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Objection Checklist – for planning applications affecting biodiversity (nature)

The checklist is based on legislation at the time of publication - February 2022.

Planning application number: Exmo_20

National policy	Grounds for objection
<p><i>“Planning policies and decisions should contribute to and enhance the natural and local environment by:</i></p> <p><i>a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)</i> (National Planning Policy Framework paragraph 174a (NPPF))</p>	<p>The proposed development would cause significant harm to the following sites of biodiversity value, despite the mitigation/ compensation measures proposed by the applicant (which are inadequate) –</p> <ul style="list-style-type: none"> • Special Area of Conservation (SAC) <input checked="" type="checkbox"/> • Special Protection Area (SPA) <input checked="" type="checkbox"/> • Site of Special Scientific Interest (SSI) <input checked="" type="checkbox"/> • County Wildlife Site (CWS) <input type="checkbox"/>
<p><i>“Planning policies and decisions should contribute to and enhance the natural and local environment by:</i></p> <p><i>b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland”</i> (NPPF 174b)</p>	<ul style="list-style-type: none"> • The planning application has failed to enhance the natural and local environment <input checked="" type="checkbox"/> • It has not recognised the intrinsic character and beauty of the countryside <input checked="" type="checkbox"/> • It has not recognised the wider benefits from natural capital and ecosystem services <input checked="" type="checkbox"/>
<p><i>“Planning policies and decisions should contribute to and enhance the natural and local environment by:</i></p> <p><i>d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;”</i> (NPPF 174d)</p>	<ul style="list-style-type: none"> • The planning application has failed to – <ul style="list-style-type: none"> ▪ minimise impacts on biodiversity <input checked="" type="checkbox"/> ▪ provide net gains for biodiversity <input checked="" type="checkbox"/> despite the mitigation/ compensation measures proposed by the applicant (which are inadequate) • The proposed development would cause significant harm to the coherence of the ecological network (despite the mitigation/ compensation measures proposed by the applicant) <input checked="" type="checkbox"/>
<p><i>“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads.”</i> (NPPF 176)</p>	<p>The proposed development would cause significant harm to wildlife in the –</p> <ul style="list-style-type: none"> • National Park <input type="checkbox"/> • Area of Outstanding Natural Beauty (AONB) <input checked="" type="checkbox"/>

<p><i>“When determining planning applications, local planning authorities should apply the following principles:</i></p> <p><i>a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused (NPPF 180a)</i></p>	<ul style="list-style-type: none"> • The planning application has made inadequate efforts to mitigate harm on-site, first, before jumping to the proposed off-site compensation <input checked="" type="checkbox"/> • The proposed development would cause significant harm to biodiversity, despite the mitigation/ compensation measures proposed by the applicant (which are inadequate) <input checked="" type="checkbox"/>
<p><i>“When determining planning applications, local planning authorities should apply the following principles:</i></p> <p><i>b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest. (NPPF 180b)</i></p>	<ul style="list-style-type: none"> • The proposed development would have an adverse effect on the Site of Special Scientific Interest (SSSI), despite the mitigation/ compensation measures proposed by the applicant (which are inadequate) <input checked="" type="checkbox"/> • Furthermore, the benefits of the development will not clearly outweigh the adverse effect on the SSSI <input checked="" type="checkbox"/>
<p><i>“When determining planning applications, local planning authorities should apply the following principles:</i></p> <p><i>d) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. (NPPF 180c)</i></p>	<p>The proposed development would cause loss or deterioration of the following irreplaceable habitats, despite the mitigation/ compensation measures proposed by the applicant (which are inadequate) –</p> <ul style="list-style-type: none"> ▪ ancient woodland <input type="checkbox"/> ▪ ancient or veteran trees <input checked="" type="checkbox"/> ▪ sand dunes, salt marsh, lowland fen <input type="checkbox"/> • There are no exceptional reasons to justify this loss/deterioration. <input type="checkbox"/>
<p><i>“When determining planning applications, local planning authorities should apply the following principles:</i></p> <p><i>d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.” (NPPF 180d)</i></p>	<p>There are inadequate biodiversity improvements in and around the proposed development, to secure measurable net gains for biodiversity. <input checked="" type="checkbox"/></p>

