

Wildlife and Countryside Link response to the National Planning Policy Guidance website

1. Introduction

Link welcomes the beta version of the National Planning Practice Guidance and is broadly supportive of the principle of the guidance. However, there are a number of issues that we would like to see addressed prior to the site going 'live', to ensure the site is capable of providing the best possible outcome for the natural environment.

Wildlife and Countryside Link (Link) brings together 42 voluntary organisations concerned with the conservation and protection of wildlife, countryside and the marine environment. Our members practise and advocate environmentally sensitive land management, and encourage respect for and enjoyment of natural landscapes and features, the historic and marine environment and biodiversity. Taken together our members have the support of over eight million people in the UK and manage over 690,000 hectares of land.

This response is supported by the following 15 organisations:

- Amphibian and Reptile Conservation
- British Mountaineering Council
- Buglife – The Invertebrate Conservation Trust
- Butterfly Conservation
- Campaign for National Parks
- Campaign to Protect Rural England
- Friends of the Earth
- National Trust
- Open Spaces Society
- Plantlife
- Ramblers
- Royal Society for the Protection of Birds
- The Wildlife Trusts
- Wildlife Gardening Forum
- Woodland Trust

2. Overall usability and presentation

The language of the guidance is simple and clear, but without adequate input from professional ecologists at a local level it will not be particularly helpful to developers or planners who do not have biodiversity expertise.

Link's fundamental concern with the beta guidance is that its audience is not clear. By attempting to produce guidance that meets the needs of everyone, it will not meet anyone's needs effectively. While it is clear and simple for the general public to access and use, the guidance does not provide the more nuanced guidance that planners and developers need to effectively implement the policies set out in the National Planning Policy Framework (NPPF). We are also concerned that splitting the guidance into very discrete sections will encourage 'silo' working. For example, whilst Link welcomes the design section, we are disappointed that there is no cross referencing to it in the rest of the guidance.

The more detailed guidance is reliant on documents owned by other government departments, which, because they are constantly subject to review, may not be acceptable in the future, even if

they are now. The guidance gives no mechanism for dealing with this issue by anticipating problems. Link is particularly concerned about the proposed new wildlife guidance produced by Defra. There is also a lack of cross-referencing to both existing and future Natural England guidance on landscape character assessment and National Character Areas.

To minimise the issue of broken links and avoid the need to navigate a whole website, the guidance should clearly set out exactly which document (with name and date) it is linking to. We would also like assurances from DCLG that they will be consistently liaising with the other government departments to ensure that the whole suite of documents is kept up to date.

We regret that the Government has decided not to link their guidance to third party guidance, for example the Green Infrastructure and Biodiversity guidance produced by a coalition led by the Wildlife Trusts and The Town and Country Planning Association:

http://www.tcpa.org.uk/data/files/TCPA_TWT_GI-Biodiversity-Guide.pdf. In lieu of these specific links, the guidance should make it clear where there are expert organisations that planning authorities can consult on specific issues.

In terms of useability, the new site is difficult to navigate. It is not clear for users when they are viewing the guidance or the NPPF site. We recognise that the sites are differentiated by blue and maroon lines, but these can prove a little too subtle. To aid referencing, it would be very useful to have page and paragraph numbers; while a useful context, the unique reference numbers do seem difficult to manage. For example, the unique reference numbers do not print out with the document. Electronic and print uses of the document must therefore be considered. It would be very useful to have the glossary clearly tabbed from the home page, as this very useful element of the site is currently quite difficult to find.

The guidance needs to ensure that any gaps in guidance, for example Habitats Regulation Assessment of Local Plans, can be identified and remedied at an early stage. Link is also wary of deleting guidance that might not be fully updated. We note that Circulate 06/05: Biodiversity and Geological Conservation is being replaced by Defra; Circular 06/05 contained a lot of good and detailed guidance, and its successor will be an important addition to the guidance suite.

We are very disappointed the guidance on Onshore Oil and Gas and Renewables was rushed out prior to the beta site going live, without formal public consultation or engagement. Link would like assurances of consistency of approach with regard to future consultation on any proposed changes.

3. Comments on the guidance

a. Appeals

Link welcomes the statement that parties should negotiate prior to the appeal.

Is there a right of appeal on planning and related decisions, such as advertisement consent, listed building consent, and enforcement?

This section is comprehensive and well written, but could include participation in the appeals process by third parties (a specialist section on public input to appeals process) and promote best practice here (e.g. duty to the Inspector, repetition of evidence etc.). Link continues to believe strongly in the need for a carefully defined third party or 'community' right of appeal against the grant of planning permission for schemes not in line with adopted Local Plans.

Direct links to the Planning Inspectorate, guidance on submission of appeal forms and Planning Aid would be useful.

b. Assessment of housing and economic development needs

What areas should be assessed?

The previous guidance allowed for authorities to exclude sites with 'nil housing potential' and presented Sites of Special Scientific Interest (SSSIs) as a clear example. This element has disappeared from the new guidance, in favour of a very technical and commercially driven description of the assessment. It should be acknowledged that some sites are not suitable for inclusion within the assessment, for example due to their high nature conservation or landscape value.

How should plan makers respond to market signals?

