

Paper 5 - Helping to deliver Biodiversity Action Plans through the spatial planning system in England.

Introduction

To maximise the delivery of Biodiversity Action Plan (BAP) objectives is important to understand the contribution the spatial system can make. It will be helpful to establish good links with planning authorities, particularly senior planning staff and their advisers including the local authority ecologist if they have one.

The planning system is quite complex and so this paper attempts to identify the key areas to focus engagement in support BAP objectives.

The spatial planning system provides framework for development decisions and for other decisions which influence the nature of places and how they function. It is important to have the right policies are in place to support BAP objectives.

Spatial planning now has a statutory purpose which is to achieve sustainable development. Protecting and enhancing biodiversity will be one key test of how well the planning system is succeeding in achieving this purpose. Sustainable development will be measured on how well biodiversity objectives are integrated with broader social, economic and environmental concerns necessary to provide for quality of life.

All public bodies, including regional and local planning authorities, now have a biodiversity duty under 40 of the NERC Act (see Box 1). This is an important statutory driver to ensure planning authorities are addressing biodiversity properly in carrying out their functions.

Box 1 Natural Environment and Rural Communities (NERC) Act 2006

Section 40 Biodiversity Duty on Local Authorities and Public Bodies states that:
"Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity".

The purpose of the duty is to raise the profile of biodiversity and to stimulate a cultural change in all parts of the public sector with the intended result being that biodiversity issues become second nature for public bodies when developing policies and making decisions. The duty affects over 900 public bodies, ranging from local authorities, fire, police and health bodies, to museums and transport authorities.

National planning policy and PPS9

Government's Communities and Local Government (CLG) department is responsible for the English spatial planning system. It drafts national planning policy and guidance and writes the legislation for Parliament to approve and through which the system is implemented.

Government has provided a strong national policy steer in support of biodiversity with **Planning Policy Statement (PPS)9 - Biodiversity and Geological Conservation** which was published in August 2005

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/147408>. It sets out how the planning system can support the objectives of the England Biodiversity Strategy and the UK Biodiversity Action Plan (Box 2).

Box 2 Convention on Biological Diversity (Rio Convention) and UKBAP

In 1992 the UK signed the Convention on Biological Diversity which called for the creation and enforcement of national strategies and action plans to conserve, protect and enhance biological diversity. The UK Government responded by publishing 'Biodiversity: The UK Action Plan' in 1994 and establishing the UK Biodiversity Action Plan (UK BAP) Steering Group to implement further action. The 'UK Steering Group Report' was published in 1995 and set out the first set of country-wide action plans for habitats and species. Although this Report provides the national framework for biodiversity conservation, it also emphasises the importance of local action through Local Biodiversity Action Plans (LBAPs). Annex C of the Report suggests LBAPs should translate the national strategy into effective action at the local level, in addition to focusing on local priorities:

'The purpose of Local Biodiversity Action Plans is to focus resources to conserve and enhance biodiversity by means of local partnerships, taking account of both national and local priorities.'

As Government policy, PPS9 is highly influential. Regional and local authorities must take it into account in developing their spatial plans. Accordance with PPS9 will be a test of whether a plan is deemed sound enough to be finally adopted. PPS9 can form a very important material consideration in reaching individual planning decisions.

PPS 9 sets out the Government's objectives for biodiversity and geological conservation along with a series of key principles (set out in Box 3) that are intended to ensure that the potential impacts of planning decisions on biodiversity are fully considered.

Box 3: PPS9 key principles

- Policies and decisions should be based on up-to-date information.
- Policies and decisions should seek to sustain and enhance biodiversity.
- Policies should take a strategic approach to the conservation and enhancement of biodiversity.
- Developments where the principal objective is to conserve or enhance biodiversity should be permitted.
- Proposed development should be accommodated without causing harm to biodiversity and reasonable alternative should be considered. Planning permission should only be granted where adequate mitigation and compensation measures are put in place.
- Beneficial biodiversity features should be promoted within new development.

PPS 9 also provides the Government's planning policy for the following biodiversity areas:

- International sites (*i.e.* SPAs, SACs, Ramsar sites)
- National sites (*i.e.* NNRs and SSSIs)
- Regional and local sites (*i.e.* LNRs, RIGS, SINCs)
- Ancient woodland and other important natural habitats
- Networks of natural habitats
- Previously developed land
- Biodiversity within developments
- Protected species and species of principal importance for biodiversity

PPS9 is supported by two accompanying documents:

The first, Circular 06/05, entitled 'Biodiversity and Geographical Conservation - Statutory Obligations and Their Impact Within the Planning System' provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England.

