

# Issues to be included in the new Biodiversity Planning Policy Statement replacing *PPG9: Nature Conservation*

## Wildlife and Countryside Link Scoping Paper February 2003



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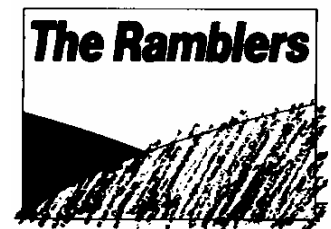
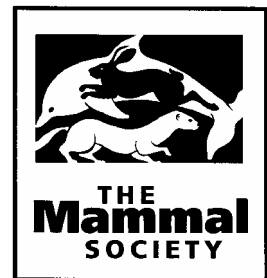
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# Issues to be included in the new Biodiversity Planning Policy Statement replacing *PPG9: Nature Conservation*

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## Introduction

The review of Planning Policy Guidance Note 9 (to be renamed PPS9) presents the Government with an opportunity to ensure that it helps to meet its biodiversity commitments through the operation of the planning system. In 2002 Defra published *Working with the Grain of Nature: a Biodiversity Strategy for England*, which aims to ensure that biodiversity considerations become embedded in all sectors of public policy. It lays out a programme for the next five years to make the changes necessary to conserve, enhance and work with, rather than against, the grain of nature and ecosystems. It sets a vision '*for a country – its landscapes and water bodies, coasts and seas, towns and cities – where wild species and habitats are part of a healthy functioning ecosystem; where we nurture, treasure and enhance our biodiversity, and where biodiversity is a natural consideration of policies and decisions, and in society as a whole*<sup>1</sup>. WCL believes PPS9 should reiterate this statement and must provide a firm policy footing for the achievement of this vision.

## Planning and Biodiversity

Land-use planning affects biodiversity, both through its policy making and through the decisions taken on planning applications, which can lead to developments with the potential to damage, destroy or disturb biodiversity. England's biodiversity has suffered heavy losses due to developments for transport, housing and employment and their land-use impacts. PPS9 should, therefore, reinforce and develop its current advice regarding the **protection** of valuable wildlife sites and species. Planning offers opportunities to promote nature conservation by integrating biodiversity considerations into all land-use planning policies and development proposals - such as site allocation, mineral restoration schemes or green spaces as part of new housing. Fostering this positive approach, PPS9 should give much more weight than the current PPG9 to the **enhancement** of biodiversity. It should promote mechanisms - such as the establishment of strong development plan policies, or the attachment of legally binding conditions or the use of legal agreements/planning obligations - to protect sites and to enable planners to further the UK Biodiversity Action Plan and work co-operatively with others to replace, re-create and enhance habitats and support species recovery. PPS9 should state that Government expects local authorities to help it meet its duties toward biodiversity conservation under Section 74 of the CROW Act, as outlined in the England Biodiversity Strategy<sup>2</sup> - namely '*to have regard to the purpose of biodiversity in the exercise of Government's functions*' and '*to take, or promote the taking by others, of steps to further the conservation of the habitats and species which together are of principle importance for the conservation of biodiversity*'.

## Biodiversity Framework

Biodiversity is set within a legislative and policy framework which has developed considerably since the publication of PPG9 in 1994. This should be reflected in PPS9, which should provide details of the mechanisms to achieve, and an explanation about the fulfilment of, the Government's international, national and local obligations. If the new PPS format, as outlined by the Government in the Planning Green Paper, is to be followed, then PPS9 should outline these requirements, and

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<sup>1</sup> DEFRA 2002. *Working with the grain of nature. A biodiversity strategy for England*, page 7

<sup>2</sup> DEFRA 2002. *Working with the grain of nature. A biodiversity strategy for England*, page 11

**full details** should be provided by means of a supporting Circular or document of policy weight equivalent to a PPG or circular.

### **International conventions and legislation**

We welcome the government's statement in the current PPG9 (paragraph 8) that it '*attaches great importance to the various international obligations it has assumed, [and] is determined to honour them*'. These obligations include the Convention on Biological Diversity signed by 159 governments at Rio de Janeiro in 1992, commitments made at the Johannesburg World Summit on Sustainable Development, the EC Habitats Directive, the Birds Directive, the Bern Convention, the Bonn Convention, the Ramsar Convention and the World Heritage Convention.

### **Legislation relevant to England**

PPS9 must reflect the relevant biodiversity content of a range of national legislation, which includes the Wildlife and Countryside Act 1981 (as amended), the Countryside and Rights of Way Act 2000, the Conservation (Natural Habitats &c.) Regulations 1994 (as amended), the Local Government Act 2000 and the Hedgerow Regulations 1997. In particular, understanding of how the requirements of the Habitats and Birds Directives should be interpreted and implemented in the UK has developed considerably since PPG9 was published. This is through practical experience, case law and guidance from the EU itself. Local planning authorities need an authoritative source of guidance on how these important European and national obligations should be applied in strategic planning and development control. PPS9 and/or its accompanying policy or technical documents **must** ensure this need is met.

