

Natural England Standard

SSSI Regulation



1:0 About this standard

Introduction

Sites of Special Scientific Interest (SSSIs) safeguard England's most important areas of natural heritage. The Wildlife & Countryside Act 1981 and subsequent amending legislation¹ (referred to in this document as 'the Act') places a legal duty on Natural England to act for the benefit of SSSIs and take reasonable steps, consistent with the proper exercise of its functions, to further the conservation and enhancement of the special scientific interest of SSSIs².

In order to provide all SSSIs with protection from potentially harmful activities, the Act requires:

- owners and occupiers of SSSI land proposing to carry out or permit operations that may damage the special interest of their SSSI to first apply for Natural England's **consent**.
- public bodies proposing to carry out operations which they consider are likely to damage the features of special interest within a SSSI (whether within or outside the boundary of an SSSI) to first apply for Natural England's **assent**
- public bodies proposing to authorise or permit others to carry out operations that may be likely to damage the special interest of a SSSI (whether within or outside the boundary of an SSSI) to first seek Natural England's **advice**

What does this standard cover?

This operational standard, which is informed by Natural England's [SSSI Strategic Standard](#), explains the guiding principles that Natural England applies when exercising the legal powers given to it by Section 28 of the Act with regard to:

- **Consents (section 28E of the Act)** — issued in response to a written notice of proposal from an owner or occupier of an SSSI. Natural England may grant consent for the proposed operations, with or without conditions, or refuse to grant consent for the proposed operations if it considers that the proposal is not compatible with furthering the conservation and enhancement of the SSSI. The operations that require

¹ The Wildlife and Countryside Act 1981 was amended by the Countryside Rights of Way Act 2000 and the Natural Environment and Rural Communities Act 2006.

² Section 28G of the Act

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Natural England's consent (also previously referred to as 'Operations Likely to Damage' (OLDs)) are formally listed in the notification documents of each SSSI and are relevant to the notified features for which that SSSI has been selected.

- **Assents (section 28H of the Act)** — issued in response to a written notice of proposal from a public body, such as a government department or agency, local authority or statutory undertaker³, requesting permission to undertake operations, in the exercise of their functions, which that authority considers is likely to damage a SSSI. On determination of the notice, Natural England may grant its assent, grant its assent with conditions or refuse to grant its assent if it considers that the proposal is not compatible with furthering the conservation and enhancement of the special interest of the site.
- **Advice (section 28I of the Act)** — issued in response to a consultation from a public body when it is deciding whether to authorise or permit an operation proposed by others. This is the case whether they may permit the operations following an application required by a statutory authorisation regime, or whether they are acting as a SSSI landowner and wish to permit a third party to carry out operations on their SSSI land. Natural England may advise against giving permission for operations that may damage the special interest of the site or advise that conditions be attached to a permission to prevent or mitigate the operations causing damage.

The diagram in Annex 1 illustrates the three regulatory pathways (consents, assents, and advice) applied by Section 28 of the Act to help protect SSSIs. GOV.UK provides further public guidance⁴.

Who is this standard for?

This standard has a wide audience. It is essential that the owners and occupiers of SSSIs understand the regulatory pathway for consent decisions under Section 28E and that public bodies understand the regulatory pathway for assent decisions under Section 28H and for statutory Section 28I advice.

It will be useful for other parties to understand how to gain the necessary permissions that may be required when proposing to undertake events or activities on SSSI land owned by owners, occupiers, or public bodies.

³ Examples include Environment Agency, Forestry Commission, Local Authority, utility companies, Ministry of Defence, Network Rail and Highways England

⁴ There are two pages of public guidance that relate to the process through which SSSI owners and occupiers can give notice and apply for a consent decision, and the duties of public body responsibilities: [Sites of special scientific interest: managing your land - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/sites-of-special-scientific-interest-managing-your-land) and [Sites of special scientific interest: public body responsibilities - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/sites-of-special-scientific-interest-public-body-responsibilities)

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2:0 The Standard

Natural England is committed to working closely with land managers and others (our SSSI customers) who wish to submit notices and seek advice concerning SSSI regulation.

Our aim is to ensure we respond to all enquiries in a timely and efficient manner and that we explain the reasons for our advice and decisions clearly.

In implementing our legal duties, we will apply the following principles:

1. Ensure that customers can easily access the information on individual SSSIs that Natural England uses to inform its decision making

In addition to directly providing these to owners, occupiers and public bodies when a SSSI is first notified, Natural England publishes the statutory notification documents for each SSSI on its website⁵.

