



Issue Two

Ecology Consultancy Briefing



Photo courtesy of Hugh Clark



A snapshot of our work

Monitoring Local Wildlife Sites

A team from our Norwich office has been working closely with East Lindsey and North Kesteven District Councils in Lincolnshire to carry out a review of non-statutory sites of nature conservation importance. Habitat surveys are being carried out on over 200 such sites to see if they meet the new criteria for Local Wildlife Sites developed by the Lincolnshire Biodiversity Partnership. Those sites which meet the criteria will be confirmed as Local Wildlife Sites and identified as such in the emerging Local Development Framework for each district.

Wind farms galore



Photo courtesy of Graham Hopkins

The Ecology Consultancy has been working on an increasing number of wind farm projects in recent months. One project for the proposed Dudgeon Offshore Wind Farm in Norfolk has involved us in pond surveys for great crested newts along the proposed routes for the cable connections to the National Grid. Over 200 ponds have been surveyed so far and the results are indicating that the great crested newt is widespread in these parts!

Another wind farm project in Beccles, Suffolk, for Stamford Renewables, has kept us occupied providing the full suite of protected species surveys including birds, bats and great crested newts. Further inland, we are also conducting bat surveys on four wind farms in Cambridgeshire.

Black Sand Point translocation

This comprised the translocation of a large reptile population from a 16 hectare landfill site in Sandwich, Kent that needed to be re-capped. The site was comprised of mostly grassland, with some scattered trees and scrub, and was bordered by the River Stour on three sides.

Translocation

Surveys revealed that the site contained a wide range of wildlife much of which was protected and therefore translocation of these important species was required before construction works could take place. A suitable site for relocating reptiles and other wildlife was found at a nearby nature reserve which had capacity for extra flora and fauna. Divided sedge, a priority species in the UK Biodiversity Action Plan, was also translocated along with a selection of orchids which, although not threatened, would enhance the receptor site.

Reptile capture

Common lizards were identified across the site and these were captured using reptile heat traps. The receptor site already had a small population of reptiles, and log piles were created to provide additional places for them to live and bask in. The animals were then carefully transferred from the original site. In total over 1,000 lizards were captured and successfully translocated, the receptor site will be monitored for the next 5 years to ensure they settle in properly.

Skylarks

Finally the site was also identified as being important for skylarks, linnets and dunnocks – all birds whose habitat is threatened in the UK. To ensure there were no impacts on them the clearance work took place outside of their breeding season. In the longer term the re-planting plan will be designed to provide a species-rich grassland that they can thrive in.



Photo courtesy of Ben Kimpton

Building schools for the future

The Ecology Consultancy has been involved in a number of projects that are part of the Building Schools for the Future (BSF) programme. One of the requirements for this programme is that all the work achieves a BRE Environmental Assessment Method (BREEAM) 'very good' rating and we have been carrying out a number of Phase 1 habitat surveys for this scheme. As well as helping schools to achieve the required BREEAM Education standard, further developments may also involve us in consultation with pupils and staff. According to the BREEAM guidance evidence should

be provided that students and staff have been consulted during the design process and that their views have been considered in developing the finalised proposals.

A recent project at Whittings Hill School in Barnet involved a series of lessons on ecology and sustainability that included exercises with the children to determine what plants should be used and how the playground should be laid out. The classes were complemented by a number of informal sessions for teachers. These assisted the project in gaining an additional credit towards the BREEAM rating.



Special briefing:

Clients beware! Recent court decision places greater onus on European Protected Species

by John Newton, Managing Director, The Ecology Consultancy

The legislation

The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), otherwise known as the Habitat Regulations, implement, in Great Britain, Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora, otherwise known as the EC Habitats Directive 1992 (the equivalent legislation in Northern Ireland is The Conservation (Natural Habitats, &c.) Regulations (Northern Ireland) 1995 (as amended)). Amongst other things this legislation provides strict protection for a variety of plants and animals, including (but not exclusively) great crested newts, all species of bats, and dormice. These European Protected Species (EPS) could potentially be encountered by a client proposing the redevelopment of land, especially in England.

