How to comply with nature conservation legislation: SSSIs and protected species

Chilterns Commons Project Event:
COMMONS AND THE LAW
Wednesday 18th January 2012

www.naturalengland.org.uk
Overview

Focus upon SSSI and protected species legislation.

Step by step practical guide, not a detailed analysis of legislation.

Tips, weblinks and contact details to get you started.

Hand-out with additional information accompanies this presentation.
Environmental value of Chilterns commons are legally protected

Commons can be designated as areas protected under law
50% are designated for their ecological value at a local, national and/or European level*: Local Wildlife Site, Site of Special Scientific Interest or Special Area of Conservation.

Some commons are part of the Chilterns’ only European site: Chilterns Beechwood SAC.

Some commons species are protected by law
For commons over 5ha, there is a very high probability that there is notable species interest*.

* Information source: Chilterns Commons Project Habitat Audit (2010), BMERC
Top tips for all commons

• Legislation is complex. Get **free help from the enforcement organisations - Natural England, Environment Agency, local authorities – and others, e.g. Wildlife Trusts** etc. They are here to help you conserve the environment and avoid breaking the law.

• **You don’t need to know the detail of the law if you work with the enforcement organisation.** You should be able to rely on such organisations to interpret the legislation to your requirements and guide you through the process. Just familiarise yourself with the essential information on these slides.

• **Check if consents/licences are required.**

• **Allow plenty time for discussion and licence application process.**

• **If in doubt, check with the enforcement organisation** before starting work.

• If you want the detail of legislation, go to: [www.naturalengland.org.uk/ourwork/regulation/default.aspx](http://www.naturalengland.org.uk/ourwork/regulation/default.aspx)
SSSI legislation


Specific features (habitats, geology, species) within an SSSI are protected from inappropriate management and destruction. Landowners, Natural England and others work together to meet legislative requirements. **Legislation does apply to general public and volunteer work parties!**

TOP TIP: To find out if a common is an SSSI and what is protected, go to Nature on the Map [www.natureontheemap.naturalengland.org.uk](http://www.natureontheemap.naturalengland.org.uk)
How to comply with SSSI legislation

Go to Nature on the Map to check if your common is an SSSI. Download the citation which explains what is protected (habitat, species and/or geology) and the list of activities requiring consent from Natural England (‘Operations likely to Damage’ list). See next slide for further info.

www.natureonthemap.naturalengland.org.uk

Put together a brief description of the proposed activity, including duration, access routes, fire sites etc. Identify which ‘Operations Likely To Damage’ are involved. Mark the location of the activity on a map.

With the name of the SSSI, call the enquiry number 0845 600 3078. You will then be referred to the local SSSI advisor.

Provide the description to the local advisor to begin discussions.
Determining what exactly is protected in SSSIs

Go online to ‘Nature on the Map’ or contact Natural England to see a map of the boundary, the citation and the list of operations needing consent.
The Conservation of Habitats and Species Regulations 2010
(replaces The Conservation (Natural Habitats, &c.) Regulations 1994)

For animals included in these regulations it is an offence to deliberately capture, injure or kill; disturb; take/destroy the eggs; damage or destroy breeding sites or resting places; keep, transport or sell

Chilterns EPS include:
- Great crested newt* (Ponds and their surrounds)
- Dormice (Nests in coppiced woods, thick bushy hedges)
- Otters (Watercourses, ditches – open fresh water)
- Bats* (Roosts in trees, empty buildings)

*High likelihood of presence

Badger Act, 1992

It is an offence to willfully kill, injure, take, possess, or cruelly ill-treat a badger or attempt to do so or to intentionally or recklessly interfere with a sett (includes damage, disturb, obstruct).
Wildlife & Countryside (W&C) Act, 1981
Protection of Wild Animals, Birds and Plants

• Schedule 5 animals are protected from being killed, injured and disturbed and their resting places being damaged or destroyed e.g. **Water voles***, **otters**, **bats**, **shrews**, **adders**, **lizards**, **newts**, **snakes**, **slow worm**, **frogs**, **toads** and several insects etc. *Added by a variation to Schedule 5 in 2008.