<http://www.communities.gov.uk/publications/planningandbuilding/circularbiodiversity>

The second, 'Planning for Biodiversity and Geological Conservation: A Guide to Good Practice' provides good practice guidance on ways regional planning bodies and local planning authorities can help deliver the national policies in PPS9 and comply with legal requirements set out in the Circular 06/05.

<http://www.communities.gov.uk/publications/planningandbuilding/planningbiodiversity>

Regional Planning

Each of the 9 English regions has a Regional Assembly (in London it is the Mayor) which oversee regional planning through the publication of Regional Spatial Strategies (or a Spatial Strategy for London) .

Regional Spatial Strategies (RSS) provide the broad development strategy for the region for a fifteen to twenty year period and take account of the following matters:

- identification of the scale and distribution of provision for new housing;
- priorities for the environment, such as countryside and biodiversity protection; and
- transport, infrastructure, economic development, agriculture, minerals extraction and waste treatment and disposal.

RSS policy is important as, along with the Development Plan Documents within Local Development Frameworks (see below), they comprise the 'development plan'. The 'plan-led' planning system in England operates on the basis that *planning decisions should be taken in accordance with the development plan unless other material considerations indicate otherwise.*

Each of the RSS are at various stages to becoming adopted after which there will be the start of a process of review.

It will be important to assess how well each RSS has take account of biodiversity and supported the objectives of Regional BAPs. Box 4 suggests some of the key ways this should be achieved.

Box 4: Key ways for RSS to address biodiversity

- ensuring close liaison with regional biodiversity fora to identify the current regional and sub-regional distribution of priority habitats and species and broad areas for habitat restoration and re-creation.
- incorporating biodiversity objectives;
- addressing regional, sub-regional and cross-boundary issues in relation to priority habitats and species through criteria-based policies;
- having strong policies to conserve and enhance biodiversity at the regional and subregional levels;
- including targets for the restoration and re-creation of priority habitats and the recovery of priority species populations, linked to national goals;
- identifying suitable indicators for monitoring biodiversity.
- Recognising that distribution of habitats and species, will be affected by climate change and taking this into account.

Local Development Frameworks

Local Development Frameworks (LDFs) comprise 'portfolio' of local development documents which collectively deliver the spatial planning strategy for the local planning authority's area. They provide the more detailed local expression of RSS.

Along with the RSS, the Development Plan Document (DPD) parts of the LDF comprise one part of the 'development plan' in terms of the plan-led system (see above in RSS section). Ensuring that the right LDF policies are in place is therefore critical in ensuring the development decisions respect BAP objectives.

Preparing LDFs is the responsibility of the Local Planning Authority (LPA). The LPA may comprise either a two-tier arrangement of county and district councils or a single-tier unitary authority.

Where two-tier councils operate it is the county council which is responsible for minerals and waste planning whilst the districts within that county deal with the planning of all other land uses. A unitary authority's controls cover the planning of all land uses (combining the county and district council roles). Each authority will prepare plans which cover their respective planning remits.

Each local planning authority (LPA) will produce a Local Development Framework (LDF) which consists of a Local Development Scheme, a Statement of Community Involvement, an Annual Monitoring Report, a Core Strategy, Site Specific Allocations DPD, an Adopted Proposals Map and an optional range of further documents which might comprise additional Development Plan Documents (DPD), such as Area Action Plan as well as Supplementary Planning Documents. Only the Core Strategy and the DPD are subject to examination. All LDFs must conform with the RSS.

The LDF process is quite involved and to achieve the objectives of LBAPs it is best to concentrate on a number of key outcomes.