The Ecology Consultancy strongly recommends to clients that surveys for these species are undertaken as part of the baseline assessment studies to inform a planning application. Planning Policy Statement 9 (PPS9) (and the accompanying Government Circular 06/2005) is clear that information regarding the potential impacts of development on a protected species is a material consideration in the planning process and that ecological surveys should only be included under planning conditions in exceptional circumstances. Protected species in this case also includes those animals that are not protected by the Habitat Regulations but that are protected by the Wildlife and Countryside Act 1981 (as amended) such as reptiles, water voles and birds, and the Protection of Badgers Act 1992. PPS9 also makes reference to "further strict provisions" for those species governed by the Habitats Regulations.

Legal clarification

A recent High Court decision has clarified the situation regarding this last point. Until now it would appear that Local Planning Authorities have not been applying the law in the way intended. Paragraph 116 of the Regulations provides that "When dealing with cases where a European Protected Species may be affected, a planning authorityhas a statutory duty under regulation 3(4) to have regard to the requirements of the Habitats Directive in the exercise of its functions". So the Directive's provisions are clearly relevant and should be fully taken into account when determining a planning application.



The decision in the case *Woolley vs Cheshire East Borough Council* heard by Judge Waksman QC in May 2009 interprets this to mean that the local authority should engage with the provisions of the Directive. Engagement involves a consideration by the authority of those provisions and whether the derogation requirements might be met. In essence what the decision means is that a LPA must consider the tests as laid out in the Regulations for a project where there are implications for a European Protected Species. These are that:

- the activity must be for imperative reasons of overriding public interest (OPI) or for public health and safety;
- there must be no satisfactory alternative; and
- the favourable conservation status of the species in their natural range must be maintained.

To date these tests have only been applied when an EPS mitigation licence application has been made to Natural England for a development project that has already gained Planning Permission or is shortly to do so. The judgement of Waksman has highlighted how the LPA must engage with these three tests at the planning application stage and how it must be demonstrated that they are satisfied that the three tests have been met prior to granting planning permission. Natural England has recently revised the Reasoned Statement of Application form that is part of the package of documents that accompanies a licence application. The Reasoned Statement form provides an indication of what the LPAs should be looking for in support of a planning application.

A stringent approach

So, as far as The Ecology Consultancy is concerned, it is even more important to ensure that

- Clients are aware of this recent case and how it may affect the planning process
- The three tests are engaged with by the client in a way that will assist the LPA in determining the application in compliance with the Habitat Regulations 1994.

Whilst The Ecology Consultancy can provide detailed information with regard to the maintenance of favourable conservation status, the tests regarding OPI and 'no alternative' will need to be answered by the client. Clients may need to take expert legal advice to assist in preparation of the arguments to address the OPI and 'no alternative' legal tests.

In the Waksman case a previously granted planning permission was quashed because it was determined that the LPA (in this case Cheshire East Borough Council) had not engaged with the three tests at the planning application stage.

Clearly, this more stringent approach means much greater consideration of these issues will be required in advance of a planning application being submitted, if that application is not to fail. The information presented at this stage will also be directly useful in the formation of the Reasoned Statement of any subsequent EPS mitigation licence application.

Watch this space

The immediate concern is how well informed the LPA officers will be with regards to this requirement of the Habitat Regulations and how they will respond. A great deal has still to be clarified and the guidance of bodies such as Natural England will be critical. The Ecology Consultancy will keep clients and other interested parties informed as we learn more about the ramifications of this decision. Suffice to say the presence of a European Protected Species on site has to be taken extremely seriously if planning applications are not to fall at the first hurdle.

We are grateful to lawyers Penny Simpson and Mike Pocock of DLA Piper for providing information and analysis regarding the Waksman case.