This section contains a new requirement on planning authorities to adjust planned housing numbers upward if there is a divergence between the numbers set out in household projections and those set out in overall trends. In Link's view this so-called 'affordability' test goes beyond providing guidance and constitutes a change in policy, despite the Government's stated intention that the new website will not seek to change policies in the NPPF. The NPPF only requires local authorities to 'take account' of market signals. By contrast, the guidance suggests instead that market signals should direct local policy by requiring unspecified, but potentially considerable, amounts of land to be released for housing development in areas where affordability is poor. This is based on a simplistic assumption that allocating more land for new housing in the planning process will bring down house prices. This has been disproved by the recent experience of a number of countries such as the USA and Ireland, as well as by research in the context of England.¹

If this assumption is not removed, the proposed test is likely to result in unnecessary loss of countryside, including Green Belt and less local control over where new housing is built. Moreover, it will do little or nothing to reduce house prices. Link calls for the test (in particular the third sentence in the first paragraph, and the third and fourth paragraphs) to be scrapped. The only parts of this section that can be justifiably retained as 'guidance' are the final paragraph and opening two sentences of the first paragraph.

c. Assessment of land availability

What happens when constraints are identified that impact on the suitability, availability and achievability?

The text talks about 'what action would be needed to remove' constraints, but does not go on to explain what would happen where the constraints are going to be difficult to remove (for instance heritage or nature conservation considerations).

d. Before submitting an application

The importance of considering design and environmental issues at the pre-applications stage

The one line provided on this issue, which provides a link to design review, is wholly inadequate. This section should highlight natural environment issues, and link to relevant areas of the guidance. Consideration should also be given to the site and context appraisal, and understanding the importance of landscape character assessment in the effective siting and design of new development.

e. Climate change

¹ CPRE (2007) *Planning for Housing Affordability*.

We are very disappointed that the guidance on Onshore Oil and Gas and Renewables was rushed out prior to the beta site going live, without formal public consultation or engagement. Link has significant concerns over the difference in the tone and approach of the two pieces of guidance, which appear to favour oil and gas development over renewable energy.

Renewable energy is a major issue for the planning system, which presumably falls within the climate change section although there is no guidance on renewable energy other than a mention under addressing climate change through local plans; at the very least it should be addressed under the determination of applications. The recent *Planning Practice Guidance for Renewable and Low Carbon Energy* (July 2013) was understood to be intended to form part of the web based resource – but there is no apparent reference to it in the guidance.

There is also no information on how to establish an evidence base. The guidance mentions the National Adaptation Plan but does not adequately articulate the relationship between the National Adaptation plan, the NPPF and this guidance. Cross referencing would be useful to give climate change more context within planning.

Why is it important for planning to consider climate change?

This guidance includes insufficient explanation of why adapting to climate change is important. Adaptation is not simply about managing climate risks, but about interacting with – and planning for – a world in which climate change will transform and shape how we live.

What climate change legislation should planners be aware of?

The last line in this section of the guidance should refer to ‘essential’ information for plan-making, rather than ‘helpful’ information.

Spatial planning needs to take account of adaptation needs recognised through the UK Climate Change Risk Assessment and National Adaptation Programme Report.

How can the challenges of climate change be addressed through the Local Plan?

There are very few examples of mitigating climate change; plans should give as many examples for mitigation as for adaptation. These could include:

- Using ecosystem based adaptation as a preferred, planned approach to adaptation wherever applicable – e.g. coastal defences, flood control, urban cooling;
- Planning for the redistribution of biodiversity in response to climate change by extending ecological networks;
- Assessing the ecological importance of areas proposed for development under future, as well current, climatic conditions.

We recommend changing the second bullet point to ‘maximising’ rather than ‘providing’ opportunities for renewable and low carbon technologies.

We also suggest a further bullet point with a link to the design quality section:

- Encouraging efficient and low carbon design, for example passive solar design.

How can adaptation and mitigation approaches be integrated?

This section lacks any ambition for microgeneration or area-wide renewable energy deployment.

The existing bullet points are good, but the following would be a useful addition:

- Protected areas and activities where mitigation and adaptation are integrated, e.g. ensuring continued ecological functioning of peat soils or their restoration through e.g. mineral planning.

How can planning deal with the uncertainty of climate risks when promoting adaptation in particular developments?

The use of the phrase ‘in a realistic way’ downplays the impacts of climate change and the adaptation it requires. Although no- and low-costs solutions should be considered where appropriate, adaptation must be done properly to address future conditions and impacts, with win-wins prioritised. The costs of effective adaptation are likely to be less than the costs of failing to provide adequate adaptation for economic, social and environmental interests. Indeed, the continued 3% annual rise in greenhouse gas (GHG) emissions is at the high end of the scenarios laid out by the Intergovernmental Panel on Climate Change, pointing to high-end impacts that require high-end adaptation responses.

What role can climate change risk assessments play in plan making?

Climate change risk assessments must be an integral component of the planning process. The first sentence should be amended to read, ‘Climate change risk assessments *should be used to support* the production of Local Plans by informing the Sustainability Appraisal.’

A common risk assessment framework should be adopted, to ensure consistency across local planning authorities. These risk assessments need not be onerous to undertake, and can most usefully inform at a strategic level, identifying areas where further, detailed research may be required. The assessments should cover the three principal areas of a sustainable society: the natural environment and biodiversity; community and society; and economics.

How can local planning authorities identify appropriate mitigation measures in plan-making?