Box 5: Key ways to better deliver LBAPs by influencing the LDF process

- Focus on the most critical consultations – the Core Strategy and the Site Allocations will be most influential. Other plans, such as Supplementary Planning Documents and Area Action Plans, can be important if they relate to a topic or an area where biodiversity is a significant issue;
- Front-load engagement – it is important to influence the plans at an early stages, such as issues and options stages, as it will be harder to get changes made at the later stages;
- Evidence – LDFs must be soundly based in terms of evidence. LBAPs can provide

essential evidence in terms of local biodiversity resources, trends and threats;

- Seek win-win solutions – LDFs will be more inclined to support LBAP objectives if these can be shown to support other sustainable development objectives such as health, recreation, climate change adaptation, green infrastructure, etc.
- Influence the Sustainable Community Strategy – the LDF will increasingly take its lead from this so ensure it fully integrates LBAP objectives, where possible by being represented on, or influencing, Local Strategic Partnerships.

The documents within Local Development Frameworks need to be reasonably concise and focussed. They must conform with PPS9 and the biodiversity policies within the RSS and implement these policies locally rather than repeat them.

All plans are subject to Sustainability Appraisal(SA) and also comply with the EU SEA and Habitats Directives. Using the LBAP to inform the SA process, and testing it against LBAP objectives, will help ensure a sound plan that supports biodiversity well.

Box 6 sets out some of the key outcomes for biodiversity that should be expected through the LDF process.

Box 6: LDFs: Key areas to deliver for biodiversity

- Spatial policies which are consistent with the aims and objectives of the LBAP – i.e. policies which seek to deliver these aims and objectives in land use terms;
- Policies which are consistent with PPS9 and the relevant RSS and which apply these to support the biodiversity distinctive of the local area
- Means to both protect but also to enhance and restore biodiversity, including allocating space allow for this, recognising the changes that will be brought about through climate change
- Provision of a suitable indicator and target to monitor the progress of biodiversity policies
- Incorporating biodiversity objectives within the Core Strategy
- Making land use allocations which avoid harm to biodiversity and which provide opportunities to enhance and restore priority habitats and species
- Supplementary Planning Documents which encourage new development to be designed in ways which support biodiversity objectives

- Presenting any series of Local Sites series on the adopted Proposal Map and including policies which secure the protection and enhancement of these areas
- Ensuring that Government policies for protecting SSSIs and the legal protection granted to sites and species are addressed

Development Management

Development management is the Government's new, more positive term for the process previously known as 'development control'.

It is the process whereby decisions on development and other uses of land which require planning permission are made.

Although the Government is responsible for making decisions on specific types of development (usually large scale, nationally significant development or infrastructure) through either legislation, such as the Transport and Works Act, or via the Secretary of State's 'call in' powers, the majority of decisions fall to local authorities.

Unitary Authorities deal with all non-Government development management casework but in two-tier areas County Councils remain responsible for minerals and waste.

Under the 'plan-led' system it is important to ensure adequate policies addressing biodiversity are in place within the RSS and LDF as this will go a long way in avoiding harmful development decisions.

However, planning policies cannot prescribe all details of development nor anticipate speculative development and so the development management process remains an important stage for ensuring that LBAP objectives are supported.

As with plan-making, early engagement in the development management process can pay dividends. Where there are opportunities to engage in pre-application negotiations these should be taken if this is necessary to influence biodiversity interests.

Under the plan-led system all development control decisions should reflect any relevant policies relating to biodiversity in an adopted or emerging development plan. When commenting on planning applications reference needs to be made to the policies in the LDF and where necessary in the RSS and PPS9. Some

development proposals will be clearly contrary to the protection granted to biodiversity through these policies.

Local planning authorities will have competing priorities however and often it will be necessary to highlight biodiversity policies to resist harmful development applications.

Biodiversity can be best safeguarded and enhanced if local authorities are encouraged to take a sequential approach to development decisions, in line with the principles in PPS9, and as described in the RTPI's 5-point approach set out in Box 7.

Box 7: the RTPI five-point approach to planning decisions for biodiversity

1. Information – is more information about the site's biological resource needed? Is more information about the development and its potential effects needed? Is the significance of the effects clear? Is relevant internal or external expertise available?
2. Avoidance – have all adverse effects on wildlife species and habitats been avoided wherever possible?
3. Mitigation – where adverse effects are unavoidable, have they been or can they be minimised by the use of mitigation measures that can be guaranteed by, for example, conditions or planning obligations?
4. Compensation – where, despite mitigation, there will be residual adverse effects that cannot be reduced further, have they been or can they be compensated for by measures aimed at offsetting harm? Can the compensatory measures be guaranteed by conditions or planning obligations?
5. New benefits – where there would be no significant harm to wildlife species or habitats, are there opportunities to provide new benefits for wildlife, for example, by habitat creation or enhancement? Can these new benefits be guaranteed by planning obligations?