The full judgement can be viewed at www.bats.org.uk/publications_download.php/592/Woolley.pdf



Species spotlight on Dormice

by Rachel Saunders, Senior Ecologist, The Ecology Consultancy



Photo courtesy of Rachel Saunders

"When one subtracts from life infancy (which is vegetation), sleep, eating and swilling, buttoning and unbuttoning - how much remains of downright existence? The summer of a dormouse." Lord Byron

It wasn't only Byron that captured the essence of the hazel or common dormouse *Muscardinus avellanarius*. Immortalised by Lewis Carroll in 'Alice's Adventures in Wonderland' the hazel dormouse is one of our most elusive yet recognisable mammal species. In reality, it may not reside in a teapot, or recite poems about bats and tea trays, but Lewis Carroll did bring to the fore one of the dormouse's most famous behavioural traits - its propensity to sleep. In fact the dormouse sleeps, or rather hibernates, for up to seven months of the year, which explains many of its local English names - 'seven-sleeper', 'dozing-mouse' and 'sleep meece'. Even the word 'dormouse' is said to derive from the Norman French for sleepy - 'dormeus'.

In woven nests of leaves and moss just beneath the ground surface, or under a log pile, the dormouse whiles away the colder days, its body temperature barely above that of its surroundings, its heart and breathing rate reduced by up to 90%. In this way, the dormouse can avoid wasting vast amounts of energy keeping warm and searching for food during the most unproductive time of year. It may also explain why the dormouse can live to a grand old age of five when its cousin, the wood mouse may only live to 18 months.

However, spending so much of the year tucked up in bed means that summer is

a busy time for the dormouse. Within the space of five months it must find a mate, breed and fatten up again before the big sleep resumes in October or November. Unlike other species of mouse, the dormouse produces only one, sometimes two litters a year. These are born in beautifully woven nests typically composed of fresh green leaves and stripped honeysuckle bark though the dormouse may utilise a range of materials depending on their availability. Summer nests are most commonly found in dense under-storey vegetation such as bramble, or in hedgerows, usually about 1.5-2m above the ground.

The active dormouse requires a rich, continuous supply of food, from flowers and pollen in the spring, to fruits, hazelnuts, aphids and other small insects in the summer and autumn. Diverse coppiced and mixed deciduous woodland is generally regarded as core dormouse habitat, providing the necessary supply of food sources throughout the year. However, increasingly, dormice are being found to utilise less 'traditional' habitats, for example coniferous woodland, birch stands on heathland, and even back gardens. Dense, species-rich hedgerows are also known to support resident populations and, additionally, play an important role in maintaining habitat connectivity, acting as wildlife corridors along which transient animals can move between otherwise isolated blocks of woodland.

Even in ideal habitat, dormice live at low densities, perhaps at a maximum of 10 animals per hectare. Except to hibernate, they rarely descend to ground level and, as a rule, are unlikely to travel more than 75m from the nests, actively avoiding crossing open areas. Whilst this may be an excellent predator avoidance strategy, the dormouse's relatively sedentary nature may also, ultimately, be its downfall. As woodlands become fragmented through changes in land use or unsympathetic management, and wildlife corridors linking remaining fragments are severed, the gene flow between dormouse populations dwindles and populations eventually die out.

Already, within the last 100 years, dormice have become extinct in six English counties, representing half the species' former range. The legal protection afforded this species and its habitat may go some way to halting this decline but it will take a co-ordinated approach to land management, by woodland managers, planners, developers and conservationists alike, to secure its long-term survival and prevent the sleepy dormouse becoming confined solely to the literary archives.



Other news

Staff news

The Ecology Consultancy continues to grow and we have taken on several new members of staff since the last briefing.

In the London office Greg Holland has joined as Finance Manager. Greg has ten years' experience working in construction and the charities sector as well as in conservation; he is also a keen wildlife photographer. Julie Powell is our new Senior Ecologist specialising in protected species. She has a number of years experience in ecology and holds a dormouse and a great crested newt licence. Julie has an MSc in biodiversity conservation. Alex Woodcraft has joined as Marketing Assistant and is also working on the M25 translocation project with a number of other temporary staff catching great crested newts and reptiles. Finally Catherine Jones has joined as an Ecologist specialising in surveying and designing mitigation for protected species, she also holds Natural England licences for dormice and great crested newts.

In Lewes Carly Jefferies has joined as an Assistant Ecologist specialising in amphibians and reptiles, Carly has a great crested newt licence.