### **Biodiversity Action Plans**

The UK Biodiversity Action Plan (BAP) arose from the Convention on Biological Diversity (1992) and has set national and local objectives supported by national, regional and local action. WCL considers that PPS9 must provide a robust policy framework to promote ways in which the planning system and planners can play their part in meeting these objectives. Working in tandem with the UK BAP, PPS9 should show how planners can implement a visionary approach to biodiversity – for example, through proactively seeking to increase wildlife population sizes and create new habitats. The England Biodiversity Strategy seeks to allow biodiversity to be considered through a '*holistic approach, that ensures that biodiversity is an integral part of all policies and programmes, and which is necessary to protect habitats and species from damage resulting from policy or market failure*'. It aims to '*ensure that in future biodiversity is built into all policies and programmes in a positive way*'<sup>3</sup>. PPS9 must embrace these goals, and facilitate their realisation.

### **Biodiversity Defined**

PPS9 needs to provide a meaningful definition of biodiversity for planners. It must make it clear that biodiversity includes both habitats and species, and that although networks of internationally, nationally and locally designated sites are important, the conservation of biodiversity requires much more. Its effective delivery needs recognition that the health of special features is inextricably linked with their surrounding environment. PPS9 must make the important links between wildlife and landscape conservation, addressing the totality of the landscape, valuing cultural as well as ecological aspects of biodiversity. This particularly requires recognition of the value of the wider countryside (outwith protected sites) and urban and suburban environments, including brownfield sites, which have sometimes become significant habitats. Weight must be given to the more widespread species and habitats, as well as the rare and threatened, in planning decisions.

The current PPG9 lacks connectivity between species and habitats considerations, and does not give sufficient attention to species protection and conservation. Legally protected species are not

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<sup>3</sup> DEFRA. 2002. *Working with the grain of nature. A biodiversity strategy for England*, page 21

confined to protected sites such as SSSIs and local sites of nature conservation importance. PPS9 must provide an improved regime to protect species outside these sites. It should also include a wider range of species, and habitats, beyond those which are legally protected, recognising that species and habitats which do not have legal protection form an important part of the environment.

WCL believes that PPS9 should also include clear guidance to planners that a landscape-scale approach is central to good planning. We consider it essential that biodiversity enhancement initiatives work strategically to buffer and connect existing areas of habitat, to ensure that we are not left with isolated pockets.

PPS9 must stress that objective assessment of the actual or potential biodiversity value of areas of land, based on sound information, may often be needed. It should highlight potential sources of such information e.g. Local Record Centres, NGOs and local government or other ecologists. As well as assessment relating to individual sites affected by plans or proposals, Strategic Environmental Assessment (including Local BAP, Landscape Character Assessment and Historic Landscape Character Assessment), can be useful in the development of integrated conservation of natural and historic features across whole landscapes<sup>4</sup>. Such assessments assist biodiversity restoration. This wider appreciation of natural and historic features can also help engage local communities with their environment, creating a sense of place and leading to shared benefits for biodiversity and local people. PPS9 must therefore make proper links to the forthcoming revised PPS on built heritage and archaeology.

Sharing of experience between local authorities should be encouraged, to help to identify good practice and continuity across boundaries. PPS9 should promote training for planners, to help them identify where ecological impacts are likely, and how policies or developments are likely to affect species and habitats. PPS9 should encourage local authorities to employ local authority ecologists or have access to equivalent advice 'on call'.

## Sustainable Development

WCL is pleased that the Government considers that '*biodiversity is a key test of sustainable development*<sup>5</sup> and that '*biodiversity is at the heart of our aim for a more sustainable future*<sup>6</sup>. We welcome the general thrust of Section 38 of The Planning and Compulsory Purchase Bill, which seeks to provide a sustainable development duty for planning, although we feel this could be significantly improved by being set out as part of a wider purpose for planning. We believe that PPS9 has a significant role to play in defining the importance of biodiversity as a key component of sustainable development. PPS9 must therefore update its sustainable development content to reflect the advances in this agenda. In particular, specific and fuller reference should be given to:

- *A Better Quality of Life: a strategy for sustainable development for the UK*<sup>7</sup> and *Quality of Life Counts*<sup>8</sup>: indicators for a strategy for sustainable development for the United Kingdom.
- *Biodiversity: The UK Action Plan*. 1994.
- *Local Government Act 2000* i.e. Community Strategies
- *Working with the Grain of Nature: a Biodiversity Strategy for England*. 2002.
- *Planning for Sustainable Development: – towards better practice*<sup>9</sup>

