

Validation of Planning Applications

Bedford Borough Council Local Planning Application Requirements for Biodiversity and Geological Conservation

In Accordance with The Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2007

Draft: March 2008

1. Introduction

This document has been adapted from the Association of Local Government Ecologists (ALGE) template prepared in accordance with the principles explained in the *GDPO (2007)* and the accompanying *Best Practice Guidance (2007)*, for inclusion in the Bedford Borough Council (BBC) Local Planning Application Requirements.

It offers a practical means by which BBC can implement the requirements set out in *Planning Policy Statement 9 Biodiversity and Geological Conservation* and comply with statutory provisions outlined in ODPM Circular 06/2005 *Biodiversity and Geological Conservation-Statutory obligations and their impact within the planning system*.

This will enable BBC to ensure an application is valid with regard to biodiversity and geological conservation, in terms of having received sufficient, up-to-date information to determine the application lawfully and in accordance with relevant planning policy.

2. Validation of Planning Applications

The *GDPO (2007)* makes it clear that non-valid applications are not open to appeal on the ground of non-determination.

Annex A provides information to assist in validating information provided in response to the biodiversity and geological conservation questions on the standard application, with respect to protected species and species of principal importance (Part 1) and designated sites, priority habitats and features of biodiversity importance, and features of geological conservation importance (Part 2).

Annex B provides a guide to the process BBC should use to validate a planning application using the biodiversity and geological conservation requirements, and this process is illustrated in Figure 1 and 2.

The process described in Annex B recognises that, in the first instance, an application is likely to be validated by administration staff when BBC first receives an application. Article 5 of the *GDPO (2007)* then requires that BBC shall, as soon as reasonably practicable, send to the applicant an acknowledgement of the application.

Article 5(5) makes it clear that if BBC subsequently considers that the application does not include all of the required information, they should notify the applicant as soon as practicable. This may occur for instance when an application is first judged by administration staff as being valid because the applicant has indicated that no biodiversity or geological conservation features specified in the template will be affected. If after professional consideration¹ it is later identified that the application will affect features clearly specified in the validation requirements, then in the absence of relevant biodiversity information BBC may judge the application to be invalid.

BBC will be able to check and verify information provided by applicants against their own data as part of the validation exercise (where they have access to GIS alert maps), for instance by checking the location of

¹ Appropriate professional consideration may be given either by a planning case officer or preferably the LPA's ecologist (where available in house) or the LPA's ecological advisor (e.g. the local Wildlife Trust)

proposed development to establish whether it is near² any types of designated sites specified in their local requirements checklist. The Bedfordshire and Luton Biodiversity Recording and Monitoring Centre may also be able to provide invaluable information for this purpose.

Annex A

Bedford Borough Council Local Planning Application Requirements for Biodiversity and Geological Conservation

Part 1: Local Requirements for Protected Species, UK Priority Species and Species Listed in the Bedfordshire and Luton Biodiversity Action Plan

Bedford Borough Council (BBC) has a duty to consider the conservation of biodiversity when determining a planning application; this includes having regard to the safeguarding of species protected under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats etc) Regulations 1994 or the Badgers Act 1992. Where a proposed development is likely to affect protected species, the applicant must submit a **Protected Species Survey and Assessment**.

If the application involves any of the development proposals shown in **Table 1** (Column 1), a protected species survey and assessment must be submitted with the application. Exceptions to when a survey and assessment may not be required are also explained in this table. The **Survey** should be undertaken and prepared by competent persons with suitable qualifications and experience and must be carried out at an appropriate time and month of year, in suitable weather conditions and using nationally recognised survey guidelines/methods where available*. The survey may be informed by the results of a search for ecological data from a local environmental records centre. The survey must be to an appropriate level of scope and detail and must:

Record which species are present and identify their numbers (may be approximate);
Map their distribution and use of the area, site, structure or feature (*e.g.* for feeding, shelter, breeding).

The **Assessment** must identify and describe potential development impacts likely to harm the protected species and/or their habitats identified by the survey (these should include both direct and indirect effects both during construction and afterwards). Where harm is likely, evidence must be submitted to show:

- How alternative designs or locations have been considered;
- How adverse effects will be avoided wherever possible;
- How unavoidable impacts will be mitigated or reduced;
- How impacts that cannot be avoided or mitigated will be compensated.