These are important references in the decision-making processes affecting SSSIs and comprise:

- A Citation, which describes the special nature conservation interest for which the site has been selected as a SSSI
- A Map showing the extent of the SSSI boundary
- A List of Operations that require Natural England's consent ('ORNECs') (also previously referred to as 'Operations Likely to Damage' ('OLDs')), and
- A Statement providing Natural England's views about the management of the land which is necessary to conserve the SSSI.

2. Encourage customers to discuss their proposals with us before submitting a notice

We encourage our SSSI customers (owner/occupiers and public bodies) to contact us prior to submitting a notice to undertake activity affecting a SSSI. Owner/occupiers should only consult where the proposed operation equates with an operation which is described in 'the list of operations requiring Natural England's consent' for their SSSI and where the proposed operation would be carried out within the boundary of the SSSI.

Public bodies should consult Natural England where they consider that an operation would be likely to damage the features of special interest, whether the operation is to take place within the boundary of the SSSI or not. By discussing proposed operations in advance of the submission of a formal notice, both parties can consider at an early stage if and how the work can be undertaken in a way that protects the special feature of the SSSI.

Natural England can provide informal advice to an owner or occupier or public body about any proposed operations before a notice is submitted. Once notice has been given and a written proposal submitted, Natural England must then assess the likely ecological impacts of the operations as requested and described in the notice. Further dialogue with the applicant during this statutory determination period is limited to requests for additional information to inform the decision.

Should the owner or occupier or public body choose to significantly change their submitted proposal, they can withdraw their notice at any point and Natural England can provide further advice to help

⁵ <https://designatedsites.naturalengland.org.uk>

inform a new notice.

Natural England's initial advice to SSSI customers will usually be free but in some circumstances, Natural England may charge for its advice under its pre-application Discretionary Advice Service (DAS). This can be especially helpful to SSSI customers if detailed advice is needed on avoidance of damage, mitigation strategies to reduce damage to the environment, or if advice is required quickly (in less than 28 days). DAS contracts⁶ must be agreed in advance of the advice being given and are particularly relevant for proposed operations that are not necessary for the conservation of the site.

3. Adopt an approach to our decision making on consents and assents which seeks to find solutions whilst ensuring the protection of the SSSI

Natural England will, as far as practicable, seek to identify workable solutions that both protect the features of special interest of the site and support the legitimate activities of landowners, land managers and public bodies.

When making its decisions, Natural England will assess whether it is possible to carry out the operations identified as likely to damage a SSSI in ways that are compatible with furthering the conservation and enhancement of the special interest of the site, for example by using certain methods, or at specific times of year, or on certain parts of the SSSI.

Where it is not possible to grant our consent/assent to a proposed operation, Natural England will, where practicable, work with land managers and public bodies to explore alternative solutions or proposals to achieve similar outcomes, which would enable a consent/assent to be granted in future.

4. Respond to SSSI notices from owner occupiers of SSSIs in a timely and efficient manner

A notice must be drafted by a notified owner or occupier (or someone authorized to act on their behalf) and should be submitted in writing to Natural England's Single Point of Contact at protectedsites@naturalengland.org.uk. Natural England will acknowledge the receipt of a notice with an automated reply email.

Annex 2 details the information that Natural England generally recommends should be included in a notice. Providing sufficient information about where, what, when and how the operations would be undertaken if permitted can help to ensure a timely decision. If we consider the correspondence describing proposed operations cannot be recognised as a notice, we will respond as promptly as possible, providing an explanation, for example where a notice is submitted by a third party.

On receiving a notice Natural England will first check for any existing consents which already authorise the proposed operations. This will prevent the unnecessary duplication or 'layering' of permissions and allow previously consented operations to proceed quickly subject to the acquisition by the SSSI consent holder of any other permissions from other bodies. Natural England will inform the applicant if they already have a consent for the operations that they have proposed.

Under the provisions of the Act, Natural England has up to four months from the date on which the notice was sent to Natural England in which to determine a Section 28E notice. Natural England will however strive to respond to notices within 28 days. For complex cases, where a site visit and/or specialist

⁶ You can find further information about Natural England's DAS at <https://www.gov.uk/guidance/sites-of-special-scientific-interest-public-body-responsibilities#get-free-or-charged-advice-from-natural-england>

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advice is required, the whole of this statutory period may be required.

