

English Nature – EclA Guidelines Comments

Background

English Nature is the statutory body that champions the conservation and enhancement of the wildlife and natural features of England. In fulfilling our **statutory** duties we:

- establish and manage National Nature Reserves;
- notify and safeguard Sites of Special Scientific Interest (SSSIs);
- advise Government departments and a wide range of other public and non-statutory bodies on effective policies for nature conservation
- disseminate guidance and advice about nature conservation;
- promote research relevant to nature conservation.

We do this by:

- **advising** - Government, other agencies, local authorities, interest groups, business, communities, individuals;
- **regulating** - activities affecting the special nature conservation sites in England;
- **enabling** - others to manage land for nature conservation, through grants, projects and information, and thereby contributing to the achievement of DEFRA's PSA target for SSSI condition
- **advocating** - nature conservation for all and biodiversity as a key test of sustainable development.

Through the Joint Nature Conservation Committee, English Nature works with sister organisations in Scotland, Wales and Northern Ireland to advise Government on UK and international conservation issues.

1. Introduction

Overall, we welcome these guidelines and have found this to be a potentially very helpful document, but which requires more work before publication. We are concerned that the guidance does not always reflect good ecological practice and Government policy in PPS9 as opposed to formal compliance with the planning / EIA process, and which in a few places makes statements over which we have significant concerns. It is also currently biased towards terrestrial rather than coastal or maritime habitats situations, for example it does not address issues such as some of the developing practice as regards offshore wind farms.

PPS 9 Biodiversity and Geological Conservation has been published during the consultation period, and we urge IEEM to give attention to addressing a lack of consistency between the guidance and the policy principles in PPS 9, some of which are picked up in our comments.

We have identified a specific issue regarding the 'fit' between the draft EA guidelines and the detailed appraisal mechanisms already in place for road schemes and indeed which are now meant to be applied to all forms of transport development including ports, airports and rail projects.

The issue is in relation to the significance criteria developed by IEEM which are out of step with the Department for Transport's NATA (New Approach To Appraisal) decision rules for assessing the potential impacts of transport schemes on a range of environmental interests including biodiversity. The Highways Agency is in the process of updating parts of its 'bible' for project engineers (its long established and very detailed Design Manual for Roads and Bridges which is also used by local highway authorities) and is unsure whether to take account of IEEM's guidelines in its revisions.

There are some advantages in the greater weight given to non-statutory sites, protected species and specific conservation features of interest in the guidelines (a weakness in NATA). The downside is the reduced amount of information which may ultimately be provided to Ministers (in terms of the significance of any impact) if the guidelines were adopted. Any changes to the decision rules for biodiversity (which EN helped prepare) would result in the impacts on the full range of environmental interests (landscape, water, built heritage) being scored differently. This is important because the

rules are quite complex and contractors and others still have difficulties in understanding and using the DfT's guidance.

Ultimately, it will be for DfT and the Highways Agency to decide whether to adopt the guidelines but IEEM should be aware that there will probably be some resistance to this for the reasons referred to above.

2. Specific comments

Para 3.13 - it is necessary to emphasise that not only should the highest designation be recognised, but it is possible for other aspects of the ecology to be effectively overlooked or downplayed. This is especially true for some coastal habitats such as reedbeds or grazing marsh where there is SPA and Ramsar designation - but the only focus is upon the birds. IEEM need to think about sites with multiple high-level designations that mean that there are potentially wider objectives and greater capacity for problems - e.g. one might offset impact on birds but destroy the remaining biological interest that is equal or even critical importance. EN

Para 3.18 – we are concerned with the emphasis on species-rich assemblages without recognising that characteristic assemblages can be of equal importance. For example, in one analysis carried out by a member of EN staff - a series of units on a south London heath and grassland site had very differing values based on SQI (species quality index) and this could have led to the most homogenous part of the site being valued less than the most species-rich. Typical assemblages of homogenous habitats are often important but also often overlooked. (ref: Morris R.K.A. 1997 *The Hymenoptera of Mitcham Common: the fauna of a south London grass heath*, with comments on the use of site quality scores for site evaluation. *London Naturalist*. **76**: 105-127). EN

Para 3.18 - shorebird sightlines and flightlines along the tide should be included. EN

