

Appendix Q: Draft version of “Local Validation Guidance – Chapter 15: Applications made under Regulation 77 of the Habitats Regulations (Appropriate Assessment requirements in relation to permitted development)”

Key

Blue highlight = hyperlink to be inserted to link to relevant page/section in the Local Validation List (Appendix B)

Yellow highlight = hyperlink to be inserted to link to the relevant page in another chapter/section of the Local Validation Guidance (Appendices C to R)

Pink highlight = hyperlink to be inserted to the webpage on which the List and Guidance documents will be published

Green highlight = hyperlink to be inserted to link to the Index document which is to be published alongside the List and Guidance Documents (Appendix S)

Chapter 15: Applications made under Regulation 77 of the Habitats Regulations (Appropriate Assessment requirements in relation to permitted development)

Introduction

Such applications are required when proposals that would otherwise be ‘Permitted Development’, require consideration and assessment under the Conservation of Habitats and Species Regulations (2017) (as amended) (the ‘Habitat Regulations’).

Paragraph 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states that the provisions of Schedule 2 of that order (i.e. Permitted Development Rights) only grant general Planning Permission (i.e. don’t require specific Planning Permission) for works detailed within the order, subject to the requirements of the Habitats Regulations.

Therefore, if a proposed scheme is considered to have a relevant effect (a Likely Significant Effect) on a Special Protection Area (SPA) or Special Area of Conservation (SAC) then an Appropriate Assessment is required under regulation 77 of the Habitats Regulations. If such an Assessment identifies the need for specific mitigation measures to be secured then the proposal will not be Permitted Development and Planning Permission will be required.

Personal or Sensitive Data

Please note all Planning and Planning related applications (i.e. listed building consent, advertisement consent, applications for details reserved by condition etc) are held in the public domain. The majority of plans and other documents submitted with an application, and any consultee responses received during the consultation process are required under The Town and Country Planning Act 1990 (as amended) to be held in a Public Register, which in the case of East Suffolk is held electronically and can be accessed by anyone via the [Public Access](#) pages of our website.

Therefore, please bear in mind that anything you submit is likely to be published online. We do redact certain personal details such as personal contact phone numbers and email addresses, but if you are making statements of a personal nature revealing certain personal details such as the reasoning behind a proposal for an extension being linked to a disabled member of the family, they will not necessarily be redacted from the application description (see below) and whilst in accordance with our [Privacy Statement](#) we will seek to redact such references from separate reports/documents it is useful if you can highlight this at the submission stage.

Some applications will require the submission of financial information in the form of [Viability Assessments](#). The National Planning Policy Framework (NPPF) requires that such documents are published/publicly available (currently paragraph 58). Therefore, whilst such documents need to include sufficient information to enable the financial situation to be understood, those submitting them may wish to consider the level of potentially commercially sensitive or personal data they include.

In terms of those commenting on applications, as explained in our [Privacy Statement](#), we publish the postal addresses of those making representations. These are required to enable those reading them to understand and applicants/agents to potentially seek to overcome any objections or concerns raised. For example, if the neighbour objects on the basis that an extension would result in a loss of light to their living room, the reader needs to know which property is concerned about light loss to see if it is something that can be overcome by amending the scheme by say moving the extension away from the boundary with that property.

Requirements for such applications

Applications made under Regulation 77 of the Habitats Regulations must:

“(a) give details of the development which is intended to be carried out; and

(b) be accompanied by—

(i) a copy of any relevant notification by the appropriate nature conservation body under regulation 76; and

(ii) any fee required to be paid.”

The Regulations do not specify how or in what form the ‘details of the development which is intended to be carried out’ should be submitted. However, it is in the applicant’s/developer’s interest to ensure that the submitted details/information illustrate what is proposed in a clear and precise manner. Therefore applicants / developers may wish to submit some or all of the following in addition to the copies of any relevant notification by the appropriate nature conservation body:

- A Site Location Plan,
 - Existing and Proposed block/site plans,
 - Existing and Proposed Elevational drawings,
 - Design and Access Statement and/or Planning Statement
 - Any other surveys or assessments that have been undertaken which may assist with understanding the scope of the proposals and their potential impacts including but not limited to Biodiversity and Ecological Assessments (including specific information to inform a Habitats Regulations Assessment), Geodiversity Survey and Assessments, and Topographical Surveys
- And
- any other drawings or documentation required to enable a full understanding of the proposals.