More complex cases can include proposals affecting those SSSIs which are also part of the National European Site Network⁷ because Natural England will also need to undertake a 'Habitats Regulations Assessment' to inform its Section 28E consent decisions. In circumstances where the Habitat Regulations Assessment indicates that a more detailed 'appropriate assessment' is required it may take up to four months to reach a decision (see principle 6). Natural England must also ensure that its SSSI consent decisions do not hinder the conservation objectives for Marine Conservation Zones.

Where Natural England concludes that the proposed operations would, if carried out, cause damage or disturbance to the notified features of a SSSI, it may be necessary for Natural England to attach conditions to a consent to prevent or mitigate such damage or disturbance or refuse to grant consent. Where consent is granted with conditions, or where consent is refused, then a statement clearly explaining our reasons for doing so will be provided.

The applicant will be informed about their right to appeal against such decisions to the Secretary of State and how to lodge an appeal if they choose to.

5. Respond to SSSI notices from public bodies in a timely and efficient manner

A notice should be submitted in writing to Natural England's Single Point of Contact at protectedsites@naturalengland.org.uk. Natural England will acknowledge the receipt of notices with an automated email reply.

Public bodies should provide sufficient information about where, what, when and how the operations would be undertaken to enable Natural England to make a decision. Where the SSSI underpins a European site, there is an expectation that public bodies include a copy of their Habitats Regulations Assessment (as required by the Habitats Regulations 2017) that informed the development of their proposed operations.

Under the provisions of the Act, Natural England has 28 days from the date on the notice to determine a notice for assent. On receiving a notice at the Single Point of Contact, Natural England will first check for any existing assents that may already authorise the proposed operations. This will prevent the unnecessary duplication or 'layering' of permissions and allow previously assented operations to proceed quickly. Natural England will inform the public body if they already have a permission for the operations that they have proposed.

Statutory bodies requiring assent for their operations have the duty to conserve and enhance the SSSI's special interest whilst exercising their functions. Where proposals do not meet with this duty, Natural England will inform that body as soon as possible and, where practicable, explore whether there are other ways in which their operations can be carried out that are more compatible with furthering the conservation and enhancement of the special interest of the site.

Where Natural England concludes that the proposed operations would cause damage or disturbance to

⁷ Sites within the National European Site Network are Special Areas of Conservation (SAC) and Special Protection Areas (SPA) designated by Government under the Conservation of Habitats and Species Regulations 2017 (as amended). Wetlands of International Importance (Ramsar Sites) designated under the terms of the Ramsar Convention are also subject to the provisions of the Habitats Regulations as a matter of Government policy, although they are not legally a part of the National European Site Network

the notified features, it may be necessary for Natural England to grant assent with conditions or refuse to grant its assent.

Natural England must also ensure that any SSSI assent decisions do not hinder the conservation objectives for Marine Conservation Zones.

6. Provide clear advice to public bodies in relation to our duties to support their decision making

When a consultation for Section 28I advice has been submitted to the Single Point of Contact mailbox at protectedsites@naturalengland.org.uk, Natural England will acknowledge receipt with an automated response email.

Local planning authorities should submit their requests for advice on planning applications to consultations@naturalengland.org.uk.

Natural England will respond within 28 days of the date on a notice from a public body seeking our advice about whether an operation should proceed on a SSSI. Our response letter will state whether we consider the proposed operation to be compatible with furthering the conservation and enhancement of the special interest of the site.

If we believe that this duty could be met by applying conditions, then our advice letter will include our reasons for this and further details about the required conditions which the public body should set when granting its permission. We will clearly explain the advice we have given, drawing on the best available evidence to determine what the potential impacts might be and if they might be mitigated.

If a consultation does not provide adequate information, we will communicate this as early as possible to allow further details to be provided.

7. Work with public bodies who decide to proceed contrary to Natural England's assent decision or advice.

Before a public body decides to proceed with operations without Natural England's assent, or grants permission for operations contrary to our advice, it is required by the Act to give Natural England further written notice (at least 28 days if proposing to carry out their own work or 21 days if proposing to permit an operation). This notice should include an explanation of how it has considered any advice previously provided by Natural England.

Where a public body decides to act contrary to Natural England's advice, it is required to demonstrate how it has weighed the balance between differing interests, including the special interest of the SSSI. It should also demonstrate how it has considered alternative methods of carrying out the operations to minimise adverse impact. Should the public body proceed and carry out its own operations that are likely to cause damage, it must restore the site to its former condition, so far as is reasonably practicable, if any damage does occur.

