



**Avon**  
Wildlife Trust

Avon Wildlife Trust Guidance

# PLANNING AND WILDLIFE

## RESPONDING TO PLANNING APPLICATIONS



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# INTRODUCTION

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A healthy natural environment rich in wildlife provides many benefits to local communities. Wildlife and green spaces around our cities, towns and villages add to our quality of life. New development done properly can have a positive net benefit for wildlife, by creating new habitats or providing resources to manage previously neglected wildlife sites. Done badly, development can harm habitats and important species.

On a local level we don't have the resources to respond to all planning applications but we want to support you to do this where there is a strong case. Local Planning Authority planning systems welcome people to comment on applications. You can help protect and enhance your local environment by influencing planning decisions to ensure that they benefit rather than harm wildlife and protect important habitats and species.

This leaflet will help explain:

- The planning system
- When wildlife concerns may impact a planning application
- What you can do if you are worried about a planning application's impact on wildlife

\*Please note that this document will only be applicable to English and Welsh Legislation. Scottish and Irish interpretations of legislation will vary

# PLANNING POLICY AND LAW

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Local councils should consider wildlife when making decisions about planning. There are a number of documents that highlight councils responsibility to protect wildlife in policy and law.

Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 states that: “Every public body must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”.

This section of the NERC act places a duty on public bodies to protect biodiversity across all policies, decisions and activities not just planning.

The National Planning Policy Framework (NPPF) 2021 lays out the Government’s planning policies for England and how they should be applied. This framework covers a large range of topics including transport, climate change, sustainability, Green Belt protection and conservation. The policies for the natural environment can be found in chapter 15. We encourage you to reference policies when responding to a planning application.

A new addition to the NPPF is the requirement that all developments must provide net gains for biodiversity. This shows a shift in the Government’s goals of not just wanting to maintain current levels of biodiversity but improve them through the planning system. You can read more about biodiversity net gain (BNG) [here](#). If you think a planning application will not provide measurable improvements for biodiversity, you can reference biodiversity net gain in your response.



# THE PLANNING SYSTEM

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## LOCAL PLANS

Local Plans are documents prepared by councils to present a planning strategy for their area. They contain policies against which planning applications will be tested and identifies specific areas for development. Local Plans are used by councils when considering individual planning applications. If applications are for sites identified in the Local Plan they still need planning permission but there is a presumption they will go ahead if they conform with the plan.

## NEIGHBOURHOOD PLANS

Neighbourhood Plans are created by communities, choosing where they want new homes, shops and offices to be built, outlining what they want these new buildings to look like and what infrastructure should be a part of that. These plans are used alongside Local Plans in determining planning applications. Neighbourhood Plans are a mechanism for granting planning applications, rather than blocking proposed development. However, they still need to be considered when opposing a planning application as they can be legal if voted so by the local authority.



# FINDING PLANNING APPLICATIONS IN YOUR LOCAL AREA

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1. Local residents living near a proposed development site should receive a letter from the council informing them of the application.
2. Applicants can also be asked to display 'site notice' at or near the proposed development site. These will provide more information and details of the planning application.
3. You might also be able to find articles and notifications within local newspapers and publications.
4. Details of the planning application will also be uploaded to the council's Planning Portal. This can be found by searching for phrases such as "planning portal (insert local planning authority name) and then look for applications near to your address.
5. Whilst not always the case, developers should hold public consultation events for significant developments. These consultations should be advertised in local press and displayed near the site. These events are important for local people to provide feedback on and influence the development plans.

# WILDLIFE CONCERNS

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## LEGAL PROTECTION FOR SPECIES AND HABITATS

Some sites, habitats and species have specific protection under the law which can influence a planning application and the presence of any of these means that an ecological survey can be required before the planning application is considered. The survey should clearly state what methodology was used, what was found and how the planning application will impact the important features. If necessary, it should also suggest compensation or mitigation measures.

## SITE OF SPECIAL SCIENTIFIC INTEREST (SSSI)

SSSIs are nationally important sites and are protected under law. Everyone must get approval from Natural England before carrying out any operations which may damage an SSSI. Permission to perform operations on a SSSI is called an assent. You can find out where there are protected sites close to you by visiting the Defra's MAGIC website at [magic.defra.gov.uk](http://magic.defra.gov.uk).

## SITES OF NATURE CONSERVATION INTEREST (SNCI) / LOCAL WILDLIFE SITES

A Site of Nature Conservation Interest (SNCI) is an synonym for Local Wildlife Sites (LWIs) and different councils can either name but they both refer to the same level of statutory protection. A Local Wildlife Site is a non-statutory designation used to identify areas of high conservation importance at a county level. This does not confer legal protection on the site, or right of access, however for any significant change of land use the planning authorities will expect the wildlife interest to be taken into account alongside other normal planning considerations.