Biodiversity is important not just in its own right but for people too, in terms of social and economic benefits and well-being. A National Trust study<sup>10</sup> has shown that 40% of all tourism related employment in the North East region is motivated by high quality of the environment. In the South

<sup>4</sup> 'Natural' habitats almost everywhere in Britain are products of past interaction between human society and nature, and as such, contribute to the historic character of the landscape as well as to biodiversity

<sup>5</sup> DETR 2000. *PPG11: Regional Planning*, page 45

<sup>6</sup> DEFRA, 2002. *Working with the grain of nature: A biodiversity strategy for England*, page 9

<sup>7</sup> DETR, 1999.

<sup>8</sup> DETR, 1999.

<sup>9</sup> DETR, 1998.

<sup>10</sup> The National Trust, 2001. *Valuing our Environment*.

West a study<sup>11</sup> showed that capitalising on a high quality environment generated approximately 55,000 jobs and £744 million in output. Employers are attracted to areas of high environmental quality. The RSPB Minsmere nature reserve in Suffolk attracts almost 80,000 visitors per year who spend £1.1 million in the local economy and support 27 tourism jobs. Direct employment on the reserve adds a further 20 jobs<sup>12</sup>. Habitats can also provide natural ecosystem functions, such as flood plains and soft coastal defences, which provide significant economic benefits.

Habitat re-creation provides a foundation to help improve our quality of life - for instance, encouraging people to enjoy their outdoor environment for exercise could give direct savings in expenditure on health. The risk of a stroke is three times higher in those who abstain from exercise: strokes currently cost the nation £2 billion per annum<sup>13</sup>.

Schemes to re-create or restore habitats present a positive opportunity to engage with local communities from the earliest stages of project development, and such schemes often extend public access to the local countryside. Urban and rural green spaces can provide a long-term resource for education and community involvement.

**PPS9 must highlight the importance of biodiversity in terms of social and economic objectives, as well as biodiversity for its own sake. It must promote policies which ensure that all development delivers these benefits. It must make the necessary links to Community Strategies which place a duty on local authorities to promote the economic, social and environmental well-being of their areas.**

## What planners should do: Delivery of biodiversity objectives

In order for planners to deliver biodiversity objectives, biodiversity must be considered at the earliest opportunity and at every stage of the planning process. The approach taken should seek to avoid damage in the first instance, mitigate where impacts cannot be avoided and there are no alternative solutions, and only as a last resort allow loss of biodiversity. Further, planning must seek to enhance biodiversity wherever possible. WCL supports the use of a **sequential approach** - for example, the following approach has been adapted from that advocated by the Royal Town Planning Institute<sup>14</sup>. We believe this type of approach should be promoted by PPS9.

- **Information and assessment** – is more information needed before decisions can be made on scheme/site selection and/or scheme design? Identify, protect and seek to enhance important environmental features. Consider potential impacts (direct, indirect and cumulative), on the environment likely to result from policy and development proposals (using Strategic Environmental Assessment (SEA), Environmental Assessment (EA) and Landscape Character Assessment where appropriate). In the absence of adequate information, decisions should be deferred or a precautionary approach applied.
- **Avoidance** – can all adverse impacts of development be avoided? Always seek to avoid adverse impacts, exploring all available alternative options, including doing nothing. SEA should also be applied to alternative options.
- **Mitigation** – where adverse effects are unavoidable, can those effects be reduced?
- **Compensation** – where mitigation cannot resolve adverse effects, are compensatory measures appropriate? Compensation should only be considered as a last resort. It should not be an afterthought if impacts cannot be avoided or mitigated. Compensation packages or schemes should not compromise other biodiversity assets.
- **New benefits** – are there opportunities to enhance wildlife and habitats? Always seek to improve the environment through new development or land use change. Enhancement should lead to genuine improvements on what exists already.

<sup>11</sup> The Environmental Prospectus Group, 1999. *An Environmental Prospectus for South West England*.

<sup>12</sup> RSPB, 2001. *Conservation Works*.

<sup>13</sup> RSPB, 2001. *Conservation Works*.