Where Natural England remains concerned about the significance of the likely impacts on a site's notified features, it may consider taking further action, including a referral of the case to the Secretary of State.

8. Ensure that SSSIs which are also designated as part of the National European Site Network series are subject to the requirements of the Habitats Regulations

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Where the SSSI is also designated as a European Site (i.e. a SAC or SPA), the Conservation of Habitats and Species Regulations 2017 (as amended) (“the Habitats Regulations”) places additional obligations on Natural England when considering applications for SSSI consent.

If, in our judgment, a proposed ‘plan or project’ (including a notice for SSSI consent) is not ‘directly connected with or necessary for the nature conservation management of the site’ and is ‘likely to have a significant effect’ on the site (either alone or in combination with other plans or projects), then it is mandatory that an ‘appropriate assessment’ of the proposal is undertaken to thoroughly assess the likely ecological impacts in more detail. Consent can only be granted by Natural England if it can be concluded following that assessment that the plan or project will not have an adverse effect on the integrity of the European site⁸.

Under the Habitats Regulations, a ‘competent authority’ such as a public body must undertake its own Habitats Regulations Assessment to inform decision making in relation to any ‘plan or project’ that it wishes to undertake or adopt itself or is required to authorise.

9. Base our decisions on the best available evidence and the likely impact of the proposed operation on the site’s notified features

Natural England will consider whether each proposal is compatible with furthering the conservation and enhancement of the special interest of the site in accordance with its statutory duty. In undertaking this assessment, we will follow our Evidence Standards and use the best available evidence and our professional expertise and judgment.

A key part of our evidence base will be the SSSI citation and associated documentation to identify the interest feature(s) that could be affected by a proposal. Staff will determine proposals and reach a decision considering the conservation objectives for that SSSI and the scientific evidence available about the ecological requirements of the affected features, together with their local knowledge of the site, professional expertise, and practical experience. This will be informed by specialist advice and opinion where required.

Where there is evidence that a previously consented activity is no longer compatible with furthering the conservation and enhancement of the special interest of the SSSI, Natural England can use its powers under the Act to modify or withdraw an existing consent. This is subject to a right of appeal if the consent holder is aggrieved by that decision and compensation may be payable where the consent holder can show that the changes to the consent will result in a loss in the value of the SSSI land.

10. Record all decisions to create a clear audit trail

All notices received by Natural England will be recorded on our casework management system and all associated documents including unconditional, conditioned, and refused consents/assents, and advice to public bodies will be stored in accordance with our Records Management guidance.

11. Ensure all decisions are made on a case-by-case basis and adhere to current procedures governing our decision making

⁸ See Natural England’s Habitats Regulation Assessment Operational Standard: <http://publications.naturalengland.org.uk/publication/8740045>

All notices of proposal submitted by SSSI owner/occupiers for a consent decision or by public bodies for an assent decision will be treated by Natural England on their own merits based on the detail of the proposal provided in the notice and its predicted impacts in relation to the SSSI's notified features. The granting of a consent/assent, the refusal of a consent/assent, or the attachment of conditions to a consent/assent on one SSSI does not in itself set a wider precedent for others.

Our staff will abide by Natural England's Non-Financial Scheme of Delegations⁹ for issuing consents, assents, and advice. The Scheme describes the individual decision-making authority that Natural England staff have in relation to their role and grade and highlights when decisions are required to be agreed and endorsed by a more senior officer.

