

# A GUIDE TO WILDLIFE LEGISLATION AND SITE DESIGNATIONS

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Produced by the Cumbria Biological Data Network to complement the Cumbria Biodiversity Evidence Base.

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1. **[Circular 6/2005: Biodiversity and Geological Conservation](#) – Statutory Obligations and their Impact within the Planning System**

This circular provides administrative guidance on the application of the law to planning and nature conservation. It complements PPS9 and the accompanying Good Practice Guide.

2. **Biodiversity Duty, [Natural Environment and Rural Communities Act, 2006](#)**

Section 40 places a duty on public authorities to conserve biodiversity - for the first time. This section states that (1) 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, and (3) Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat. This change is significant as it places a duty on all Local Authorities to conserve wider biodiversity in addition to the statutory protection given to certain sites and species. Also Section 55 changes the situation regarding the Local Authority role and SSSI protection. [Guidance for Local Authorities on Implementing the Biodiversity Duty](#) has been produced by Defra.

3. **[Wildlife & Countryside Act 1981](#) (as amended)**

This Act, as amended, provides national protection for SSSIs and protected species, in addition to a range of other measures. The 1981 Act has been amended significantly through the CROW ACT 2000 and the NERC Act 2006 and therefore the original document does not represent the Act as it currently stands. The legislation has been consolidated in the Manual of Nature Conservation Law, 2<sup>nd</sup> Edition, edited by Michael Fry.

Landowners, occupiers and third parties are all subject to the legislative requirements of this Act (as amended) with regards to protection of SSSIs and protected species.

4. **[Countryside and Rights of Way Act 2000](#)**

With regards to nature conservation this Act increases protection for Sites of Special Scientific Interest (SSSI) and strengthens wildlife enforcement legislation. It also brings about the duty on government departments to have regard for the conservation of biodiversity and maintain lists of species and habitats for which conservation steps should be taken or promoted, in accordance with the Convention on Biological Diversity (Section 73 list). The NERC Act, 2006, paragraph 55 amends the legislation with regards to offences on SSSIs.

5. **[Birds Directive](#)**

The Birds Directive provides the framework for the conservation and management of wild birds in Europe. It requires the identification and classification of Special Protection Areas for rare or vulnerable species listed in Annex I of the Directive, as well as for all regularly occurring migratory species, paying particular attention to the protection of wetlands of international importance (Article 4). In the UK, the provisions of the Birds Directive are implemented through the Wildlife & Countryside Act 1981 (as amended) and [The Conservation \(Natural Habitats, &c.\) Regulations 1994 \(as amended\)](#).

6. **Habitats Directive**

The Habitats Directive requires member states to implement a range of measures for the protection of habitats and species. The Habitats Directive introduces the precautionary principle, for the first time for protected areas. Projects can only be permitted having ascertained no adverse effect on the integrity of the site. Projects may still be permitted if there are no alternatives, and there are imperative reasons of overriding public interest. In such cases compensation measures will be necessary to ensure the overall integrity of the network of sites. In the UK the Directive has been transposed into national laws by means of the Conservation (Natural Habitats, & c.) Regulations 1994 (as amended), these are known as 'the Habitats Regulations'.

7. **Habitats Regulations 1994**

In the UK the Habitats Directive has been transposed into national laws by means of the Habitats Regulations. Notably Regulation 3 (4) requires every competent authority in the exercise of any of its functions to have regard to the requirements of the Habitats Directive. In particular the Habitats Regulations provide measures for the protection of European Sites and European Protected Species.

The Habitats Regulations also requires Local Planning Authorities to include policies encouraging the management of features in the landscape that are of major importance for wild flora and fauna (Regulation 37 (1)). These features are defined as linear features or stepping stones which are essential for the migration, dispersal and genetic exchange of wild species.

The Regulations were reviewed in 2007 and some amendments were made. The legislation has been consolidated in the Manual of Nature Conservation Law, 2<sup>nd</sup> Edition, edited by Michael Fry.

8. **Ramsar Convention**

Convention on Wetlands of International Importance, agreed in Ramsar, Iran, in 1971. Originally intended to protect sites of importance especially as waterfowl habitat, the Convention has broadened its scope over the years to cover all aspects of wetland conservation and wise use, recognising wetlands as ecosystems that are extremely important for biodiversity conservation in general and for the well-being of human communities.

9. **European Protected Species (animals and plants – not birds)**

These animal and plant species are listed on Annex IV of the Habitat Directive. The animals are protected under Regulation 39 of the Habitats Regulations and are listed on Schedule 2 of these Regulations; plants are protected under Regulation 43 of the Habitats Regulations and are listed on Schedule 4. The European Protected Species Guidance note advises developers and planners of their responsibilities towards European Protected species.

10. **Annex I species**

These species are listed on Annex I of the Birds Directive. They are bird species for which Special Protection Areas are classified (designated).

11. **Annex II species**

These species are listed on Annex II of the Habitats Directive. They are animal species for which Special Areas of Conservation are designated.

12. **Species and habitats of principal importance in England**

Under Section 41 of the NERC Act 2006 the Secretary of State must, for England, publish a list of habitats and species which in the Secretary of State's opinion are of principal importance for the purpose of conserving biodiversity. The Secretary of State must keep this list under review.

This S 41 provision reapplies Section 74 of the Countryside and Rights of Way Act, 2000. DEFRA published the original S 74 list in 2002 and this is given in Government Circular 6/2005 Biodiversity and Geological Conservation – Statutory Obligations etc, pages 52-58.

