

Ecology and Biodiversity - PLANNING GUIDANCE NOTE

European Protected Species

South Ayrshire Council Planning Service will not grant planning permission without having satisfied itself that a proposed development will not impact adversely on any European Protected Species (EPS) ^[1].

If there is potential for any EPS to be present on or near the site of a proposed development, then survey by a qualified professional may be required to determine whether there could be impacts on such species.

In accordance with guidance from Scottish Government ([European Protected Species - terms of guidance: Chief Planner letter - gov.scot \(www.gov.scot\)](#)), South Ayrshire Council cannot reach a determination for any planning application where there is potential for impacts on EPS until the applicant has submitted sufficient evidence, potentially in the form of field survey data, on the presence and likely effects of the development on such species. It is not possible to impose planning conditions requiring the applicant to undertake surveys or assessment for EPS as part of any planning permission.

South Ayrshire Council may, however, impose planning conditions as necessary to secure any mitigation that may be required for EPS. The applicant may also be required to separately obtain a licence from NatureScot to permit activities that would otherwise constitute an offence under the Habitats Regulations.

NatureScot guidance on EPS can be found on their website ([European protected species | NatureScot](#)).

Ecological Study and Reporting

Development activities have the potential to adversely affect protected species and ecological features in general. Development at any location could have adverse impacts, however the following types of site are more likely to support important ecological features, potentially including protected species:

- undeveloped greenfield land;
- a site close to or containing established trees or woodland;
- a site close to or containing a watercourse or waterbody;
- brownfield sites, where these have established extensive natural vegetation (and/or potentially contain invasive non-native species); and,
- sites where works involve the conversion, modification, or demolition of buildings such as farmhouses, barns, outbuildings, or other older buildings.

The applicant must consider the potential for impacts on ecological features, including protected species and where necessary undertake appropriate study to assess the likely effects of the proposed development. This may require the support

of a suitably qualified / experienced professional to carry out suitable desk-based study and/or field survey.

Evidence that ecological features, including protected species, has been considered by the applicant should be submitted to South Ayrshire Council as part of a planning application. Where no detailed study or survey has been carried out, this must be appropriately justified. However, South Ayrshire Council may still require the applicant to undertake further assessment in relation to ecological features and/or protected species and may request that this is completed prior to a determination being made (this is especially the case where there may be adverse impacts on European Protected Species, for which we have provided further advice above).

Where development activities have the potential to result in adverse ecological effects, including protected species, South Ayrshire Council expect applicants and their ecological advisers to follow industry-standard guidelines, including those published by the Chartered Institute of Ecology and Environmental Management (CIEEM). In particular, where significant effects are possible, the applicant may need to submit with their application an Ecological Impact Assessment Report, in accordance with CIEEM guidance (Guidelines for Ecological Impact Assessment (EclA) | CIEEM). Where necessary, applicants are encouraged to seek the advice of a qualified ecologist.

South Ayrshire Council may impose planning conditions as necessary to secure any mitigation that may be required in relation to protected species or other important ecological features. The applicant may also be required to obtain separately, a licence from NatureScot to permit activities that would otherwise constitute an offence under relevant wildlife legislation.

Guidance and background information can be found below:

- [Planning and development: protected species | NatureScot](#)
- [Licensing | NatureScot](#)

NOTE: The Planning Service will request any necessary ecological surveys (that have not been provided when the application is submitted) when required and when an application could potentially be supported. The Service will not typically request surveys from applicants when their application is unlikely to be supported. The applicant may however wish to provide this regardless.

Notwithstanding the above, if an application is:

- refused by the Service under delegated powers and;
- the necessary survey work was not undertaken at the application stage and;
- a subsequent request for a Review of that decision is submitted and;
- the Local Review Body (LRB) is minded to overturn the decision of officers and approve the application

then the application will require to be continued. A continuation of the application will allow the applicant to instruct a qualified professional to undertake the necessary ecological survey work. In such cases, the LRB will delegate authority to officers to:

- Consider and review the survey work in consultation with Nature Scot and/ or the Council's Ecological advisers as appropriate
- Request any additional survey work as may be necessary
- Grant planning permission and impose any necessary planning conditions

If the survey work raises ecological issues that cannot be reasonably mitigated and there is concern or objection from Nature Scot. that cannot be addressed then the application will be referred back to the LRB for their further consideration and determination.

National Planning Framework 4 – Policy 3, Biodiversity.

[National Planning Framework 4 \(www.gov.scot\)](http://www.gov.scot)

Applicants and agents should be aware of the biodiversity requirements of Policy 3 of NPF4 and take account of this in the preparation of planning applications for all types of development (with exception to householder developments), demonstrating how the requirements have been achieved in accordance with the policy. If this is not provided, then there will likely be a delay in progressing your application.

¹ European Protected Species is a term used to refer to species which receive special legal protection through their listing on Schedules 2 and 4 of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) (more commonly referred to as the 'Habitats Regulations').