Para 3.22 - there are SSSI selection criteria for inter-tidal habitats which should also be cited. EN

Para 3.26 Ancient woodlands (*greater than 2 ha*) are identified on county inventories. EN

Para 3.29 - It would be wise to point readers towards the maintenance of a library of up to date distribution maps (either from Centre for Ecology and Hydrology (CEH) or perhaps the National Biodiversity Network (NBN) Gateway) since many national reviews and the status they cite are heavily out of date. This is true of many thermophilic species that have responded to climate change. EN

Para 3.29 - it cannot be assumed as a generalisation that less mobile species will occur on a site on the evidence of just one reliable recent record - this may be true of plants etc, but for low mobility invertebrates this may be misleading e.g. some invertebrate species of supposed limited mobility can occasionally be recorded when no suitable habitat exists. There is a need to take note of such species but to investigate in more detail if their known biology does not conform to the habitat investigated. EN

Para 3.36 - This paragraph appears under the species section, but actually applies to BAP habitats as well - so should be in a more general place. EN

Para 3.40 - There is a need to consider further the issue of important assemblages. Current work is not sufficient to define and expand upon which assemblages are particularly noteworthy; some comparative analysis has been done for Raynham and Ridham Marshes Public Inquiries providing a good model for analysis of grazing marsh assemblages. It is currently difficult to develop SSSI criteria around invertebrate assemblages; the Dibden Bay Public Inquiry highlighted the issues involved. EN

Para 3.62 – unfortunate that Salmon has to be quoted as an economic interest - perhaps some alternatives could be added such as saltmarsh and mudflats, feeding/breeding grounds for inshore fisheries, and saltmarshes as an important structural component of flood defences that reduces costs and construction heights. EN

Box 13 - there are problems here between the definition of cumulative effects and 'in combination' or 'synergistic' effects. This needs careful thought as cumulative effects should not emerge once

consent is granted - i.e. the EIA process and consents process should lead to cost-neutral impacts on ecology, thus re-setting the baseline. However, if two proposals are to be evaluated at the same time, there is a need to look at whether the parts of the sum are the same as the impact of the whole. i.e. there may be interactions between the proposals that cause more problems than the sum of the proposals. EN

Box 13 - There is a need to highlight impacts on sediment budgets within the estuary (not just erosion) and the degree to which there is net import/export of sediment that makes it harder for remaining inter-tidal to keep pace with sea level rise. EN

Para 4.29 & 4.30 - there are real risks in quoting the percentage that might or might not be acceptable and we have real concerns with this approach. If a 5 ha loss represented 10% of the available habitat within a site, Borough or County it would represent a significant loss, could lead to a loss of ecological functionality, and further attrition of interest. EN

Para 5.2. - In the case of mitigation - these measures **must** be incorporated into a scheme otherwise the assessment of impact is incorrect. Are mitigation and compensation being confused here? EN

Is there acceptance that emphasis should be on delivery of biodiversity rather than damage limitation. This is very dangerous area. EN

Para 5.4. We are concerned that this section encourages the idea that losses can always be replaced, which is not supported by our research. It is also inconsistent with the policy approaches in PPS 9. The emphasis should be on protection and enhancement of biodiversity, including the ecological and physical processes on which it relies for its long term sustainability. EN

We are very concerned by the wording of this section, which sends a dangerous and inappropriate message to those who might seek to weaken the protection afforded by the Habitats Directive, and which is inconsistent with the principles of PPS 9. We strongly suggest that the text on habitat banking schemes should be deleted. The guidance needs to emphasise that where compensation is provided, it needs to be designed to meet particular ecological requirements and not a broad-brush description of what is being lost. EN

Para 6.5 - It is important to stress that the proponent needs to supply environmental information in such a form as to enable to Competent Authority to carry out an appropriate assessment. The guidance should make it clear that it is not the responsibility of the consultants or the proponent to write the appropriate assessment, and this practice should be firmly dismissed. EN

Paras 6.13 & 6.14 - there should also be commitment to dissemination of monitoring of outcomes, and that it should be made explicit that monitoring data and interpretation should be placed in the public domain. The widespread failure to implement monitoring action to ensure measures have been implemented should be recognised, and best practice suggested. EN