<sup>14</sup> RTPI, 1999. *Planning for Biodiversity: Good practice guide*, page 33

## Key Issues

WCL considers that PPS9 should:

- **Promote positive planning** - Biodiversity *protection and enhancement* can and should be part of all development. PPS9 must encourage biodiversity enhancement wherever possible via all levels of planning from national policy, through Regional Spatial Strategies and Local Development Frameworks, to small-scale plans and projects, and including SEA and Statements of Community Involvement.
- **Protect and enhance wildlife sites** - be they of international, national or local importance. The important guidance currently in PPG9 (including international decision making trees – Annex C of PPG9) should be updated and improved, and not lost due to the new slimline style of PPS9. Similar decision trees should also be considered for national and local sites and species.
- **Promote a sequential approach to planning for biodiversity** – with emphasis on avoiding adverse impacts first and foremost.
- **Promote biodiversity in all sectors** - it must be a material consideration of design and decision-making for *all* sectors e.g. housing, employment, transport, recreation etc. Habitat creation/enhancement/maintenance for biodiversity is an appropriate land use for aftercare/restoration of developments, e.g. mineral extraction sites.
- **The presence of both a protected species and a Biodiversity Action Plan species should be a material consideration in planning.**
- **Promote strategic thought and action on biodiversity** - Both large-scale and long-term action is needed to replace habitat and species losses, for example, through allocation of suitable land in development plans. This work should be clearly linked to achievement of UK BAP and Local BAP targets.
- **Be complementary to the UK BAP system** - For BAPs to deliver effectively the planning system must provide a strong planning policy framework. Planners need to engage with the BAP process and other stakeholders to play their part in BAP target achievement at UK, England, regional and local levels.
- **Extend its focus beyond currently protected sites** - recognising the important links between nature conservation and landscape conservation, PPS9 should give protection to and promote enhancement of:
  - All semi-natural or ancient habitats
  - Ancient woodlands specifically – England should offer a similar level of protection of these habitats to that given by Scotland and Wales.<sup>15</sup>
  - Habitats acting as links, stepping stones and corridors, such as hedgerows.
  - Local wildlife sites, which are currently treated inconsistently. Protection of these sites is required by the Convention on Biodiversity, and Government must help deliver this through the planning system.
  - Currently poor biodiversity areas that have potential to help achieve BAP targets

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<sup>15</sup> In Scotland, **NPPG14** states that '*planning authorities should seek to protect...ancient and semi-natural woodlands [which] have the greatest value for nature conservation*' (para 51)

**Planning Policy Wales** states "*Ancient and semi-natural woodlands are irreplaceable habitats of high biodiversity value which should be protected from development that would result in significant damage*" (para 5.2.8).

- **Encourage buffering and extending of important habitats** - to place them on a more sustainable footing in the face of threats such as development and climate change.
- **Greatly expand previous advice given on species** - including protected and national/local BAP priority species, **and** ensure legally protected species are considered as required by protected species legislation. This should include advice on the protection of brownfield sites that are important for listed species.
- **Address the agendas of both the Urban and Rural White Papers** - i.e. promote biodiversity protection and enhancement in urban, suburban and rural settings.
- **Urge local planning authorities to have ecological expertise and information available whenever required** - Advise them to use all appropriate sources of information and guidance including NGOs, BAP lead partners, consultants, Local Record Centres, National Biodiversity Network, LA Ecologists, English Nature.
- **Urge local authorities to ensure that sufficient information is available to them** - and adequately interpreted to allow appropriate consideration to be given to biodiversity at all stages and in all levels of planning. It should promote the 'ring fencing' by local authorities and other relevant bodies of sufficient resources for the development of skills, expertise and good practice in biodiversity amongst planners and council members, advocated as part of the planning reforms.
- **Call for full and proper assessment of environmental and landscape impacts** - through use of SEA, EIA, and Landscape Character Assessments (including Historic Landscape Character Assessments), wherever appropriate.
- **Promote stakeholder involvement and consultation in biodiversity planning** - to help emphasise potential benefits to communities. NGOs and local groups can be a good source of public opinion and support, as well as ecological expertise.
- **Promote sharing and dissemination of good practice.**
- **Promote a positive mindset towards biodiversity in developers, planners and decision makers** - by highlighting the associated economic and social benefits that can be delivered through protecting and enhancing biodiversity as part of development proposals, (which contribute to the achievement of sustainable development). Emphasise that biodiversity is a natural resource to be used prudently.
- **Clearly highlight the important role of statutory consultees in the planning process** - WCL thinks that additional statutory consultees - e.g. water companies in respect of water supply for new developments and the Forestry Commission in respect of ancient woodland - should be included because of their important role in helping to protect biodiversity.
- **Recognise that biodiversity will be affected by climate change** - PPS9 should include guidance on what is required of planners to help facilitate adaptive strategies.

**Notwithstanding our comments above, if the proposed new slimline PPS format is followed, PPS9 must be accompanied by a Circular detailing the legal provisions of key wildlife legislation insofar as they affect and are affected by planning. It is not acceptable that such advice on important legal processes be 'relegated' to a discretionary good practice guide.**