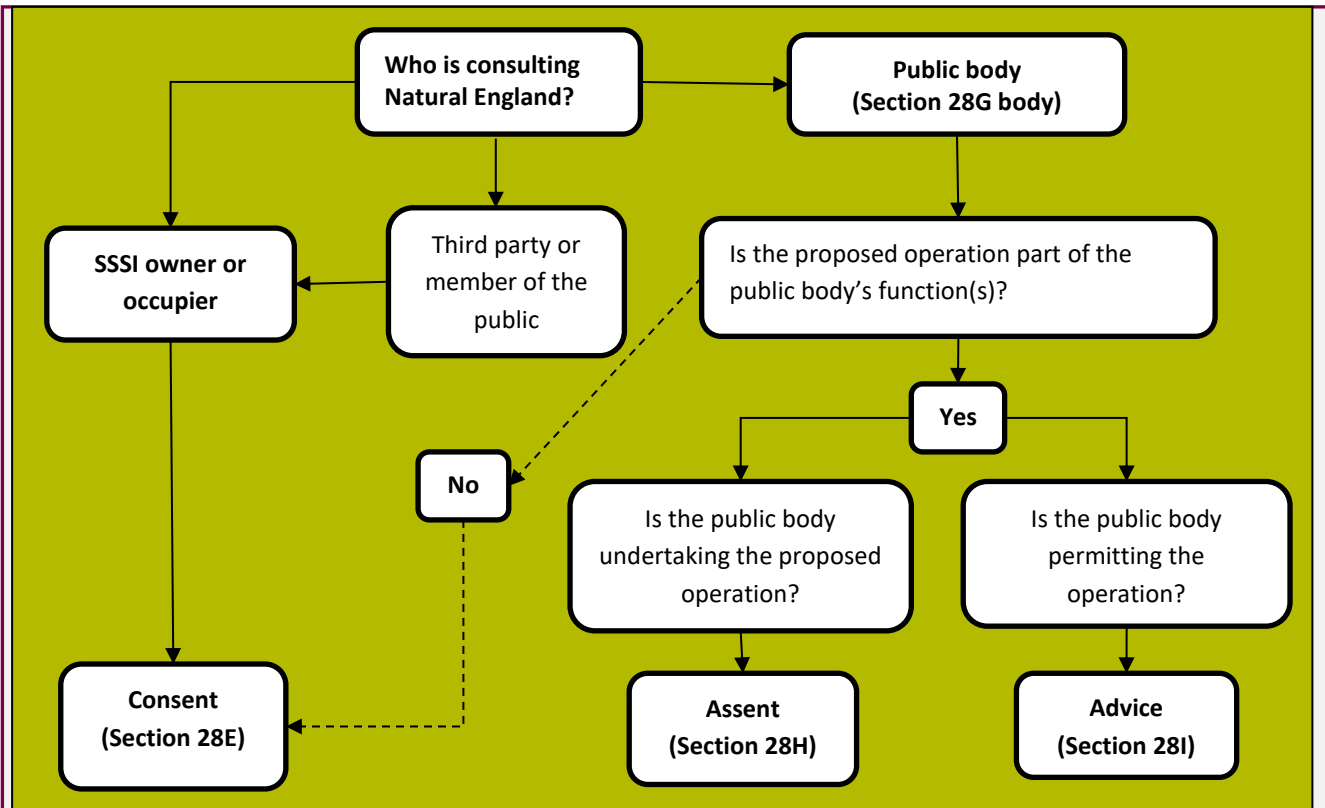
12. Ensure that our staff have the appropriate training and support to undertake our responsibilities regarding consents, assents, and advice

All staff with responsibilities for determining consents, assents, and advice notices for SSSIs will have received the appropriate ecological and SSSI training and have access to up to date guidance and support.

⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/975871/natural-england-non-financial-scheme-of-delegation.pdf

Annex 1: Consent (Section 28E), Assent (Section 28H) or Advice (Section 28I)

The first step is to determine the type of notice or consultation



Public body - Section 28G bodies are broadly defined in the Act, but specifically include the Secretary of State, government departments and agencies, local authorities and statutory undertakers (whether in the public sector or a privatised utility), and other officers appointed by the Crown. Examples include: Environment Agency, Forestry Commission, Local Planning Authority, Utility companies (water or electricity). MoD, Network Rail

Permitting – where a public body has the power to grant a Permission for others to undertake works, e.g. EA abstraction licence, or a Local Authority planning permission, situations where a public owns land and wishes to permit a third party to carry out operations, situations where a public body intends to serve a notice under any regulatory regime.

Third party/member of the public - A notice of proposal can only be submitted by an owner/occupier of the SSSI.

Where it has been confirmed that an agent is acting on behalf of an owner/occupier, they can submit a notice

Members of the public would need to seek the permission of the owner/occupier who in turn would need to seek consent.

Undertaking – a public body carrying out its functions, e.g. EA undertaking flood defence works, or a Local Authority maintaining a right of way.

Function – this is a broad definition that includes all the duties and powers of a public body including any activities it has the power to perform.

Annex 2: A recommendation as to the information that might be included in a notice of proposal for proposed operations requiring SSSI consent

Owners/ occupiers (or their nominated agents and representatives) and public bodies are required to submit a notice of proposed operation in writing, either by letter or email. Whatever form a notice takes, it must specify the nature of the proposed operations and the land on which it is proposed to carry it out.