This is one of a number of paragraphs where the relationship between this guidance and the guidance on renewable and low carbon energy is unclear. This paragraph also misses the opportunity to emphasise the role of Local Plans in taking a spatial approach to the deployment of renewable energy in their area, and it says nothing about trying to reduce reliance on fossil fuels, promoting the deployment of renewables or fostering support for community energy developments. Planning should be integral to local authorities’ actions to achieve the GHG reductions required by the Climate Change Act 2008.

Although the distribution and design of development is a critical factor in reducing GHG emissions, the guidance must also explicitly recognise the need to plan for low or lower carbon transport infrastructure, rather than treating this as an adjunct to development.

The guidance also needs to add something on maintaining carbon stores in the planning area (e.g. peat soils, woodlands, coastal grasslands).

Finally, it should also require that land use and land use change should be included in analyses of emissions sources.

How can local planning authorities support energy efficiency improvements to existing buildings?

This seems very limited. Planning permissions should generally favour the addition of renewable energy technologies on buildings where this is required. Most such technologies are non-permanent additions and do not cause structural change to heritage buildings. The public acceptability of solar panels, for example, is now high.

What are the Government's national standards for a building's sustainability and for zero carbon buildings?

The repetition in this paragraph of the impact on viability is a cause for concern. Requirements for high standards of sustainability must not be compromised by the stage in the economic cycle at which a plan or project is brought forward.

On a policy note, we welcome the Government's consultation on introducing its own set of nationally prescribed standards for the sustainability of new housing, rather than relying on voluntary standards like the Code for Sustainable Homes. However, we need to ensure that these standards are not weaker than the existing voluntary standards. Clarity is also needed around whether new developments be required to achieve a particular level within the standards, or just to publicise the level they have obtained.

What is passive solar design?

Developments should be designed to function well in the expected climate conditions of the lifetime of the development. This raises a number of issues for the design guidance, which are considered in our comments on that topic.

Where can I find out more about climate change mitigation and adaptation?

Further government sources of useful information that could be linked to include:

- Climate change projections for the UK, which are available from UKCP09 (<http://ukclimateprojections.defra.gov.uk/21678>) and the Met Office (<http://www.metoffice.gov.uk/climate-guide>); both sites have useful background and detailed information on climate change observations, trends and science.
- Living With Environmental Change (<http://www.lwec.org.uk/>) and Climate UK (<http://climateuk.net/>), a partnership of 12 regional climate networks across the UK, both have further resources for understanding the implications for climate change for communities, businesses and public bodies.

f. Design

Overall, the design section should refer to need to build in biodiversity and nature as part of good design for all development.

Why does good design matter in planning?

The paragraph that starts 'Achieving good design is about creating places...', should be amended to: 'Achieving good design is about creating places, buildings or spaces that work well for everyone, look good, *function well in the expected climate conditions of the lifetime of the building and have low energy requirements.*'

What are the outcomes of good design?

The list in this section should be amended to include: 'That meet the challenges of, and are fit for purpose in relation to, climate change.'

When considering the design of all new development, what are the key points to take into account?

The list in this section should be amended to include:

- Low energy use;

- Integration with low carbon transport provision.

The crucial issue of what is meant by context needs explanation and in a more complete way than that provided under the 'Design' section itself (see below), such as that given in Homes and Community Agency's Urban Design Compendium 1: Urban Design Principles, www.homesandcommunities.co.uk/urban-design-compendium?page_id=5542&%3B%3Bpage=179.

g. Determining a planning application

In what circumstances might it be justifiable to refuse planning permission on grounds of prematurity?

Link believes that the new guidance should reinforce the Local Plan-led system rather than undermine it. The guidance on 'prematurity', which sets out how much weight can be given to emerging draft Local and neighbourhood Plans, therefore needs to be amended. Since the NPPF came into force in March 2012 a growing number of major developments have been allowed at appeal in conflict with emerging local policies.² This contradicts the Government's efforts to empower local people. The guidance should state clearly that major planning proposals can be turned down if they are contrary to a published draft 'preferred option' plan for which the date of the later public examination stage has been set.

h. Duty to cooperate

Link welcomes the reference that recognises that ecological networks are cross-boundary issues.

How does the duty to cooperate relate to the Local Plan test of soundness?

The response to the question could make it clearer that there are two tests involved at the Local Plan examination: the legal test of the duty to cooperate, and; the test of soundness as described in the NPPF. The test of soundness includes the strategic outcomes which the duty is intended to promote, but the duty in itself does not deliver these outcomes.

The guidance should also provide more information on what constitutes effective cooperation between local authorities in relation to the biodiversity and Green Belt policies of the NPPF, particularly those relating to planning for biodiversity at a landscape scale across local authority boundaries (paragraph 117), planning positively for the beneficial use of the Green Belt (paragraph 81) and setting Green Belt boundaries (paragraphs 83-85).

Are Local Enterprise Partnerships and Local Nature Partnerships subject to the duty to cooperate?

Many of the biodiversity policies in the NPPF rely on cooperation between local planning authorities, particularly those requiring them to plan for biodiversity at a landscape scale. There should be a link to the biodiversity topic, ideally from 'biodiversity' in the last sentence.

What outcomes are expected from the duty to cooperate?

We are concerned by the final sentence, which states that the examination 'will assess the outcomes of cooperation and not just whether local planning authorities have approached others.' This is misleading: the duty to cooperate is *not* a duty to agree, and if the planning authority has done the utmost to get cooperation from neighbouring authorities without success it will only be able to show the extent of those approach attempts, not anything more substantive.