<p><i>“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:</i></p> <p><i>c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”</i> (NPPF 185c)</p>	<p>The planning application has not adequately limited the impact of light pollution from artificial light on nature conservation.</p> <p style="text-align: right;"><input checked="" type="checkbox"/></p>
<p>Under section 41 of the Natural Environment & Rural Communities Act 2006, the government is required to make a list of habitats and species which are of principal importance for conserving biodiversity in England. These habitats and species are a material consideration in the making of planning decisions.</p> <p><u>Habitats of Principal Importance for conserving biodiversity</u> There are over 50 such habitats but only a relatively small number are likely to be affected by development. They are -</p> <ul style="list-style-type: none"> • arable field margins • traditional orchards • hedgerows • coastal saltmarsh • intertidal mudflats • ponds • rivers • lowland meadows • purple moor grass & rush pasture • lowland heathland • open mosaic habitats on previously developed land • coastal & floodplain grazing marsh • lowland mixed deciduous woodland • wet woodland • wood-pasture and parkland <p><u>Species of Principal Importance for conserving biodiversity</u> There are over 900 such species but only a relatively small number are likely to be affected by development. They are -</p> <p><u>mammals</u></p> <ul style="list-style-type: none"> • bat (barbastelle/ Bechstein's/ brown long eared/ greater horseshoe/ lesser horseshoe/ noctule/ soprano/ pipistrelle) • hare (brown) 	<ul style="list-style-type: none"> • The proposed development will have an adverse effect on a habitat of principle importance for conserving biodiversity in England, despite the mitigation/ compensation measures put forward by the applicant (which are inadequate). <input checked="" type="checkbox"/> • The proposed development will have an adverse effect on a species of principle importance for conserving biodiversity in England, despite the mitigation/ compensation measures put forward by the applicant (which are inadequate). <input checked="" type="checkbox"/>

<ul style="list-style-type: none"> • dormouse • hedgehog • otter • water vole <p>amphibians</p> <ul style="list-style-type: none"> • toad (common) • newt (great crested) <p>reptiles</p> <ul style="list-style-type: none"> • snake (adder / grass) • lizard (common) • slow worm <p>birds</p> <ul style="list-style-type: none"> • bullfinch • cirl bunting • dunnock • herring gull • lesser spotted woodpecker • sky lark • song thrush • sparrow (house / tree) • starling 	
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The law	Grounds for objection
<p>Species protected by law</p> <p>Whether a protected species is present, how it will be affected, and any necessary measures to protect the species, should be established, through conditions and/or planning obligations, before the permission is granted.</p> <p>Developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.</p> <p>Local planning authorities should –</p> <ul style="list-style-type: none"> • consult Natural England • consider attaching planning conditions or entering into planning obligations under which the developer would take steps to secure the long term protection of the species • advise developers that they must comply with any statutory species protection provisions affecting the site 	<p>There is a reasonable likelihood that a protected species is present and affected by the proposed development. The planning application has not provided adequate information on how the species will be affected and the measures to safeguard them.</p> <div style="text-align: right;"><input checked="" type="checkbox"/></div>
<p><u>Species protected by the Conservation of Habitats & Species Regulations</u></p> <p>For the following species –</p> <ul style="list-style-type: none"> ○ bats (all species) ○ dormouse ○ great crested newt ○ otter 	<p>The proposed development would kill or disturb a bat/ dormouse/ greater crested newt/ otter or damage/destroy its breeding site or resting place, and this would be detrimental to the maintenance of the species population at a favourable conservation status.</p> <div style="text-align: right;"><input checked="" type="checkbox"/></div>