## UNDESIGNATED SITES

Most land has no specific designation. Planning applications on undesignated land are unlikely to be turned down on nature conservation grounds unless they are found to contain species protected by law. In these circumstances the presence of species such as bats or great-crested newts will usually only affect when and how the development takes place, not whether it takes place.

## HEDGEROW REGULATIONS (1997)

These protect certain hedgerows from being removed or destroyed without permission from the local planning authority.

## TREE PRESERVATION ORDERS

Anyone can apply for a tree to receive a TPO but the local authority, usually a Tree Officer, will review the tree and make the decision. These can be issued by the local authority and can only be issued on trees or groups of trees, that have historical, landscape or amenity value. For multiple trees in the same area, a conservation area may be designated instead of individual TPOs. A conservation area automatically protects all trees within it from felling or pruning without advance permission from the LPA

## TREE FELLING ORDERS

A felling licence from [the Forestry Commission](#) is required to fell most trees. It is an offence to fell trees without a licence if an exemption does not apply.







# PROTECTED SPECIES

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Varying levels of protection are given to species of plants and animals. Some are protected by European Law, some are protected nationally and others are given very limited protection

## EUROPEAN PROTECTED SPECIES

Great crested newts (GCN), all bat species, hazel dormice and a number of other fauna and flora species are given protection under Schedule 2 and 5 of the Conservation of Habitats and Species Regulations 2017 (See Appendix 1 for full list). As of 1st October 2022, the European beaver was added to this list. It is an offence to kill, injure, capture, or disturb a European Protected Species (EPS) or damage, destroy or block access to their breeding or resting site. If you know of an EPS on a site and are concerned about the wellbeing of the species, document the site with photographs. In the event that the animal or resting place is disturbed, damaged or destroyed, report this incident, along with any evidence you have, to the regions' wildlife crimes police department

The presence of these protected species doesn't prevent development however. Natural England can issue a EPS licence as long as the following tests are met:

- The activity must be for a certain purpose e.g preserving public health or public safety, or other imperative reasons of 'overriding public interest'
- There must be no satisfactory alternative to the proposals that would cause less harm to the species
- The proposed action must not be detrimental to maintaining the species at 'favourable conservation status'.

## UK PROTECTED SPECIES

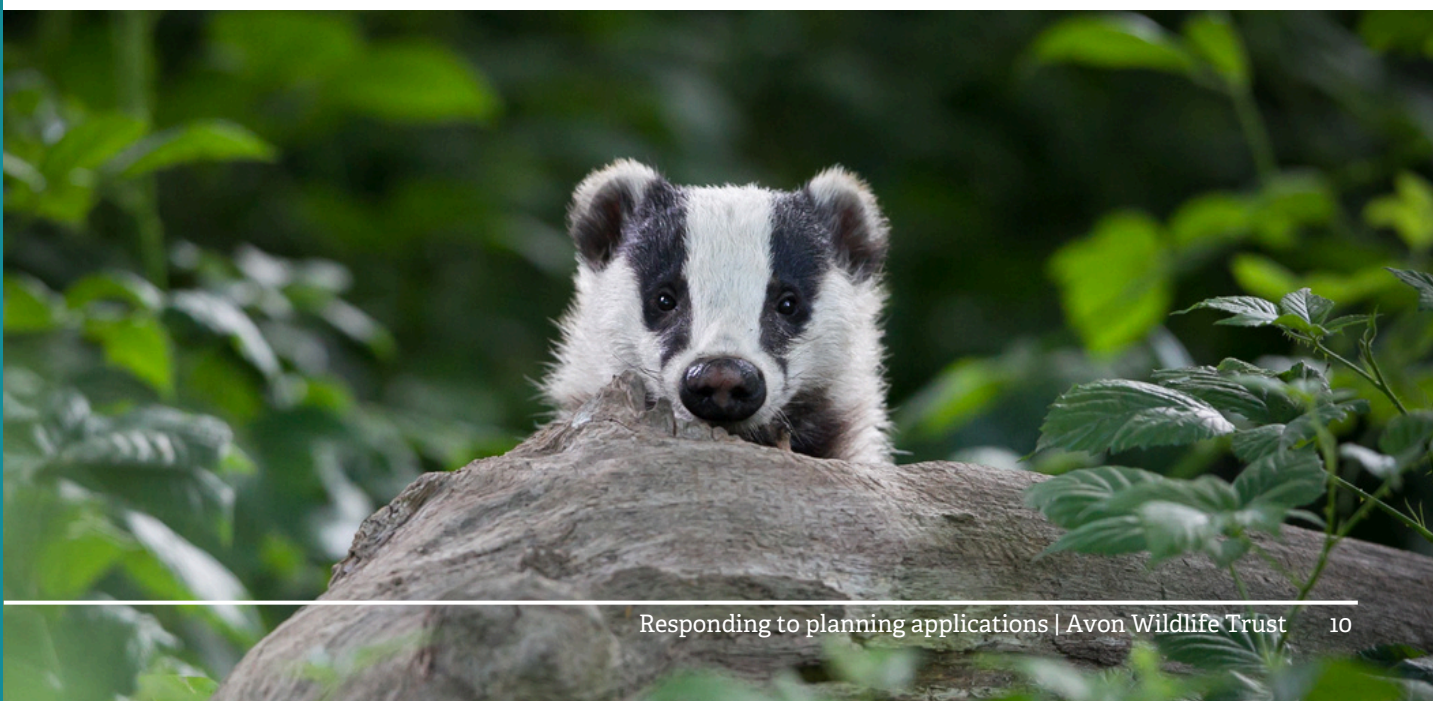
Under Schedule 5 of the wildlife of the Wildlife and Countryside Act (WCA) 1981, water vole, red squirrel, pine martin and several species of dragonfly, beetle, spider, moth, butterfly and mollusc are fully protected against killing, injury and capture. Damage, obstruction or destruction of a place used for shelter or protection is also prohibited. Several other species are given a lower level of protection under section nine of the WCA 1981. These include species such as adder, slow worm and grass snake.