In addition, proposals are to be encouraged that will enhance, restore or add to features or habitats used by protected species. The Assessment should also give an indication of how species numbers are likely to change, if at all, after development *e.g.* whether there will be a net loss or gain.

The information provided in response to the above requirements are consistent with those required for an application to Natural England for a European Protected Species Licence. A protected species survey and assessment may form part of a wider Ecological Assessment and/or part of an Environmental Impact Assessment.

* Further information on appropriate survey methods can be found in *Guidance on Survey Methodology* published by the Institute of Ecology and Environmental Management; available at: <http://www.ieem.org.uk/Guidelines%20for%20Survey%20Methodology.htm>

² BBC may wish to define the term 'near' in their local context. For instance, what may be judged as 'near' in a highly built up and fragmented environment may be very different to that of a rural area where the degree of natural connectivity is greater. Near may also depend on the mobility of the plant or animal involved.

**Table 1: Local Requirement for Protected Species, UK BAP Species of Principal Importance (Priority Species):
Criteria and Indicative Thresholds (Trigger List) for when a Survey and Assessment is Required**

<p>Column 1</p> <p>Proposals for Development That Will Trigger a Protected Species Survey</p>	Bats	Barn Owls	Breeding Birds	Gt. Crested Newts	Otters	Dormouse	Water Vole	Badger	Reptiles	Amphibians	Schedule 8 Plants & Fungi	Arable plants***	Other BAP species
<p>Proposed development which includes the modification conversion, demolition or removal of buildings and structures (especially roof voids) involving the following:</p> <ul style="list-style-type: none"> ▪ all agricultural buildings (e.g. farmhouses and barns) particularly of traditional brick or stone construction and/or with exposed wooden beams greater than 20cm thick; ▪ all buildings with weather boarding and/or hanging tiles that are within 200m of woodland and/or water; ▪ pre-1960 detached buildings and structures within 200m of woodland and/or water; ▪ pre-1914 buildings within 400m of woodland and/or water; ▪ pre-1914 buildings with gable ends or slate roofs, regardless of location; ▪ all tunnels, mines, kilns, ice-houses, adits, military fortifications, air raid shelters, cellars and similar underground ducts and structures; ▪ all bridge structures (especially over water and wet ground). 	•	•	•		•		•						
<p>Proposals involving lighting of churches and listed buildings or flood lighting of green space within 50m of woodland, water, field hedgerows or lines of trees with obvious connectivity to woodland or water.</p>	•	•	•			•							
<p>Proposals affecting woodland, or field hedgerows and/or lines of trees with obvious connectivity to woodland or water bodies.</p>	•		•			•		•			•	•	
<p>Proposed tree work (felling or lopping) and/or development affecting:</p> <ul style="list-style-type: none"> ▪ old and veteran trees that are older than 100 years; ▪ trees with obvious holes, cracks or cavities, ▪ trees with a girth greater than 1m at chest height; 	• • •	• • •	• • •										

Proposals affecting gravel pits or quarries and natural cliff faces, crevices or caves.	•		•	•					•				
Major or Large proposals within 500*m of a pond/moat or Minor and Householder proposals within 100*m of pond/moat. (Note: A Large proposal is one that is more than 10 dwellings or more than 0.5 hectares or for non-residential development is more than 1000m ² floor area or more than 1 hectare)				•				•		•			
Proposals affecting or within 200*m of rivers, streams, lakes, or other aquatic habitats such as reedbed, grazing marsh and fen.	•		•		•			•	•	•			•
Proposals affecting 'derelict' land (brownfield sites), allotments and railway land.			•	•				•	•	•			•
Proposals affecting farmland or field margins.			•									•	•
Proposed development affecting any buildings, structures, feature or locations where protected species or species of Principal Importance (BAP) are known to be present **.	•	•	•	•	•	•	•	•	•	•	•	•	•
<p>* Distances may be amended to suit local circumstance on the advice of the local Natural England team and/or Local Biodiversity Partnership</p> <p>** Confirmed as present by either a data search (for instance via the local environmental records centre) or as notified to the developer by the local planning authority, and/or by Natural England, the Environment Agency or other nature conservation organisation.</p> <p>*** Identified as Important Arable Plants by Plantlife</p>	Bats	Barn Owls	Breeding Birds	Great Crested Newt	Otters	Dormouse	Water Vole	Badgers	Reptiles	Amphibians	Schedule 8 Plants & Fungi	Arable plants***	Other BAP species