• **All birds** are protected from intentional taking, killing and injuring; eggs and active nests are protected from intentional taking/ destruction. Schedule 1 species are specially protected from intentional/ reckless disturbance at or near the nest, e.g. **brambling**, **fieldfare**, **firecrest**, **hobby**, **kingfisher**, **red kite**, **barn owl**, **tree creeper** etc.

• Plant species listed in Schedule 8 are protected from being intentionally picked, uprooted or destroyed, e.g. **Starfruit**, **early gentian**. **All plant species** are protected from being intentionally uprooted.

TOP TIP – For an up to date list of which species are covered by what legislation, download the Conservation Designations spreadsheet here - [http://jncc.defra.gov.uk/page-3408](http://jncc.defra.gov.uk/page-3408)
If an activity is likely to result in an offence (such as disturbing dormice), there are several options to proceed lawfully in order of priority:

1. **Avoid carrying it out.**

2. **Follow good practice guidance** on methods or timing to reduce the chance of committing an offence, e.g. Clear scrub outside of bird nesting season. Guidance for each species is available at [www.naturalengland.org.uk/ourwork/regulation/wildlife/default.aspx](http://www.naturalengland.org.uk/ourwork/regulation/wildlife/default.aspx)

3. **Apply for a licence** to allow otherwise unlawful activities. Licences are provided without charge. Natural England will provide a licence or a refusal as quickly as possible, within 30 working days of receiving the application. Key application forms for Chilterns commons are [WML-A29: (172kb)](http://www.naturalengland.org.uk/ourwork/regulation/wildlife/default.aspx) and [WML-A33:(147kb)](http://www.naturalengland.org.uk/ourwork/regulation/wildlife/default.aspx).

Contact Natural England’s Wildlife Management and Licensing Team on 0845 6014523 (local rate) or email [wildlife@naturalengland.org.uk](mailto:wildlife@naturalengland.org.uk). Explain which species are relevant. You may be referred to the local advisor if your query requires it. Natural England advisors work with you through the above hierarchy.
What you need to do now – confirm what legislation applies to the common

Step 1
Confirm what ecological interest is present on the common. Bear in mind that records are incomplete so take a precautionary approach.

- The Chilterns Commons Habitat Audit contains lists of species, designations etc associated with each common. Talk to Rachel.
- Contact the Local Record Centre for updated information:
  - Buckinghamshire LRC – 01296 382431  erc@buckscc.gov.uk
  - Oxfordshire LRC – 01865 815451  tverc@oxfordshire.gov.uk
  - Bedfordshire LRC - 01234 355435 / 364213  brmc AT bedsbionet.org.uk
  - Hertfordshire LRC - 01992 555220  biorec.info@hertscc.gov.uk
- If possible and/or if advised, carry out a survey to update and improve information about the common.
What you need to do now – prepare yourself with information

Step 2
Familiarise yourself with basic guidance relating to the common’s interests. Guidance explains how to comply with the law and carry out your activities in a sympathetic way. In some cases, a licence will be needed.

If you feel unsure after reading the guidance, seek free assistance (see next slide for contact details).

For SSSIs, please read ‘Sites of Special Scientific Interest’ (NE54). Download here http://naturalengland.etraderstores.com/NaturalEnglandShop/NE54

For species, there are guidance notes for key species on the Natural England Wildlife Management and Licensing webpages http://www.naturalengland.org.uk/ourwork/regulation/wildlife/default.aspx
Step 3

BEFORE CARRYING OUT ANY WORK OR CHANGES

Legislation and nature conservation techniques are bewilderingly complex - seek free advice! The Chilterns Conservation Board, Natural England and other organisations are here to help you care for the commons.

Confirm your legal obligations and recommended approach with the relevant organisation before starting any work! Avoid fines, court appearances etc – consents may be necessary before work commences. Allow a month to secure consents from Natural England although we aim to have everything agreed sooner if we can.
Legislation needn’t be seen as an obstacle – it makes us think and act carefully to avoid ruining our environment.

Contact us and work with us.