



E - Object DA Guidance

Ensuring ***Conservation or Promotion of Biodiversity*** projects are compliant with the Landfill Communities Fund



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E) Object DA Guidance

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1 Registering an Object DA project – *Conservation or Promotion of Biodiversity*

- 1.1 This document provides guidance on the Regulations governing the types of conservation of biodiversity projects that can be undertaken with the Landfill Communities Fund (LCF), initially outlining the governing regulations and then providing guidance on what these regulations mean in practice. Examples are then listed to give illustrations of compliant projects.

2 The Object DA Regulations

- 2.1 The Regulations governing Object DA are as follows:

‘The Objects of a body are approved objects insofar as they are any of the following objects:

(Regulation 33(2)(da))” Where it is for the protection of the environment and subject to paragraph (3A) below, the conservation or promotion of biological diversity through:

- (i) the provision, conservation, restoration or enhancement of a natural habitat; or
- (ii) the maintenance or recovery of a species in its natural habitat
- on land or in water situated in the vicinity of a landfill site;’

‘(2A) In paragraph (2)(da) above “biological diversity” has the same meaning as in the United Nations Environmental Programme Convention on Biological Diversity of 1992(i).’

‘(3A) An object shall not be, or shall no longer be, regarded as falling within paragraph (2)(da) above if it involves works which:

- (a) are required to be carried out by a notice or order within paragraph (4) below(ii) [Note: paragraph (4) is detailed with other notes at the end of this document];
- (b) are required to be carried out in accordance with an agreement made under section 16 of the National Parks and Access to the Countryside Act 1949(iii);
- (c) are required to be carried out in accordance with an agreement made under section 15 of the Countryside Act 1968(iv);
- (d) give effect to any provision of a management scheme under section 28J of the Wildlife and Countryside Act 1981 or are required to be carried out by a notice served under section 28K of that Act(v);
- (e) are wholly or partly required to be carried out by a relevant condition; or
- (f) are carried out with a view to profit.’

3 What is ‘Biological Diversity’?

- 3.1 The Convention on Biological Diversity (as adopted from the United Nations Environmental Programme Convention of Biodiversity 1992) identifies ‘Biological Diversity’ as ‘the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems’.

4.1 Each project must be looking to protect identifiable species or habitats.

While all of the project costs do not have to be associated to a single species or habitat, the application should be able to detail the primary species or habitats being conserved by the proposal.

4.2 Each project must be for a single, identifiable site.

The project site should be recorded as the location at which the work is taking place. e.g. if you are undertaking tree felling at five distinct points in the Forest of Dean, the project site should be recorded as 'The Forest of Dean'.



4.3 The project activities must take place where the species or habitats would naturally occur.

4.3.1 LCF monies can be used to conserve species or habitats where they naturally occur. This includes species re-introduction or habitat recreation programmes.

4.3.2 Proposals looking at the conservation of biodiversity in a place other than the natural habitat (i.e. ex situ conservation) are excluded under this Object in accordance with the Regulations. This also therefore excludes projects looking to fund university positions studying the species or habitats remotely.

4.4 The project must take place in the vicinity of a landfill site.

- 4.4.1** Object DA projects must take place in the vicinity of a licensed landfill site, which is interpreted as being within ten miles of a site. Whilst the application form asks for a postcode of the project site, ENTRUST understands that in some instances a grid reference or map showing the ten mile radius may be more appropriate. If you can provide evidence that the project site is adversely impacted by a licensed landfill site that is further than ten miles away, this can be deemed eligible.
- 4.4.2** A 'licensed' landfill site is one where there is a licence, resolution or permit authorising disposals of materials as waste in or on the land. Some inactive landfill sites are still 'licensed'. The details of landfill sites can be accessed either on the HMRC website (www.hmrc.gov.uk) or through the relevant authority (e.g. The Environment Agency www.environmentagency.gov.uk). You will need to ensure that the landfill site has a licence in place for the project to be compliant. Please contact ENTRUST if you have any queries on this point.
- 4.4.3** It is important to note that the closest applicable landfill site does not have to be owned by the LO contributing to your project (although some funders will require that it is). As long as some part of your project site is within the vicinity of a landfill site, it is deemed to be acceptable.

4.5 The project must be looking to provide, conserve, restore or enhance a natural habitat or maintain or assist in the recovery of a species.

- 4.5.1** This means the application must be looking to register 'direct project works' to undertake one of the above activities for the identified species or habitats.
- 4.5.2** For a number of reasons, including the requirement to maintain an audit trail and statistics provision, single project applications that cover multiple projects cannot be approved.
- 4.5.3** The focus of the project must be to undertake 'direct project works' on the project in question. ENTRUST will review applications to ensure that every proposal concentrates on direct project works and has acceptable additional associated costs.
- 4.5.4** 'Direct project works' are defined as those that are solely attributable to the delivery of the project. This would include all costs that can be directly linked to improvements on site, such as contractor, volunteer management and other physical works on site that conserve the species or habitat in question.

In some instances costs relating to preliminary studies can be included as 'Direct project works', examples of this would include:

- Research and feasibility of the works that will be undertaken;
- Environmental impact assessment;
- Other assessments which are necessary for the project to commence;
- Licences and consents;
- Land acquisition and associated legal fees; and
- Valuation fees.

When considering direct project costs relating to preliminaries, a general rule of thumb would be that if you can demonstrate that the project would not be able to go ahead without the works being undertaken, then they can be defined as direct project costs. However, yes/no feasibility studies or any research which may result in the project not going ahead cannot be funded using LCF monies.