Exceptions for When a Full Species Survey and Assessment may not be Required

- Following consultation by the applicant at the pre-application stage, BBC has stated in writing that no protected species surveys and assessments are required.
- If it is clear that no protected species are present, despite the guidance in the above table indicating that they are likely, the applicant should provide evidence with the planning application to demonstrate that such species are absent (*e.g.* this might be in the form of a brief report from a suitably qualified and experienced person, or a relevant local nature conservation organisation).
- If it is clear that the development proposal will not affect any protected species present, then only limited information needs to be submitted. This information should, however, (i) demonstrate that there will be no significant effect on any protected species present and (ii) include a statement acknowledging that the applicant is aware that it is a criminal offence to disturb or harm protected species should they subsequently be found or disturbed.

In some situations, it may be appropriate for an applicant to provide a protected species survey and report for only one or a few of the species shown in the Table above *e.g.* those that are likely to be affected by a particular activity. Applicants should make clear which species are included in the report and which are not because exceptions apply.

Part 2: Local Requirements for Designated Sites, Priority (BAP) Habitats, Habitats Listed in the Bedfordshire and Luton Biodiversity Action Plan and Geological Conservation

Bedford Borough Council (BBC) has a duty to consider the conservation of biodiversity when determining a planning application; this includes having regard to the safeguarding of designated sites and priority habitats. Where a proposed development is likely to affect such a site, habitat or geological feature, the applicant must submit an ***Ecological/Geological Survey and Assessment***.

If the application is likely to affect any of the designated sites, priority habitats or biodiversity features listed in **Table 2** or geological features listed in **Table 3**, a survey and assessment for the relevant feature must be submitted with the application. Exceptions to when a survey and assessment may not be required are also explained in these tables. The **Survey** should be undertaken and prepared by competent persons with suitable qualifications and experience and must be carried out at an appropriate time and month of year, in suitable weather conditions and using nationally recognised survey guidelines/methods where available*. The survey may be informed by the results of a search for ecological or geological data from a local environmental records centre. The survey must be to an appropriate level of scope and detail and must:

- Record which habitats and features are present on and where appropriate around the site;
- Identify the extent/area/length present;
- Map their distribution on site and/or in the surrounding area shown on an appropriate scale plan.

The **Assessment** should identify and describe potential development impacts likely to harm designated sites, priority habitats, other listed biodiversity features or geological features (these should include both direct and indirect effects both during construction and afterwards). Where harm is likely, evidence must be submitted to show:

- How alternative designs or locations have been considered;
- How adverse effects will be avoided wherever possible;
- How unavoidable impacts will be mitigated or reduced;
- How impacts that cannot be avoided or mitigated will be compensated.

In addition, proposals are to be encouraged that will enhance, restore or add to designated sites priority habitats, other biodiversity features or geological features. The Assessment should give an indication of likely change in the area (hectares) of priority habitat on the site after development e.g. whether there will be a net loss or gain. An ecological/geological survey and assessment may form part of a wider Environmental Impact Assessment.

Table 2: Local Requirements for Designated Sites and Priority Habitats and Habitats Listed in the Bedfordshire and Luton Biodiversity Action Plan: Criteria (Trigger List) for When a Survey and Assessment are Required