To assess the impacts of a proposed development on biodiversity it may be necessary to require more information. Local authorities have the power to require this is necessary to make a judgement on a proposal.

Where a development falls within certain categories and/or is likely to have a significant impacts on a sensitive area (such as one of biodiversity value) it might need to be accompanied by an Environmental Statement (ES) prepared under the terms of the EU EIA Directive. Influencing the screening process for requiring an ES can be an important route for gaining enough biodiversity information to evaluate a development. However, additional biodiversity information can still be required for non-EIA developments where necessary.

As a matter of good practice adequate survey information must be produced before a decision is made. Is it much less satisfactory to require the provision of further survey as a condition of approval although in some circumstances this may be an appropriate safeguard. Further advice is set out in the guide to good practice which accompanies PPS9.

In some cases it would be appropriate to object to any application likely to have a significant impact on biodiversity which fails to supply adequate supporting information. However, it is recommended that a risk-based and proportionate approach is taken to objecting in such instances.

Example: The 'Cornwall case'

EIA is very important to ensure that the nature conservation interests are taken fully on board in the planning process. Species surveys will often form part of the environmental information it is necessary to acquire and consider to comply with the EIA Directive. **R v Cornwall County Council ex parte Jill Hardy (2001)** relates to a case in which the applicant carried out an EIA and provided an ES. Although it was known that the conditions at the site were those favoured by a protected species, bats, the applicant did not investigate for their presence. The planning authority, advised by English Nature, imposed a condition requiring the applicant to carry out a survey to establish whether bats were present prior to commencing the development. The Court held that this information should have been included in the ES, otherwise the authority could not comply with the EIA Regulations (Regulation 3(2)). The planning permission was quashed.

Good practice, such as the use of biodiversity checklists, can be a way to encourage developers to furnish adequate biodiversity information. The biodiversity question on the forthcoming standard planning application form (1APP) will also help. CLG has provided guidance for local authorities to validate submitted applications which addresses biodiversity. LBAP partnerships should work with local authorities to avoid applications deficient in adequate biodiversity information being registered.

Adequate information can be used to assess ways to avoid harmful impacts on biodiversity or failing that to inform where mitigation or compensation might be required.

With all planning applications it is recommended to negotiate ways in which a development can help deliver net gains for biodiversity.

Condition and planning obligations

Making a planning permission subject to either conditions or a planning obligation are important means to address biodiversity concerns and to ensure any potential harm is either avoided, mitigated or compensated for and that any benefits are realised.

Conditions are written into a planning decision notice and form part of a planning permission. They can be appealed against and so it is recommended that they be negotiated with the planning applicant in advance.

Planning conditions can address biodiversity interests by securing certain actions to be taken prior to a development starting or by determining how a development takes place and is operated. A common condition might restrict building operations or activities in certain times of year when biodiversity interests might be adversely affected.

Government tests require conditions should be necessary, relevant to planning and specific to the development, enforceable, precise and reasonable in all other respects.

A negative condition ('Grampian' condition) can be applied to prevent a development starting until a specified element is in place, such as the provision of biodiversity matters.

A Section 106 obligation (commonly known as a S106 agreement) can secure measures which fall outside the scope of a planning condition. Such measures might include financial payments, ongoing management of land or other compensatory measures provided outside the application site. The scope of actions achievable through a Section 106 obligation is wider than that which can be delivered through a planning condition. Circular 05/05 requires that planning obligations meet the requirements of being relevant to planning, necessary to make the proposed development acceptable in planning terms, directly related to the proposed development, fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects.

Species Protection

The presence of a protected or BAP species is a material consideration when a local planning authority is considering a planning application and where the impact of the development is likely to cause harm to a species or its habitat.

It is essential that the presence or otherwise of such species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

Local authorities should consult Natural England before granting planning permission affecting a protected species. They should consider amending or revising the scheme or attaching appropriate conditions or a Section 106 planning obligation to secure the protection of the species – particularly if a European protected species is involved (i.e a species listed in Annex IV of the Habitats Directive).

Bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of them being present and affected by the development.