² CPRE (2013) *Countryside Promises Planning Realities*, www.cpre.org.uk/resources/housing-and-planning/planning/item/3260-countryside-promises-planning-realities.

What actions constitute effective cooperation under the duty to cooperate?

Local planning authorities should be strongly encouraged to develop their evidence base in cooperation with other local authorities and Local Nature Partnerships. Local authorities will also need guidance on how they can put together a robust evidence base for their Local Plans, to fulfil the policy requirements on conserving and enhancing the natural environment in the NPPF.

When is an issue a strategic matter on which cooperation is required?

Cooperation on ecological networks and the provision of green infrastructure is a strategic matter, and the guidance should highlight this.

i. Environmental Impact Assessment

What is the purpose of Environmental Impact Assessment?

The statement that Environmental Impact Assessment (EIA) should not be a barrier to growth is unhelpful, as that is not a determining issue in itself for whether to carry out an EIA. The purpose of EIA is not simply related to the local planning authority decision making process, as stated. A DCLG guidance note made clear that the House of Lords has also stressed that the purpose of the EIA process is to provide individual citizens with sufficient information about the possible effects and give them the opportunity to make representations (*Berkeley v Secretary of State for the Environment, Transport and the Regions* [2000]).

When is Environmental Impact Assessment required?

It would be clearer if this section (and the following section: *What is the procedure for deciding if a Schedule 2 project is likely to have significant effects?*) was set out as a two stage process, utilising a flow chart with the following stages to build on the information set out in the regulations:

Stage 1 - Is screening required?

Stage 2 - Screening - is EIA needed?

j. Flood risk and coastal change

This guidance is an important adjunct to the NPPF policies on protecting undeveloped coast, though there is still a need for further specific guidance on the undeveloped coast (please see Natural Environment response section).

What should be done to reduce the causes and impacts of flooding?

The site could usefully include guidance for local authorities on being proactive in retrofitting features such as rain gardens. Without proactive work in installing Sustainable Drainage Systems (SuDS) it is likely that future changes in rainfall patterns could increase the effects of floods and drought. The Susdrain website has many excellent case studies <http://www.susdrain.org/>, also <https://www.cambridge.gov.uk/sustainable-drainage-systems>. SuDS can improve green infrastructure, biodiversity and health of residents. Local planning authorities could also consider work upstream in the catchment funded by the Community Infrastructure Levy to create wetland habitat and reduce downstream flooding.

k. Light pollution

Link welcomes the draft guidance on light pollution, including its statement that ‘the best use of artificial light is about getting the right light, in the right place and providing light at the right time.’ We hope that the NPPF and this guidance will lead to a decrease in light pollution, which will benefit both biodiversity and landscape quality.

I. Local Plans

How should a Local Plan reflect the presumption in favour of sustainable development?

This section refers to ‘needs’ only. It does not give any guidance on how Local Plans should ensure that development is sustainable. We propose the following amendment: ‘This should be done by identifying and providing for objectively assessed needs and by indicating how the presumption will be applied locally, including how economic, social and environmental gains will be sought jointly and simultaneously.’

What evidence is needed to support the policies in a Local Plan?

This section should highlight the key role of an integrated evidence base. Local planning authorities should be encouraged to integrate their evidence base across strategic priorities. This will enable them to identify win-win opportunities, for example, ensuring that a planned housing development is located and designed to support the biodiversity enhancement and protection objectives of the area (i.e. in relation to restoration of the ecological networks and protection of priority species).

It should also link to individual policy areas where more detail about how to develop an evidence base is provided; we suggest that the simplest solution would be to link to NPPF paragraph 158.

Who should be involved in preparing a draft Local Plan?

The guidance only sets out who needs to be consulted; there is no promotion of the positive outcomes associated with engaging with the wider community at an early stage.

m. Natural Environment

Link is concerned that there is no guidance on ‘undeveloped coast’ in the Natural Environment section, only Heritage Coasts. The NPPF mentions ‘undeveloped coast’ (paragraph 114), but there has been no replacement for guidance set out in Planning Policy Guidance 20: Coastal Planning, such as to how to define ‘undeveloped coast’ (previously coastal zone and ‘coastal preservation areas’).

The guidance should also refer to the importance of access to nature for local communities, with references to commitments 54 to 60 in the Natural Environment White Paper, in Chapter four ‘Reconnecting people and nature’.

Biodiversity, ecosystems and green infrastructure

We welcome the reiteration that there should be a move away from a net loss of biodiversity towards a net gain. This point could be reinforced with a link to: *Making Space for Nature: A review of England’s Wildlife Sites and Ecological Network*. This document gives real, practical meaning to the term ‘net gain’. For example, in relation to these gains being long-term it recognises that some habitats take so long to develop that they are functionally irreplaceable, and it sets out the importance of having mitigation in place before any loss occurs. It provides very useful information that supports the strategy and legislation to which the next section (*Is there a statutory basis for planning to seek to minimise impacts on biodiversity and provide net gains in biodiversity where possible*) links.

This section should:

- highlight the need to identify and map existing and potential components of ecological networks e.g. buffers and improved links between existing sites – this is an essential part of landscape nature conservation;
- link to the section on evidence bases in the ‘Local Plans’;
- provide more detail on surveying and the appropriate timings for successful surveying;
- stress that surveys must be undertaken pre- application – they should not be a condition of permission being granted.