In some circumstances, projects have an element of research into a species or habitat. In these instances we would expect the project application to include the works which will protect or conserve the species or habitat, even if the LCF will not be funding these works. The works may include items such as educational leaflets specifically targeted at those who are currently harming the species or habitat. We recognise that works may be undertaken as part of a management plan, and the nature of some works may be clarified following the research. The project which you register with us is the one we may inspect to gauge compliance and this will include the works which protect the species or habitat, so if this element is not funded through the LCF, the project applicant must ensure that these works are completed.

Any ongoing project management or costs incurred to safeguard the site or habitat (e.g. fences, gates, boundary markers etc.) can also be classed as direct project works. This is in contrast to visitor facilities which in themselves do not conserve a species or habitat.

4.5.5 'Additional associated costs' include elements such as any head office costs not solely related to the project, publicity for the amenity, opening ceremony and all other activities that do not directly result in physical work being undertaken. ENTRUST is not able to approve projects that have excessive additional associated costs (i.e. more than 10% of total project expenditure).

4.6 **The project proposals must not be required by any planning permission granted to the contributors or feature under any of the following acts or orders.**

- The Control of Pollution Act 1974 (Section 46A);
- Environmental Protection Act 1990 (Sections 14, 26, 78E);
- Water Resources Act 1991 (Section 90B, Section 161A);
- National Parks and Access to the Countryside Act 1949 (section 16);
- Countryside Act 1968 (section 15); or
- Wildlife and Countryside Act 1981 (section 28J).

Further information relating to these Acts and orders can be found on page E8.

5 Other criteria and parameters when registering an Object DA project

5.1 Biodiversity Action Plans

5.1.1 Biodiversity Action Plans (BAPs) or Local Biodiversity Action Plans (LBAPs) have been set up as a result of the aforementioned Convention on Biological Diversity to co-ordinate the conservation activities on the most threatened species and habitats. It is not a regulatory requirement that the priority species or habitat is listed in a BAP or LBAP but wherever possible it would be best practice for project promoters to take account of BAPs or LBAPs (or equivalent).

5.2 Involvement of the Lead Partner

5.2.1 When the priority species or habitats are part of a BAP or a LBAP there will be a designated lead partner who has been allocated the responsibility of co-ordinating activities to conserve the species or habitat. It is recommended by ENTRUST that it is best practice that proposed projects should be endorsed by the lead partner.

5.2.2 Further information on BAPs and LBAPs can be found on the UKBAP website, www.ukbap.org.uk.

6 Project Examples

Lapwing breeding near Barnsley: This project is focusing on de-silting an outflow ditch and relocating the silt to the reserves mere, improving waterflow and boosting the food chain in the mere, benefiting passage waders and wintering waterfowl.

Rush pasture in the Upper Tawe Valley: Bringing together five sites forming a backbone along the Tawe Valley, creating a living landscape. This project safeguards key Rush Pasture sites through actively managing sites through grazing, restoring 25 hectares.

Norfolk Breck Heath Land Restoration for butterflies and moths: The project is restoring heath land across 15 ecologically linked Norfolk Breckland sites to conserve 15 UKBAP Priority Species of Lepidoptera.



The notes below give further information on the Acts and orders mentioned in paragraph 4.6.

(i) Cm. 2915.

(ii) 'Paragraph 4' (Regulation 33 (4) (a,b,d-g)) Reads as follows:

The notices and orders mentioned...are

- a) a works notice served under Section 46A of the Control of Pollution Act 1974;
- b) A Prohibition notice served under section 14 of the Environmental Protection Act 1990;
- d) An order under section 26 of the Environmental Protection Act 1990;
- e) A remediation notice served under section 78E of the Environmental Protection Act 1990;
- f) An enforcement notice served under section 90B of the Water Resources Act 1991
- g) A works notice served under section 161A of the Water Resources Act 1991

(iii) 1949 c. 97; section 16 was amended by the Nature Conservancy Council Act 1973 (c.54), sections 1(1)(b), (7) and Schedule 1, paragraph 1. References to the Nature Conservancy Council are references to the bodies mentioned in section 15A of the National Parks and Access to the Countryside Act 1949 which was inserted by the Environmental Protection Act 1990 (c.43), section 132 and Schedule 9, paragraphs 1(1), (2), and amended by the Countryside and Rights of Way Act 2000 (c.37) section 73(4) and Schedule 8, paragraph 1(a) and the Natural Heritage (Scotland) Act 1991 (c.28) section 4(10) and Schedule 2, paragraphs 1(1), (2).

(iv) 1968 c.41; section 15 was amended by the Nature Conservancy Act 1973, section 1 and Schedule 1, paragraph 9, the Wildlife and Countryside Act 1981(c.69), sections 72(8), 73 and Schedule 17, Part I, the Environmental Protection Act 1990, sections 132, 162(2) and Schedule 9 paragraphs 4(1), 2(a) and Schedule 16, Part VI, the Countryside and Rights of Way Act 2000, section 73(4) and Schedule 8, paragraph 1(c)(i) and the Natural Heritage (Scotland) Act 1991, section 4 (10) and Schedule 2, paragraph 3.

(v) 1981 c.69; sections 28J and 28K were inserted by the Countryside and Rights of Way Act 2000, section 75(1) and Schedule 9, paragraph 1.