<ul style="list-style-type: none"> • it is unlawful to deliberately kill, disturb, capture or take or destroy eggs of a protected animal or damage/destroy its breeding site or resting place. • exceptions are allowed in limited circumstances where a licence is obtained from Natural England to carry out these activities. However, this is subject to– <ul style="list-style-type: none"> ▪ there is no satisfactory alternative ▪ there are imperative reasons of overriding public interest ▪ the activity would not be detrimental to maintaining the population of the species at a favourable conservation status 	
<p><u>Species protected by the Wildlife & Countryside Act 1981 (as amended)</u></p> <ul style="list-style-type: none"> • It is an offence under section 1(1) of the W&C Act to- intentionally kill, injure, or take any wild bird or destroy, damage, or take its nest (while in use or being built) or destroy or take its eggs <p>For the following birds (listed in Schedule 1 of the W&C Act) -</p> <ul style="list-style-type: none"> ○ barn owl ○ cirl bunting ○ heron (purple) ○ kingfisher ○ peregrine <ul style="list-style-type: none"> • in addition to the offences above, it is an offence under section 1(5), to - intentionally or recklessly disturb a bird while in, on or near a nest containing eggs or young, or while it is building its nest, or disturb their dependent young <p>(There are other birds listed in Schedule 1 but as they are rarely affected by planning applications they are not listed here.)</p> <p>The clearance of vegetation and site works in the bird breeding season (March to September, inclusive) has the potential to cause the above offences, unless the developer can show that there are no nesting birds.</p> <p>For the <u>animals</u> listed in Schedule 5 of the W&C Act</p> <ul style="list-style-type: none"> ○ bats (all species) ○ dormouse ○ great crested newt ○ otter ○ water vole <ul style="list-style-type: none"> • it is an offence under section 9 to - intentionally kill, injure or take the animal. intentionally or recklessly disturb the animal while it is occupying a structure or place it uses for shelter or protection or obstruct access to it 	<ul style="list-style-type: none"> • The proposed development would kill or injure a wild bird or destroy/damage its nest or its eggs. <input checked="" type="checkbox"/> • The proposed development would disturb a barn owl / cirl bunting/ heron / kingfisher / peregrine while on or near a nest containing eggs or its young or while it is building its nest. <input checked="" type="checkbox"/> • The proposed development would kill or injure a bat/ dormouse/ greater crested newt/ otter/ water vole or disturb it while it is occupying a structure or place it uses for shelter or protection, or obstruct access to it. <input checked="" type="checkbox"/> • The proposed development would kill or injure an adder/ grass snake/ slow worm/ common lizard. <input checked="" type="checkbox"/>

<p>(There are other animals listed in Schedule 5 but as they are not usually affected by planning applications they are not listed here).</p> <p>For the <u>reptiles</u> below</p> <ul style="list-style-type: none"> ○ adder ○ grass snake ○ slow worm ○ common lizard <ul style="list-style-type: none"> ● it is an offence under section 9(1) of the W&C Act to- intentionally kill or injure the reptile <p>(It is not an offence to disturb the reptile or to damage its place of shelter, but where there is potential for killing and injuring offences to arise, the developer should show what measures will be taken to avoid them).</p> <p>(There is no provision for licences to be issued for the purposes of development, under the W&C Act).</p>	
<p><u>Protection of Badgers Act 1992</u></p> <p>It is an offence, under the Protection of Badgers Act, to -</p> <ul style="list-style-type: none"> ● kill (or attempt to kill), injure or take a badger ● interfere with a badger sett (including intentionally or recklessly destroying, damaging or obstructing access to, a badger sett, or disturbing a badger while it is occupying a sett) <p>A badger sett is defined as any structure or place which displays signs indicating current use by a badger.</p> <p>A licence from Natural England is required to undertake development works which would otherwise result in an offence listed above, but the developer must provide justification and show what mitigation measures will be put in place.</p> <p>The badger is a commonly occurring species and is not of conservation concern. Animal welfare concerns, however, have resulted in legal protection being given under the Protection of Badgers Act.</p>	<ul style="list-style-type: none"> ● The proposed development would kill / attempt to kill, a badger <input type="checkbox"/> ● or destroy/damage/ interfere with/ obstruct access to its sett <input checked="" type="checkbox"/> ● or disturb it while it is occupying a sett <input checked="" type="checkbox"/>

Further information in support of the above objections -

Please provide detail/evidence for why you have checked boxes above - explain how the application doesn't meet policy or law. This should be kept short with simple use of bullet points.

Providing clear and concise explanations and evidence for your objections will help planners to understand your views. Where possible explain specific issues with the application and if available provide further evidence.

For example:

The planning application and ecological surveys do not mention known protected species, slow worms and hedgehogs - both seen regularly on site, or list mitigation measures for these (photos/dates of hedgehogs and slow worms attached).

Joanna Chalker

Recent confirmation of Beaver inhabitation at Bystock ponds.