Biodiversity 2020 is frequently given as a link, but this is a short, high level document which does not give any specific useable advice. As it is frequently cited through the guidance, it would be useful to highlight some key targets within the strategy. Under the section *How should local planning authorities set about planning for biodiversity?* bullet point three states, ‘the potential effects of a development on the habitats or species on the Natural Environment and Rural Communities Act 2006 section 41 list (in *Biodiversity 2020*).’ Whilst we very much welcome this reference to section 41 species, the list of those species is not given in *Biodiversity 2020*, and this link to the list should therefore also be included:

<http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>.

What are local ecological networks and what evidence should be taken into account in identifying and mapping them?

The links in this section for species and habitats take you to *Biodiversity 2020*, and the link for significance takes you to the Natural England standing advice page. The two links appear to be the wrong way round, since the standing advice will give little information on habitats and *Biodiversity 2020* has very little on significance.

This section should also link to Natural England’s standing advice on ancient woodland:
http://www.naturalengland.org.uk/Images/standing-advice-ancient-woodland_tcm6-32633.pdf

How can evidence on ecology be gathered and be kept up to date?

This section details the importance of Local Record Centres and ends with the comment ‘Your local planning authority can provide contact details if it supports a Local Record centre.’ This raises the question of those authorities that do not have a Local Record Centre, or where the Local Record Centres is not supported by the local planning authority. Further clarity on this would be helpful. This point illustrates how poorly supported Local Record Centres are and how fragmented information is. The guidance could usefully link to the ALERC website (www.alerc.org.uk/find-an-lrc-map.html), which provides useful information about Local Environmental Records Centres.

In general, we could not find any reference to the use of good quality biodiversity data (species and habitats) and the availability of this data locally through the network of Local Environmental Record Centres. Information is a crucial part of decision making, and is a tool that all local authorities have available to them – it should be woven into the guidance.

Why are locally designated sites important and how can I find out more about them?

In this section the links do not actually take you to information about Local Sites, and it is not clear what Local Sites guidance is being referred to. We would expect there to be a link to Defra’s *Local Sites: Guidance on their identification, selection and management*
<http://archive.defra.gov.uk/rural/documents/protected/localsites.pdf>. This guidance is widely used

and a crucial tool for policy and decision-makers as it is the only form of national guidance that sets out standards for Local Sites.

It is important that the guidance encourages people to contact and talk to the Local Wildlife Site Partnership for information about Local Sites. The local authority, local Wildlife Trust or Local Records Centre will be able to provide the best contact in this respect.

The guidance should, as it has done with the Local Green Space Designation, include a more informative description of Local Sites, since this is absent from the NPPF and their role and value is frequently overlooked. For example:

‘Local Wildlife Sites (LWS) are defined areas, identified and selected locally for their substantive nature conservation value, based on important, distinctive and threatened habitats and species within a national, regional and a local context. There are more than 42,500 LWSs covering over 694,000 hectares (5.2% of England). They play a critical conservation role by providing wildlife refuges, acting as stepping stones, corridors and buffer zones to link and protect nationally and internationally designated sites. Together with the statutory Sites of Special Scientific Interest (SSSI), they form the essential building blocks of an ecological network – improving ecological coherence and connectivity and contributing to a climate resilient landscape.’

This section also needs to link to the Local Green Space Designation and to the appropriate section of the NPPF.

How can I take ecosystems services into account in planning?

This section links to *Biodiversity 2020* again, as well as the 2007 draft guidance. This 2007 guidance was described in its executive summary as a first step; such a document should now be considered to be out of date. Overall, this section seems very tentative and is unlikely to give much encouragement to local authorities who may consider using the concept.

How can I find out more about green infrastructure?

The Natural England guidance that is linked to is out of date. There should in any case be more focus on giving local planning authorities information on landscape scale nature conservation through the Lawton principles:

<http://archive.defra.gov.uk/environment/biodiversity/documents/201009space-for-nature.pdf>.

How should biodiversity be taken into account in preparing a planning application?

The whole section appears to discourage biodiversity from being taken into account. If issues like priority habitats and surveys for protected species are missed at this stage it can lead to considerable delays later on.

We are also concerned at the implication that ecological surveys are only required when there is a reasonable likelihood of protected species being present or if an Environmental Impact Assessment is required. Ecological surveys should also be carried out to identify the presence and potential impacts upon any habitats and species included on the Section 41 list (Habitats and Species of Principal Importance).

The document needs to identify that there are specific seasons during which ecological surveys should be undertaken to gather sufficiently robust ecological information in order for developers to plan their projects accordingly. It should also clarify that ecological survey information only remains valid for two survey seasons.

There is no mention of sites which are near to SSSIs etc. Links to some of the Natural England standing advice might help, such as:

- http://www.naturalengland.org.uk/Images/Bats_tcm6-21717.pdf
- http://www.naturalengland.org.uk/Images/FlowchartFINAL_tcm6-21596.pdf
- http://www.naturalengland.org.uk/Images/Decision-tree_tcm6-21619.pdf

The guidance needs to do more to emphasise the importance of pre-application consultation, not only with the local planning authority but with the local community and relevant non-governmental organisations. This should be promoted as an effective way of speeding up the planning process by reducing unexpected objections further down the line.

