations 1999	Outlines the instances where and protocol for carrying out an EIA.	http://www.legislation.gov.uk/ssi/1999/1/contents/made
Nature Conservation (Scotland) Act 2004	Outlines measures designed to conserve biodiversity and protect and enhance the biological and geological natural heritage of Scotland.	https://www.legislation.gov.uk/asp/2004/6/contents
Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011	Outlines compulsory conditions for supporting a planning application with an EIA report. Updates some but not all, of the EIA (Scotland) Regulations 1999.	http://www.legislation.gov.uk/ssi/2011/139/contents/made
The Wildlife and Natural Environment (Scotland) Act 2011	Creates a new regime for regulating invasive and non-native species.	http://www.legislation.gov.uk/asp/2011/6/contents/enacted

Annex C

Initial site audit checklist

1.1 This checklist can help when undertaking a site audit. It will give you an indication of the ecological data that will be required for a development site, as well as highlighting the important designations, habitats and species to be considered during the design and planning process.

Note: In some cases further survey requirements may be identified following consultations with council officers and/or SNH.

Consideration	Action to be taken if the answer to the question is 'yes'	Done
Does the site include all or part of a statutorily designate site e.g. SPA, SAC, SSSI?	Consult Scottish Natural Heritage and West Lothian Council (Planning Services) for more information.	
Is there a nearby statutorily designated site e.g. SPA, SAC, SSSI that may be impacted by the development?	Consult Scottish Natural Heritage and West Lothian Council (Planning Services) for more information.	
Does the site include all, part of or impact on a nearby non-statutory designated site i.e. a Local Biodiversity Site or Local Geodiversity site?	Consult West Lothian Council (Planning Services) to determine under what circumstances, if any, development might be acceptable and the ecological date required to accompany a planning application.	
Does all or part of the site form a wildlife corridor or 'stepping stone' linking two or more other areas of ecological value?	Access the ecological impact of development on the site and adjacent areas of habitat and identify possible mitigation measures.	
Does the site contain any 'Invasive Non-Native Species' (INNS)?	The Wildlife and Countryside Act (1981) (Sections 14 to 14P) is the principal legislation dealing with non-native species in Scotland requires the implementation of remedial measures. The Scottish Government has also produced a <u>Code of Practice</u> which it is helpful for developers to be familiar with.	

Consideration	Action to be taken if the answer to the question is 'no'	Done
Has a Phase 1 Habitat Survey been undertaken in order to help define key habitats on site?	Consider undertaking a Phase 1 Habitat Survey at the earliest opportunity.	

Consideration	Action to be taken if the answer to the questions is 'yes'	Done	
Does the site include any of the following habitats? (based on Phase 1 Habitat Survey)			
Mature trees (individuals or small stands)?	Survey for:	<ul style="list-style-type: none"> Bats LBAP Species 	
	Check for:	<ul style="list-style-type: none"> Tree Preservation Orders Conservation Area designation 	
	Undertake:	<ul style="list-style-type: none"> Tree survey (species, location, ground spread, age and height) 	
Ancient Woodland / Woodland	Survey for:	<ul style="list-style-type: none"> Bats Breeding Birds Red Squirrels Badgers LBAP Species 	
	Undertake:	<ul style="list-style-type: none"> Phase 2 Habitat Survey 	
Hedges	Survey for:	<ul style="list-style-type: none"> Determine if the hedge is of particular ecological value i.e. species rich 	
		<ul style="list-style-type: none"> Breeding Birds LBAP Species 	

DATA LABEL: PUBLIC

Rivers, stream or wet ditches	Survey for:	<ul style="list-style-type: none"> • Otters • Water Voles • Salmon • LBAP Species 	
	Undertake:	<ul style="list-style-type: none"> • Ecological Impact Assessment 	
Pools, ponds or lochs	Survey for:	<ul style="list-style-type: none"> • Great Crested Newts • Water Voles • LBAP Species 	
	Undertake:	<ul style="list-style-type: none"> • Ecological Impact Assessment 	
Wetland or bog	Survey for:	<ul style="list-style-type: none"> • LBAP Species 	
	Undertake:	<ul style="list-style-type: none"> • Phase 2 Habitat Survey on vegetated areas • Ecological Impact Assessment 	
Long/rough grassland	Survey for:	<ul style="list-style-type: none"> • LBAP Species 	
	Undertake:	<ul style="list-style-type: none"> • Phase 2 Habitat Survey • Ecological Impact Assessment 	
Bings/spoil tips/rock faces	Survey for:	<ul style="list-style-type: none"> • Young helleborine (on wooded bings) • LBAP Species 	
	Undertake:	<ul style="list-style-type: none"> • Phase 2 Habitat Survey on vegetated areas • Ecological Impact Assessment 	
Brownfield	Survey for:	<ul style="list-style-type: none"> • Invertebrates • LBAP Species 	
Heath (heather)	Undertake:	<ul style="list-style-type: none"> • Phase 2 Habitat Survey • Ecological Impact Assessment 	
Buildings/barns	Survey for:	<ul style="list-style-type: none"> • Bats • Barn Owls • Nesting Birds • LBAP Species 	
	Undertake:	<ul style="list-style-type: none"> • Ecological Impact Assessment 	
Scrub	Survey for:	<ul style="list-style-type: none"> • LBAP Species 	
	Undertake:	<ul style="list-style-type: none"> • Phase 2 Habitat Survey • Ecological Impact Assessment 	
Coastal sand, mudflat, lagoons or saltmarsh	Survey for:	<ul style="list-style-type: none"> • LBAP Species 	
	Undertake:	<ul style="list-style-type: none"> • Phase 2 Habitat Survey • Ecological Impact Assessment 	

A free to use online tool called the Wildlife Assessment Check can also be accessed at <https://www.biodiversityinplanning.org/wildlife-assessment-check/>. It has been created by the Partnership for Biodiversity in Planning and designed particularly for smaller developers who may be less aware of their Biodiversity obligations.

This interactive tool provides developers with an opportunity to quickly check whether certain species and statutory sites are likely to be affected by a proposed development and indicates whether the developer should seek expert ecological advice before making a planning application. The results page of the tool lists potential protected and priority species that may be impacted and information about when and how ecological surveys should take place, habitat enhancement, mitigation, legislation and monitoring requirements.

(PG) Planning for Nature - Development Management and Wildlife

Approved by West Lothian Council Executive
Subsequently adopted as Planning Guidance (PG)

25 February 2020
15 April 2020

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