Where necessary, however, ecological surveys should not normally be left to planning conditions or be carried out after planning permission has been granted. Where the presence of protected species is likely, a survey should be completed before a decision is reached.

Carrying out surveys involves planning ahead on the part of the developer. Adequate surveys might need to be based on separate surveys at different time of the year depending on the species in question. Some surveys might need to be based on a number of years' work to get an accurate picture of the numbers of species involved.

Once the survey work has been carried out and the results are considered valid then the application for development can be determined. Addressing the protection of the species present may involve amending the design of the development before approval and then securing measures to mitigate or compensate through either planning conditions or a Section 106 agreement. It should be noted that the final form of mitigation in respect of European protected species may need to be finalised under the licensing procedure.

Other than the species covered under the UKBAP certain plants and animals have legal protection under either the WCA or the Habitats Regulations.

Part 1 of the Wildlife and Countryside Act 1981 sets out the protection which is afforded to wild animals and plants. Section 25 places a duty on all local authorities to do what they consider expedient to bring the provisions of the Act to the attention of the public and particularly school children. Local authorities are also empowered to take proceedings against anyone committing an offence under Part 1 relating to protected species in their area.

The Conservation (Natural Habitats, &c) Regulations 1994 (the Habitat Regulations) implement the requirement of the EU Habitats Directive for species listed in Annex IV of the Directive (see Section 4). Under the Habitats

Regulations it is an offence deliberately to kill, injure, take or disturb listed animal species; to destroy their resting places or breeding sites; or to pick, collect, cut, uproot or otherwise destroy listed plant species.

Planning authorities are 'competent authorities' under the Habitats Regulations when dealing with planning applications affecting European protected species and have to have regard to the Habitats Directive in carrying out this function. The requirement for a licence is a material planning consideration and the planning authority should therefore take into account the tests that would need to be met for the licence to be granted.

These would be

- that there was no satisfactory alternative to the development,
- that the impacts were not detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range
- that the development was in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of social or economic nature and beneficial consequences of primary importance to the environment.

Some animals are protected under their own legislations, such as the **Protection of Badgers Act 1992**.

Building in biodiversity

PPS9 states that plan policies should promote opportunities for the incorporation of beneficial biodiversity and geological conservation features within the design of development. The design, layout and landscaping of new developments offer enormous opportunities to add to, or enhance, biodiversity or geological conservation. These can range from minor additions to the fabric of buildings, for example to provide nesting spaces for species such as swifts, through to providing major new areas of biodiversity habitat alongside development. The type of measures introduced may be guided by priorities established in local and regional BAPs.

The England Biodiversity Strategy makes specific reference to the need to incorporate more biodiversity elements into buildings and uses the 'green roofs for black redstarts' work in London as a case study. Green roof initiatives provide a prominent example of incorporating biodiversity in the design of new buildings. London, for example, has a number of green roofs which have attracted particular attention. Other species, such as bats and swifts, are highly dependent

on built structures for survival. Maintenance of existing, and the design of new, buildings can take account of this.

Biodiversity can be incorporated into small-scale developments through wildlife-friendly landscaping, installation of sustainable drainage schemes, and features such as green walls, balconies, roofs and nesting and roosting spaces. At a simple level, nest and roosting boxes can be easily incorporated in or onto existing and new buildings. A wide range of boxes to benefit birds, bats and some invertebrates are available. There are also opportunities for incorporating artificial nesting burrows in the walls and embankments of civil engineering structures to benefit species such as the sand martin and kingfisher.

Development control decisions which embrace biodiversity and geological conservation can be of broad benefit to communities by creating employment through new projects, creating cost effective naturally functioning utilities (such as for flood relief and drainage), enhancing the local economy through tourism and improving local surroundings which enhance quality of life.

Challenging local authority decisions

In most cases it is preferable to negotiate a planning application outcome that is favourable to biodiversity. However, where such negotiation fails and a local authority is either mindful to make or makes a decision contrary to biodiversity interests which appears to fly in the face of either PPS9 or the policies in the development plan then there are a number of options that can be considered. These are usually only applicable in cases where there is either a significantly harmful impact which could seriously prejudice the objectives of the LBAP or where a decision could create a dangerous precedent leading to similar decisions being made.