Note this S 74 list was superseded in May 2008 by the new S41 list, and now includes 941 species and 56 habitats. PPS9 refers to species and habitats of principal importance but refers to this as the S 74 list.

With regards to species this list differs from the [UK BAP](#) Priority species list only with the addition of the Hen Harrier. The habitat lists are the same.

**13. [Site of Special Scientific Interest \(SSSI\)](#)**

The best wildlife and geological sites in the country designated under Section 28 of the Wildlife and Countryside Act 1981, as amended by the CROW Act 2000. There are 279 in Cumbria. Planning authorities have specific duties and responsibilities in respect of SSSIs; these are summarised in Part II of ODPM Circular 06/2005.

**14. [Special Area of Conservation \(SAC\)](#)**

Areas given special protection under the European Union's Habitats Directive, in the UK through the Habitats Regulations 1994. With SPAs they form the Natura 2000 series across Europe. All land-based sites are SSSIs; marine sites may extend beyond the SSSI boundary. They are designated for their habitats, and for certain plant and animal species specifically. Planning authorities are required to carry out a Habitats Regulations Assessment for any plan, programme or project (including development plans and planning permissions) to ensure that any impacts are not detrimental to the features for which the sites are designated. Where a SAC incorporates subtidal and/or intertidal areas, it is referred to as a "European marine site" (EMS) and additional information is available in the form of a 'management scheme'.

**15. [Special Protection Area \(SPA\)](#)**

Areas given special protection under the European Union's Birds Directive, and through the Habitats Regulations 1994. With SACs they form the Natura 2000 series across Europe. All land-based sites are SSSIs; marine sites may extend beyond the SSSI boundary. They are designated for their birdlife, including rare and vulnerable birds and for regularly occurring migratory species. Planning authorities are required to carry out a Habitats Regulations Assessment for any plan, programme or project (including development plans and planning permissions) to ensure that any impacts are not detrimental to the features for which the sites are designated. There are 4 SPAs in Cumbria. Where a SPA incorporates subtidal and/or intertidal areas, it is referred to as a "European marine site" (EMS) and additional information is available in the form of a 'management scheme'.

**16. [Ramsar site](#)**

Wetland areas designated under the Convention on Wetlands of International Importance, 1971, (Ramsar Convention). Government policy is that these should be treated the same as SACs and SPAs in terms of protection. All land-based sites are SSSIs; marine sites may extend beyond the SSSI boundary. There are 5 Ramsar sites in Cumbria.

**17. [National Nature Reserve](#)**

National Nature Reserves are some of the most important sites in the UK for wildlife and geology, in England declared by Natural England under the National Parks and Access to the Countryside Act 1949 and the Wildlife and Countryside Act 1981. They are managed primarily for their habitats and species, or geological or geomorphological features, but also provide great opportunities for people to experience nature. Almost all NNRs have some form of access provision. There are 25 NNRs in Cumbria, and 222 nationally; they are managed by Natural England (18) or an approved body (7).

## 18. Local Nature Reserve

These nature reserves are declared by Local Authorities (County, District, National Park, or Parish) under the National Parks and Access to the Countryside Act 1949 as living green spaces in towns, cities, villages and countryside. They are declared and managed for nature conservation, and provide opportunities for research and education, or for simply enjoying and having contact with nature. All LNRs are owned or controlled by Local Authorities, though they may be managed by others. Some are also SSSIs. There are 8 in Cumbria and approximately 1200 nationally.

## 19. **Limestone Pavement Orders**

Limestone Pavement Orders are made under Section 34 of the Wildlife and Countryside Act 1981, by Cumbria County Council, LDNPA and YDNPA, as appropriate. This gives statutory protection for limestone pavements and prohibits the removal or damage of limestone within the designated area. LPO sites are often, but not exclusively, SSSIs.

## 20. Cumbria Local Wildlife Sites (County Wildlife Sites)

Cumbria Local Wildlife Sites, or County Wildlife Sites as they were known until recently, are defined areas, identified and selected locally for their nature conservation value based on important, distinctive and threatened habitats and species within a national, regional and local context. They are part of the hierarchy of nature conservation site designations present in the UK. Local Wildlife Sites and SSSIs together form the core of the functional ecological framework referred to in the regional policy EM1. They are designated and reviewed at a county level by the Wildlife Sites Selection Panel for the Cumbria Local Sites Partnership, according to the Wildlife Site Selection Guidelines.

## 21. Regionally Important Geological and Geomorphological Sites (RIGS)

These are the most important places for geology and geomorphology outwith the statutorily protected SSSIs. Sites are selected under locally-developed criteria, according to their value for education, scientific study, historical significance or aesthetic qualities. RIGS are equivalent to Local Wildlife Sites and together these are known as Local Sites, and are recognised within the planning system. They are designated at a county level by the RIGS Group for the Cumbria Local Sites Partnership.

## 22. Joint Character Areas and Natural Areas

Natural Areas, defined by English Nature (now incorporated into Natural England), are divisions of England based on the distribution of wildlife and natural features, and the land-use patterns and human history of each area. They are either the same as the Character Areas or they may be groups of Character Areas. The Natural Area Profiles describe the distinctive biodiversity features for each Natural Area.

Countryside Character Areas, defined by the Countryside Commission (now incorporated into Natural England), are very similar divisions of England but with a stronger emphasis on landscape character. Countryside Character Areas match or nest within Natural Area boundaries.

Joint Character Areas (JCAs) is the term now used for areas which are the same as Countryside Character Areas, and these are used for a variety of targeting purposes. GIS boundaries available direct from <http://www.magic.gov.uk/>.