In Norfolk we have a new Senior Ecologist, Dr Graham Hopkins, who is an expert entomologist and a Natural England bat survey licence holder.

New Offices

To accommodate our extra staff we have moved to bigger offices in Lewes and Norwich. You can now find us at:

Norwich:

Unit 7, Lodge Farm Barns, New Road, Bawburgh, Norfolk NR9 3LZ
Tel: 01603 271811

Lewes:

The Old Granary, Upper Stoneham, Lewes, East Sussex BN8 5RH
Tel: 01273 471369



Photo courtesy of Giles Coe

Look out for our vans sporting the new branding



Green Roof Consultancy

by Dusty Gedge, livingroofs.org



Photo courtesy of Dusty Gedge

help to stimulate interest in retrofitting green roofs in the centre of London to help the city adapt to climate change – a key concern for the London Climate Change Partnership.

Visit www.greenroofconsultancy.com for more information. The Ecology Consultancy is a partner with livingroofs.org in the Green Roof Consultancy.

Green Roof Alterations at 1 Wood Street

Another first in the UK is the work undertaken by GRC to modify a sedum roof on 1 Wood Street, the home of the legal firm Eversheds Ltd. The architects had specified a simple sedum blanket. Although sedum blankets have some value for biodiversity there was a need to increase the diversity of habitat to hit the BREEAM excellent target. GRC was brought in to design modifications to increase the biodiversity value on the roof. This included bird boxes, insect boxes and other wildlife features. However, based on the findings of a long-term study of green roofs in London, there was also a need to provide mounded areas of green roof substrates planted and seeded with native herbs. Additional features on the roof included logs and hay faggots. The GRC team and staff from Eversheds undertook the work.

Green Roof Toolkit up for an RTPI award

Last year Green Roof Consultancy (GRC) and The Ecology Consultancy were commissioned to write a new green roof guidance toolkit for the Environment Agency in the Thames region. Launched at the London World Green Roof Congress 2008 the toolkit is now up for an RTPI award.

The toolkit focuses on what the Environment Agency would like to see specified for green roofs to meet three areas of concern:

- Biodiversity
- Storm water management/SUDS
- Climate Change Adaptation

The project built on work undertaken by GRC and The Ecology Consultancy when writing the Living Roofs and Walls: Technical Report to support the new London Plan. However,

the Toolkit goes into the detail of designing both intensive and extensive green roofs. It provides detailed guidance on plants, substrates and approaches at a landscape level. It also covers the engineering aspects, such as run-off rates and the structural requirements, to achieve a good green roof. This is an important and unique feature of the toolkit as, all too often, structural issues are predetermined and as a result limit the type and variety of landscape at roof level.

The team at Green Roof Consultancy are using the guidelines in a project with Buglife to design 6 retrofit green roofs in the London area. Two roofs have already been installed in Lewisham and further roofs are to be installed over the next few months in Westminster, Camden and Islington. These roofs will provide seminal examples of how green roofs should be installed for biodiversity in the capital. They will also

Green Roof Training

After the successful run of green roof training events undertaken with CIRIA in autumn 2008 and spring 2009, GRC is working on a programme of training events for the next 12 months.

Dusty Gedge of GRC, and Livingroofs.org, will be running practical workshops on green roofs. For more details please visit www.livingroofs.org/livingpages/greenrooftraining.html

Contact us

London

Bon Marche Centre,
241-251 Ferndale Road,
London SW9 8BJ
t: 020 7326 0007

Lewes

The Old Granary,
Upper Stoneham, Lewes,
East Sussex, BN8 5RH
t: 01273 471369

Norwich

Unit 7, Lodge Farm Barns
New Road, Bawburgh
Norwich NR9 3LZ
t: 01603 271811



Ecology Consultancy

You have received this Briefing as a valued contact and we hope you have found it informative. If you have any comments on it we would love to hear from you at any one of our offices. If you would prefer not to receive any more Briefings, or information on our services, please write to Jane Kendall, Ecology Consultancy, Bon Marche Centre, 241-251 Ferndale Road, London SW9 8BJ or email enquiries@ecologyconsultancy.co.uk.