1. DESIGNATED SITES (as shown on the Council's Development Plan Proposals Map)	
Internationally designated sites	Special Protection Area (SPA) Special Area of Conservation (SAC) Ramsar Site
Nationally designated sites	Site of Special Scientific Interest (SSSI) National Nature Reserve (NNR)
Regionally and locally designated sites	County Wildlife Sites (CWS) Local Nature Reserve (LNR)
2. PRIORITY HABITATS (Habitats of Principal Importance for Biodiversity under S.41 of the NERC Act 2006) (BAP)	
<ul style="list-style-type: none"> ▪ Arable field margins ▪ Coastal and floodplain grazing marsh ▪ Hedgerows ▪ Lowland calcareous grassland ▪ Lowland dry acid grassland ▪ Lowland fens ▪ Lowland heathland ▪ Lowland meadows ▪ Lowland mixed deciduous woodland (both ancient and secondary) ▪ Open mosaic habitats on previously developed land ▪ Ponds ▪ Purple moor-grass and rush pastures ▪ Reedbeds ▪ Rivers ▪ Traditional orchards ▪ Wet woodland ▪ Wood-pasture and parkland 	
3. LOCAL CHARACTER BAP HABITATS	
(as identified by the Local Biodiversity Partnership - see paragraph 84 ODPM Circular 06/2005))	
<ul style="list-style-type: none"> ▪ Urban / Built Environment (e.g. parks, gardens, allotments, road verges and railway embankments) 	

Exceptions When a Full Survey and Assessment May Not Be Required

International and National Sites: A survey and assessment will not be required where the applicant is able to provide copies of pre-application correspondence with Natural England, where the latter confirms in writing that they are satisfied that the proposed development will not affect any statutory sites designated for their national or international importance.

Regional and Local Sites and Priority Habitats: A survey and assessment will not be required where the applicant is able to provide copies of pre-application correspondence with the Local Planning Authority's ecologist (where employed), or ecological advisor that they are satisfied that the proposed development will not affect any regional or local sites designated for their local nature conservation importance or any other priority habitats or listed features.

Table 3: Local Requirements For Designated Geodiversity Sites And Features Criteria (Trigger List) for when a Survey and Assessment are Required

1. DESIGNATED SITES (as shown on the Council's Development Plan Proposals Map)	
Nationally designated sites	Site of Special Scientific Interest (SSSI) National Nature Reserves (NNRs)
Regionally and locally designated sites	Regionally Important Geological Sites (RIGS) Local Nature Reserves (LNRs)
2. OTHER GEOLOGICAL CONSERVATION FEATURES (Based on the Earth Science Conservation Classification)	
Exposure or Extensive Sites	<ul style="list-style-type: none"> ▪ Active quarries and pits ▪ Disused quarries and pits ▪ Coastal cliffs and foreshore ▪ River and stream sections ▪ Inland outcrops ▪ Exposure underground mines and tunnels ▪ Extensive buried interest ▪ Road, rail and canal cuttings
Integrity Site	<ul style="list-style-type: none"> ▪ Static (fossil) geomorphological ▪ Active process geomorphological ▪ Caves ▪ Karst
Finite Site	<ul style="list-style-type: none"> ▪ Finite mineral, fossil or other geological ▪ Mine dumps ▪ Finite underground mines and tunnels ▪ Finite buried interest

Exceptions When a Full Survey and Assessment May Not Be Required

International and National Sites: A survey and report will not be required where the applicant is able to provide copies of pre-application correspondence with Natural England, where the latter confirms in writing that they are satisfied that the proposed development will not affect any statutory sites designated for their national importance.

Regional and Local Sites: A survey and report will not be required where the applicant is able to provide copies of pre-application correspondence with appropriate local geological experts (such as local RIGS Group or specialist interest groups) that they are satisfied that the proposed development will not affect any regional or local sites designated for their local nature conservation importance.

Figure 2: Ecological Survey Seasons Key: Optimal Survey Time Extending into

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	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Badgers	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal
Bats (Hibernation Roosts)	Optimal	Optimal	Optimal								Optimal	Optimal
Bats (Summer Roosts)				Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal		
Bats (Foraging/Commuting)				Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal		
Birds (Breeding)			Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal			
Birds (Over Wintering)	Optimal	Optimal									Optimal	Optimal
Dormice					Optimal	Optimal	Optimal	Optimal	Optimal	Optimal		
Great-crested Newts	Terrestrial		Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	
	Aquatic	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal		
Invertebrates				Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal		
Natterjack Toads				Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal		
Otters	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal
Reptiles			Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal		
Water Voles			Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal		
White-clawed Crayfish							Optimal	Optimal	Optimal	Optimal		
Habitats/Vegetation	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal	Optimal

Points to note regarding surveys are as follows:

- For certain species and habitats surveys can be carried out at any time of year, but for other species, particular times of year are required to give the most reliable results, as indicated in Figure 2.
- Surveys conducted outside of optimal times (Figure 2) may be unreliable. For certain species (e.g. Great-crested Newt) surveys over the winter period are unlikely to yield any useful information. Similarly negative results gained outside the optimal period should not be interpreted as absence of a species and further survey work maybe required during the optimal survey season. This is especially important where existing surveys and records show the species has been found previously on site or in the surrounding area. An application may not be valid until survey information is gathered from an optimum time of year.
- Species surveys are also very weather dependent so it may be necessary to delay a survey or to carry out more than one survey if the weather is not suitable, e.g. heavy rain is not good for surveying for otters, as it washes away their spraint (droppings). Likewise bat surveys carried out in wet or cold weather may not yield accurate results.
- Absence of evidence of a species does not necessarily mean that the species is not there, nor that its habitat is not protected (e.g. a bat roost is protected whether any bats are present or not).
- Bedfordshire and Luton Biodiversity Recording and Monitoring Centre may have useful existing information and records.
- Competent ecologists should carry out any surveys. Where surveys involve disturbance, capture or handling of a protected species, then only a licensed person can undertake such surveys (e.g. issued by Natural England). Surveys should follow published national or local methodologies. Further details may be found in the Local Authority's SPD for Biodiversity or on the following web sites:

IEEM at: (<http://www.ieem.org.uk/Publications.htm> - Guidelines for Survey Methodology)
 Natural England: <http://www.naturalengland.org.uk/publications/default.htm>

Annex B

Bedford Borough Council Validation Process for Biodiversity

The table below outlines recommended procedures for Bedford Borough Council staff to ensure biodiversity and geological conservation issues are addressed adequately in the validation of planning applications

STEPS

NOTES

1. Application is received

2. Initial Checks (see note a)

Check 1: Has the applicant answered 'yes' to questions (a), (b) and (c) of the *Biodiversity and Geological Conservation* question' on the standard application form?

Check 2: Has the applicant indicated with reference to Tables 1, 2 and 3 in the Local Requirements what, if any, *Protected & BAP Species, Designated Sites, Priority & BAP Habitats* and *Geological Features* could potentially be affected?

Check 3: Is BBC satisfied with the responses provided by the applicant? (see note b)

Check 4: Has the applicant submitted all necessary surveys and assessments specified in the Local Requirements (e.g. triggered by a 'yes' to any question in Tables 1, 2 or 3)? (see note c)

Check 5: Has the applicant claimed that exceptions apply – as explained in Tables 1, 2 or 3?

Check 6: Is BBC satisfied that exceptions do apply? (see note d)

Note (a) It is intended that the initial checks should be a quick, coarse filter to 'strain out' the applications that obviously lack the key information on biodiversity/geological conservation required. Administrative staff are expected to carry out these initial checks.

Note (b) Where the applicant has answered 'No' to all parts of the biodiversity/geology question on the standard application form, BBC should, wherever possible, seek to confirm the validity of these responses by referring to its own 'environmental evidence base' (e.g. on BBC's GIS or via the Bedfordshire and Luton Biodiversity Recording and Monitoring Centre).

Note (c) Where an applicant meets any of the criteria in Tables 1, 2 or 3, they must also provide relevant surveys and assessments for the application to be valid.

Note (d) It may be necessary to delay validation of an application where an applicant claims that exceptions apply (e.g. they do not need to submit a survey and assessment) while further checks are carried out to confirm that features specified in the requirements are not present or likely to be affected.

3. Initial Determination

Check 7: Do surveys and assessments submitted contain sufficient information to describe features present, to assess potential impacts and to propose adequate mitigation, compensation and enhancement? (see note e)

Note (e) In consultation with consultees, BBC should confirm that the applicant's response to Tables 1, 2 and 3 are accurate.

As part of the initial determination of the application, BBC should also ensure that any surveys and assessments submitted contain all of the details required. Their content should be checked for accuracy and comprehensiveness.

These further checks should be undertaken by the planning case officer responsible for the application supported by BBC's ecologist/ecological advisor. It is unlikely that a planning case officer will be able to complete these further checks without consultation to professional ecological expertise e.g. BBC ecologist or statutory consultee.

4. Final Determination The application can be determined taking account of information submitted and any other data required to evaluate the potential effects of the proposed development on biodiversity and geological conservation (see note f).