Call-in

Where a harmful application appears to be heading for an approval then Natural England can be approached to see if it is an appropriate case to see if the Government's 'call-in' powers can be applied. This may lead to an approach being made to the relevant Government Office to see if an Article 15 direction can be placed on the local authority to prevent it making a decision until the Secretary of State has considered whether or not to apply her 'call in' powers.

If a planning application is 'called in' a public inquiry is normally held before the Secretary of State makes a decision. LBAP partnerships considering petitioning for a 'call in' decision should be confident they can provide strong policy support for their case at public inquiry. This is important not least to avoid the possibility

of an award of costs being awarded to the developer at the inquiry. Collaboration with Natural England, and with any other interested biodiversity parties, is recommended if the 'call in' route is to be pursued.

Judicial Review

Another route to contesting a decision is through seeking judicial review. There is a limited time period for making such a judicial review and this requires the advice of a barrister to advise whether there is a legal case for challenge. This will involve substantial cost and may only serve to quash the decision on a legal point over the way it was reached which may then be rectified in later application resulting in the same decision. However, recourse to judicial review remains one option for contesting a development control decision made without giving proper regard to biodiversity interests.

Local Government Ombudsman

In some cases, a decision on a planning application might be reported to the local Government Ombudsman. The Ombudsman can only make a judgment as to whether a decision amounts to 'maladministration' on the part of the planning authority. Where a local authority is found guilty of maladministration over a planning decision the Ombudsman has powers to recommend some financial retribution to the affected party but has no sanction to overturn a decision.

Planning Appeals

Where the local authority refuses planning permission the applicant has the right of appeal. Where a refusal reason relates to a biodiversity issue then third parties should consider submitting their case to the Planning Inspectorate (PINS) which is responsible to deciding the majority of planning appeals. Most planning appeals are decided on the basis of written representations although PINS might in some case agree to hold a hearing or a Public Inquiry. Hearings are a relatively informal fact finding discussion involving interested parties held chaired by a Planning Inspector. Public Inquiries are held for more significant case or where evidence has to be heard by an Inspector under oath. Public Inquiries are much more formal and operate in a quasi-judicial manner with evidence being presented verbally with the opportunity of cross examination by other parties. Where a biodiversity interest become a principle participant in a public inquiry it should obtain legal support.

Planning Enforcement

Where activities or development occurs which is either without, or contrary to, planning permission the planning authority has a range of enforcement powers

to remedy any breach of planning control. Where unauthorised activities threaten biodiversity interests then appropriate enforcement action should be sought from the planning authority.

Pressure must be brought to bear as there can be a reluctance due to resource constraints and because enforcement can prove time-consuming. Most planning irregularities are sorted out without recourse to legal action. The planning authority's enforcement powers are entirely discretionary but they are obliged to investigate any complaint made even if they decide it is not expedient to take further action. Some issues may be best addressed through other legal means, such as action under the Wildlife and Countryside Act.

A breach of planning control is not automatically an offence and only becomes so on failure to comply with a statutory notice.

To require information upon which to base its enforcement case the LPA can serve a Planning Contravention Notice – this is usually the first step in finding out necessary details of ownership of land and details of the case and is a formal precursor to deciding whether to proceed to the further stage of enforcement.

Where formal action is taken this is usually in the form of an Enforcement Notice which comes into effect 28 days after having been served. This gives an opportunity for an appeal and the unauthorised development or use can persist until the appeal is decided.

If the unauthorised development is deemed to be of serious concern then the LPA can supplement the enforcement notice with a stop notice. This still allows an appeal but the actual use must cease within 3 days. If the appeal against a stop notice is successful the appellant can claim compensation from the LPA and so this mechanism is used sparingly and where there is a strong case for action to halt the activity.

The Planning and Compulsory Purchase Act 2004 has introduced temporary stop notices which LPAs can serve on persons believed to be carrying out an unauthorised activity or having an interest in the land where it is occurring.

Other forms of enforcement are the Breach of Condition Notice against failure to comply with a condition and court injunctions.

Because much nature conservation is delivered through conditions/S106 agreement there is a need to ensure the enforcement process monitors compliance with these to ensure that, for instance, planting schemes are adhered to and management agreements complied with.

Local authorities are also responsible for protecting trees through Tree Preservation Orders and also for implementing the Hedgerow Regulations and much wildlife benefit can be achieved through pressing for action in these areas.