The recommended information that should be included in a notice, and a template for writing a notice, are both available online from the GOV.UK page '[Give notice and get consent for a planned activity on a SSSI](#)'.

For Natural England to determine a notice, we need sufficient detail to be able to make a judgment on the impacts of the proposals.

The following information should be included:

- site name
- name and address of applicant
- a clear and detailed description of what you intend to do, and how you intend to do it
- the start and end dates for the operation or activity
the precise location of the proposed operation or activity (send a map with notes if you can)

You should include as much relevant information about your proposal, such as:

- what if any vehicles will need access to the site, the routes they'll take and ground pressure they'll exert (particularly across fens and bogs)
- how you'll remove any spoil from the site
- the origin and chemical nature of any materials you'll bring onto the site

Natural England may contact you if it needs:

- more details about your request
- to clarify any issues about your request

Annex 3. Glossary

Term	Definition
Occupier	The occupier is someone who, although lacking the title of an owner, nevertheless stands in such a comprehensive and stable relationship with the land as to be, in company with the actual owner, someone to whom the mechanisms can sensibly be made to apply
Owner	A person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be entitled if it were so let.
Section 28E	This is the section of the Wildlife and Countryside Act (1981) as amended that places the obligation on SSSI owner/occupiers to give notice to Natural England about proposed operations and provides the mechanisms through which consent decisions are made, either to grant consent, grant consent with conditions, refuse to grant consent or withdraw or modify a consent.
Section 28G	This is the section of the Wildlife and Countryside Act (1981) as amended that places a general duty on all public bodies (referred to as 'section 28G authorities') to take reasonable steps when exercising their functions to further the conservation and enhancement of SSSIs.
Section 28H	This is the section of the Wildlife and Countryside Act (1981) as amended that provides the mechanisms through which assent decisions are made, either to grant assent, grant assent with conditions, refuse to grant assent
Section 28I	This is the section of the Wildlife and Countryside Act (1981) as amended that provides the mechanism through which a section 28G authority must give notice of proposed operations to Natural England before permitting the carrying out of operations likely to damage any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest.
Third Party	In this instance, a third party refers to any individual or organization that is not a notified owner or occupier of land within an SSSI, and is not a public body

Quick reference

Type of Standard	Operational standard.
Purpose:	To set out and explain the regulatory principles and mandatory requirements for Natural England to follow when making decisions in relation to notices for consent and assent, and consultations for advice, relating to Sites of Special Scientific Interest (SSSIs)
Owner(s):	Programme Director, Greener Farming and Fisheries
Sign-off:	Principal Adviser Protected Sites Team and Principal Adviser Legal Services Team
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0.2	2 nd draft following scoping call	Lydia Speakman/ Tim Frayling	28.11.12
0.3	Draft incorporating Lydia Speakman, Steve Clifton and Phil Eckersley comments	Lydia Speakman/ Tim Frayling	23.1.13
0.4	Revised following conversation between Lydia Speakman and Tim Frayling	Lydia Speakman	24.1.13
0.5	Revised following comments from Simon Stonehouse & Rebecca Moberly	Lydia Speakman	13.2.13
0.6	Revised following detailed comments by Jonathan Pearce to improve its accessibility	Lydia Speakman	11.3.13
0.7	Revised to include comments from Steve Clifton and Kay Shuard	Lydia Speakman	26.3.13
0.8	Revised to include Janette Ward comments and LM adviser user testing feedback	Tim Frayling	5.6.13
1.0	Revised to include Brad Tooze comments	Tim Frayling	11.07.13
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2.1	Incorporating final comments from Janette Ward and Ian Fugler, confirmed by Tim Fraying	Jonathan Pearce	07.10.13
2.1	Published	KH	07.10.13
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3.1	Revised to reflect (a) the EU Exit amendments made to the Habitats Regulations in 2021; (b) legal clarifications; and (c) the availability of Natural England's Discretionary Advice Service. Links to GOV.UK guidance pages updated.	Richard Leishman with advice from Helen Gill, Steve Clifton and Katherine Tonge	07.10.2022
3.2	Submitted to content owner for sign off and re-published	Steve Clifton	14.10.2022
3.3	Resolution of formatting and accessibility issues	Alice Shaw and Richard Leishman	27.02.2023
3.4	Published externally	Alice Shaw	16.03.2023
3.5	Corrected email address error	Lauren DeGrange & Steve Clifton	24.01.2024

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