The guidance indicates that planning conditions, legal agreements or undertakings and supporting ecological information may be appropriate in order to provide for monitoring and/or biodiversity management plans. (Further guidance on information requirements is set out in *Making an Application*). However, the hyperlink does not appear to take users to the most appropriate page, which would be: <http://planningguidance.planningportal.gov.uk/blog/guidance/making-an-application-2/validation-requirements/234-local-information-requirements/>.

How can development not only protect but also enhance biodiversity?

This section needs links to data and local habitat information, not another link to *Biodiversity 2020*. It should show how local information is needed to make habitat creation and connectivity meaningful. It could also link to or mention green infrastructure and sustainable drainage systems, which can enhance biodiversity.

What questions should be considered in applying policy to avoid / mitigate / compensate for significant harm to biodiversity?

This section needs to clarify that understanding what biodiversity might be affected is required in all cases, not just for sites with statutory protection. The guidance also needs to explain how a local planning authority goes about avoiding and mitigating harm; simply having information on compensation sends out entirely the wrong signals.

The only link in this section is to the standing advice, which has no information on habitats and only references a very small number of species. The guidance places a lot of emphasis on biodiversity offsetting, even though the Government has not completed its consultation on biodiversity offsetting. Guidance should wait until the debate on offsetting is complete. This approach seems premature.

The guidance only refers to information needed to meet statutory obligations. The guidance has already established that appropriate supporting ecological information can be required (See: *How should biodiversity be taken into account in preparing a planning application?*). The advice should, therefore, also refer to the requirements of local lists. The guidance should be revised to indicate that the policy of avoiding harm to biodiversity also applies at the site identification stage of local plan development. This emphasises the need for plans to be developed using up-to-date information about the environmental features of an area.

What if there is doubt about the effectiveness of mitigation?

The guidance needs to emphasise that in some cases, if you cannot avoid, mitigate or compensate effectively, the application should be refused. There is currently no mention of refusal in the entire section – this is not acceptable.

This question also raises a further issue: what if there are doubts about the effectiveness of the compensation? The next steps for local planning authorities should be set out at this point of the guidance to ensure ecologically effective mitigation.

Does compensation reduce the need for green infrastructure within a development?

Green infrastructure is required to make any development sustainable in general terms, irrespective of the direct impacts of the development on what was there previously. Independent of that, site specific compensation may be required for specific harm.

How can mitigation or compensation measures be ensured?

The guidance states: ‘Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from a project such as development after mitigation measures have been taken.’ This would apply to any type of compensation, as described in the paragraph above. This sentence is therefore likely to confuse people. We would suggest deleting it, and simply saying that the Government is exploring ways to standardise the calculation of harm and any necessary offsite compensation, and how this might interact with a market for the provision of compensatory habitat.

How can I find out whether an area is ‘ancient woodland’?

The guidance should also point out that the inventory is provisional and that as well as checking the inventory you can be proactive in carrying out further investigations to thoroughly assess whether woodland is ancient. Central to this is building up a historical picture of the site in question, by:

- Checking historical maps to look for evidence indicating the area was continuously wooded throughout this period.
- Checking the Ordnance Surveyors drawings. These were produced between 1780 and 1840, covering England (from the south coast up Hull) and Wales, and are available on the British Library website. A key is available to work out which map you need, the map number can then be typed into the number to search box on the main mapping page.
- Contact the local historical records centre to find out if there are any other historical maps of the area. There might be Tithe maps, estate maps or county maps available.

Ordnance Survey First Edition County Series 25 inch to 1 mile map also known as Epoch 1.

There should be an additional paragraph entitled ‘How can I find out whether an area is Limestone Pavement’. This is on the basis that Limestone Pavement is also an irreplaceable habitat, protected in the Wildlife and Countryside Act 1981 (as amended). The text below is an example of what could be added to the guidance:

‘Limestone Pavement Orders are designated by the County Authorities in North Yorkshire, Cumbria and Lancashire. This is a statutory designation leading to protection of the limestone pavement from damaging activities. These local authorities keep an inventory of all areas designated with Limestone Pavement Orders. Natural England also holds a national inventory of limestone pavement habitat:

www.gis.naturalengland.org.uk/pubs/gis/gis_register.asp. Local planning authorities should consult the relevant County authority about development proposals that contain or are likely to affect limestone pavement.’

Should local planning authorities consult the Forestry Commission where development proposals affect ancient woodland?

Yes, local planning authorities should consult the Forestry Commission; the guidance also needs to acknowledge that other organisations such as the Woodland Trust have considerable expertise with regard to ancient woodland. Although the Government have stated that the guidance will not link to third party websites, there should be recognition that there are additional sources of information available.

Can brownfield land have a high ecological value?

It may do. Information on brownfield land of high ecological value ('Open Mosaic Habitats') has been published by Defra. Where insufficient information is available survey work may be appropriate to assess ecological value before decisions on development are taken.

This guidance should also link to the most up to date information on Open Mosaic Habitats. To avoid delay in the decision making process, and ensure that these sites are accurately assessed, the Open Mosaic Habitat Survey methodology should be used. The biodiversity value of these sites is often underestimated and incorrectly assessed, leading to costly delay and loss of biodiversity. The habitat supports many species and some habitat types that are a priority for nature conservation, such as pioneer communities and flower-rich grasslands. The areas have been described as important habitats for many species of principal importance in England or Red Data Book/List species.