Note (f) BBC should determine the application against national and local planning policies and following consultation with relevant stakeholders, and with reference to its own environmental evidence base.

Figure 3: Using the Biodiversity & Geological Requirements to Validate Application for Full and Outline Permission

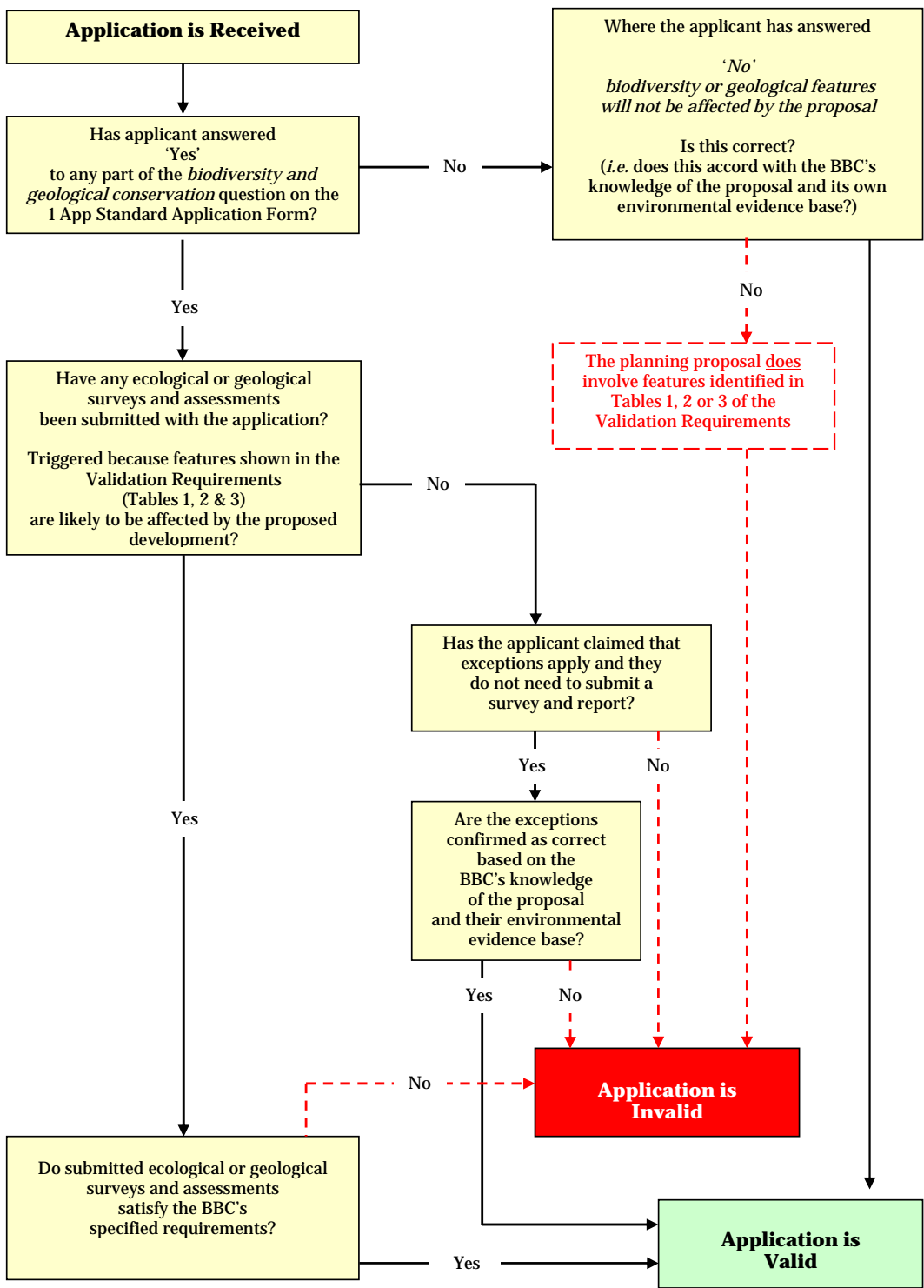


Figure 4: Using the Biodiversity & Geological Requirements to Validate Applications for Householder, Listed Buildings and Conservation Area Consent