The Open Mosaic Habitat Survey handbook is a Defra funded publication produced by industry experts including Defra, Natural England and the Joint Nature Conservation Committee. It includes background information and a survey methodology designed to be rapid and readily used by surveyors without extensive ecological training. It will enable planning decisions to be taken more quickly and based on sound evidence. The document can be found here:
<http://habitatsurveys.noip.org/Data/Sites/1/media/omhsurveyhandbookfinal.pdf>

n. Neighbourhood planning

Although Locality and Planning Aid England are not government bodies their neighbourhood planning work is government funded, as such the guidance should link to their websites. Without these links there is a large void in the information provided directly by the Government.

What is neighbourhood planning?

It should be noted that a neighbourhood plan is also be an opportunity to improve the local environment to meet the aspirations of the community.

What are the benefits to a community of developing a neighbourhood plan or order?

This section over-simplifies neighbourhood planning by giving the impression that a plan can stand for twenty years. The need for regular monitoring and review should be outlined in this section; communities need to appreciate that without this their plan will rapidly lose its value and standing as part of the development plan.

o. Open space and rights of way

The previous guidance, *PPG17: Planning for Open Space, Sport and Recreation*, was more recent than much of the guidance which is being replaced (2002) and was very readable. Open spaces for sport and recreation underpin everyone's quality of life. Well designed and implemented planning policy for open space is fundamental to delivering broader government objectives.

The new guidance in this section is inadequate. It simply provides links to other sites which provide no planning context. The guidance should provide a proper explanation of how these issues should be approached in the planning context. Sport England should not be the only reference point, when the guidance is supposed to be concerned with assessing all open space needs. There should also be a link to Natural England, including a reference to their Accessible Natural Greenspace Standards (ANGSt), which could also be referred to in the main part of the document. There should also be a reference in the main part of the document to the fact that rear gardens are no longer being classified as brownfield land, enabling councils to prevent unwanted development on gardens: http://www.naturalengland.org.uk/regions/east_of_england/ourwork/gi/accessiblenaturalgreenspacestandardangst.aspx

There is no information on assessing the need for public rights of way, nothing on rights of way improvement plans (which give on an authority-by-authority basis information about the present and likely future needs of the public) and nothing on the value of rights of way as part of the non-motorised transport network. In addition, there is no guidance on how the network can be used within the planning system to promote healthy lifestyles. As a minimum there should be a link to Defra Circular 1/09, section 7 of which provides sound advice on planning permission and rights of way: <https://www.gov.uk/government/publications/rights-of-way-circular-1-09>

Where can I find information on public rights of way and national trails?

This section simply links to the gov.uk webpage that covers 'Right (sic) of way and open access land'. The information provided is of the most basic kind. For example, it mentions that public rights of way can be changed for certain reasons, but it does not mention the fact that rights of way can be closed or diverted in the context of a development.

The second link takes you to Natural England pages on National Trails. This provides lots of information on National Trails, but nothing about their relationship with the planning system. Thus the link provides little of any value to planners.

How do I assess the needs for open space, sports and recreation facilities?

This section is inadequate and often confusing. For example, with reference to the question it only offers a link to Sport England's homepage and you then have to search through the whole of the website to find any relevant information.

What is the Local Greenspace Designation?

This section gives no indication of what the 'special protection' is that is afforded to designated land.

How is land designated as Local Green Space?

This section gives no indication as to how the local planning authority will decide whether to designate and what criteria it will use. This paragraph should set out whether, if a site meets all the criteria in NPPF, it will automatically be designated.

Can all communities benefit from Local Green Space?

This paragraph states that the Local Green Space must be 'demonstrably special' but gives no indication as to what this means or what the criteria are. Clarity on this point is required to ensure the designation can be progressed.

What if land is already protected by Green Belt or as Metropolitan Open land (in London)?

This section appears to just reiterate the NPPF section on Green Belts, rather than providing any additional guidance. For example, some useful guidance could be provided on the need to protect the 'visual amenities' of the Green Belt from development, which although it may not prejudice the purposes of the Green Belt, might be visually detrimental by reason of its siting, materials or design.

p. Rural housing

The section does not contain any of the PPS7 Annex A guidance on agricultural/forestry workers dwellings (nor, indeed, any development management related guidance). This leaves a bit of a policy vacuum that is arguably not helpful.

Should local authorities apply blanket policies preventing housing development in rural areas?

Link believes that this section of the proposed guidance will considerably undermine local attempts to ensure that the right new housing goes in the right places, as well as the policies in the NPPF restricting the development of isolated housing in the countryside. Most local authorities set clearly defined settlement boundaries in Local Plans, partly to prevent sprawl into the open countryside, but also to help in providing new affordable housing on the edge of villages. The guidance would, in Link's view, undermine settlement boundary policies. This in turn would increase landowners' 'hope value', as they would have a higher expectation of getting planning permission for housing to be sold at full market value, and adjust their land sale price to a developer accordingly. The undermining of settlement boundary policies would increase landowners' hope value. This could reduce the scope for the use of 'rural exception sites' to deliver affordable housing on land where market values have remained lower than would be the case if the land had been formally allocated, or expected to gain planning permission, for development.

Link agrees that all settlements can contribute to sustainable development, but the statement that settlement policies should be avoided unless 'supported by robust evidence' threatens the countryside and is anti-localist, and should be removed. Instead, the guidance should state that Local and neighbourhood Plans should continue to use settlement boundary policies, although boundaries may need to be changed or development allowed on rural exception sites if the needs of the local or neighbourhood area require it.

q. Tree preservation orders

Guidance on 'what is a tree' is a notable absence, though this is important in the case of group Tree preservation orders (TPOs) in determining what is actually subject to protection. The guidance should clarify that there is usually no public consultation required for Section 211 Notifications for tree works, i.e. for trees which lie within Conservation Areas. It is, therefore, down to the local authority to make the 'technical decision' as to whether they object, by making a TPO, or to make no objections to a S211 Notification. Any 'comments' (rather than objections in the case of TPOs) by the public (resulting from publicity of S211's Notifications appearing upon weekly planning lists), are referred to in the tree officer's report, but do not usually lead to a decision that needs to be taken at a planning committee.

How is a Tree Preservation order made, varied and/or revoked?

The practical guidance on making an order is missing from the guidance. Guidance on how to map the existing tree in relation to new planting would be useful, as would a link to British Standard 5837:2005, Trees in Relation to Construction – Recommendations (and also BS 3998 Tree Work Recommendations).

Who makes Tree preservation Orders and why?

The Guidance fails to consider the role of the Secretary of State. The Secretary of State for Communities and Local Government has a power to make TPOs. In considering requests to make a TPO, the Secretary of State will have regard to all representations submitted, but it is likely that she/he would use her/his power in exceptional circumstances only, where issues of more than local significance are raised, and then only after consultation with the local planning authority in whose area the trees or woodlands are located.

The Guidance also fails to consider the role of TPOs within the wider community as a tool for positive planning. If done well, imaginative design and layout of new development can lead to a more efficient use of land without compromising the quality of the local environment. The use of TPOs is very important to ensure the landscape is managed and maintained appropriately.

How does a local planning authority consider and application?

There is no guidance on how local planning authorities should work to protect trees on land before a planning application is made. The existing guidance provides advice on how local authorities can give potential developers an indication of their design expectations, drawing on any wider tree strategy of the local planning authority. The nature of such guidance would depend on the characteristics of the site but might usefully include a landscape survey together with an assessment of the trees both on and adjoining the site and a note about opportunities for tree planting.

r. Use of planning conditions

Link believes that planning conditions play an important role in bringing about (i) well designed new development and (ii) biodiversity and landscape benefits. The use of conditions is already tightly defined by guidance (which the draft website largely does not change) and legal precedent. Calls from some sections of the housebuilding industry to further restrict the use of conditions are unhelpful and largely unfounded, and should be resisted.

s. Viability

This section makes a number of references to a proposed new requirement to assess the viability of policies in Local Plans. In Link's view, this proposed new requirement goes well beyond the policies in the NPPF. The NPPF section on 'ensuring viability and deliverability' needs only be considered in relation to requirements to be applied to development, and local standards such as for affordable housing. Such consideration is well established in planning, and usually takes place when planning permission is being sought on a specific site. Requiring a wider, more nebulous 'viability assessment' of visions and policies is likely to emasculate Local Plan making, particularly where positive improvements to ecological networks and landscape character are being sought through planning policy. Authorities will often have to commission expensive additional consultancy work to show how a Local Plan, as opposed to a specific development site, would be economically viable.

The notion of Local Plan viability assessment has already been criticised as 'conceptually flawed' in a joint letter issued in July 2013.³ Mentions of it as a separate activity should be removed. Link recommends instead that considerations of economic viability of Local Plan policies should be rolled into wider Sustainability Appraisal, under the economic pillar. This is so that the consideration of economic viability is not unduly prioritised over other aspects of sustainability, such as

³ The letter was issued by Link members the Campaign to Protect Rural England and Friends of the Earth, along with the Town and Country Planning Association, the BRE, the Royal Institute of British Architects and Shelter.

environmental protection and social welfare, and does not represent an additional burden on the already stretched resources of local planning authorities.

t. Water supply, waste water and water quality

Why should planning be concerned with water supply, wastewater and water quality?

The guidance should acknowledge that a healthy water environment can also bring quality of life improvements, facilitate development and provide flood alleviation.

What is the role of Local Plans with regard to water?

It should be noted that local authorities have a role in ensuring that developed is water efficient and built according to the best sustainable drainage practice – i.e. there should no additional run-off to the sewer or watercourses.

Where is there information about the water environment?

This section seems to claim that the ultimate authority on the water environment is the River Basin management Plan (RBMP), but these plans are by no means a full summary of local water environments and in reality only cover about 40% of all the rivers and streams visible on an OS 1:50,000 map. Many local authorities will therefore struggle to find any reference to their stretches of river, headwater streams and wetlands in their local RBMP.

When is water likely to be a consideration in making a planning application? And Can planning permission be granted for developments that harm water bodies?

Both of these sections fail to include the impacts of drainage and run-off on wastewater capacity, and the potential for sewer flooding of homes, gardens and watercourses. These sections need to make reference to the role that sustainable drainage systems can play on reducing or eliminating these impacts.

**Wildlife and Countryside Link
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Wildlife and Countryside Link
89 Albert Embankment, London, SE1 7TP
W: www.wcl.org.uk

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