Developers must comply with the legal protection afforded by the WCA 1981 and must demonstrate through their application that they are not committing an offence.

presence of these protected species alone is unlikely to be the sole reason for refusal of an application however they might result in changes to the design such as measures to avoid damage and reduce impacts.

## BADGERS

Badgers and their setts are protected under the Protection of Badgers Act 1992 in England and Wales. It is an offence to damage, destroy, block access to, or disturb badgers in their sett. A licence can be obtained from Natural England where applicants are required to evidence measures taken to avoid disturbing badger setts.



# WRITING A RESPONSE TO A PLANNING APPLICATION

Once you have identified that there are arguments for or against an application on the basis of wildlife sites, habitats and/or protected species then it's time to take action!

There are many different ways you can give wildlife a voice within the planning system. We would encourage you to explore a number of different approaches to raise the profile of any issue.

- Write a written response to an application (see Appendix 2 for a sample letter).
- Gain support of the local community. Use social media to encourage other concern individuals to respond to the application.
- Contact your local Councillor/MP to ask if they will support you
- Attend the planning committee meeting where application will be discussed.
- Contact local media to further raise the profile.



# TIPS FOR WRITING A RESPONSE

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- Check if there have been any past planning applications for the site. Any comments from previous applications may provide evidence why it was refused in the past and could indicate at key wildlife issues. You can find species records by submitting an enquiry with your local biodiversity record centre. In Avon, this is Bristol Region Environmental Record Centre (BRERC) and there is a charge for using the service
- Use the information found within the planning portal to identify the location of the proposed development and identify if its near any nearby wildlife sites, habitats or species. You can use the DEFRA MAGIC Maps to investigate the site.
- Read through supporting documents to decide whether the applicant has satisfactorily avoided or mitigated damage to wildlife. Check appendix 3 for a check list of things to look for.
- Include information about how the application will impact protected species.
- Attach supporting evidence such as photos and species records
- Try to ensure your letter is based on law and policy as opposed to personal opinion.



# APPENDIX 1

The table below summaries the protections of wild animals in England and Wales.

Level of Protection / relevant law or policy	Protection	Things to look out for in a planning application
<p><u>European Protected Species</u></p> <p>Certain species are protected by the Habitat Directive (European Law) and this is incorporated in UK Law by the Habitats and Species Regulations (2017, as amended) - This piece of legislation is often referred to as the 'Habitats Regulations'.</p>	<p>Schedule 2 of the Habitats Regulations 2017 lists European Protected Species.</p> <p>This list includes:</p> <ul style="list-style-type: none"> <li>• All species of bat</li> <li>• Great crested newt</li> <li>• Hazel dormouse</li> <li>• Otter</li> <li>• Beaver</li> <li>• Large blue butterfly</li> <li>• Wild cat</li> <li>• Dolphins, porpoises and whales (all species)</li> <li>• Marine turtle</li> <li>• Pool frog</li> <li>• Natterjack toad</li> <li>• Sand lizard</li> <li>• Smooth snake</li> <li>• Fisher's estuarine moth</li> <li>• Little whirlpool ramshorn</li> <li>• Sturgeon</li> <li>• Shore dock</li> <li>• Killarney fern</li> <li>• Early gentian</li> <li>• Lady's slipper</li> <li>• Creeping marshwort</li> <li>• Slender naiad</li> <li>• Fen orchid</li> <li>• Floating-leaved water plantain</li> <li>• Yellow marsh saxifrage</li> </ul> <p>With regard to EPS, it is an offence to:</p> <ul style="list-style-type: none"> <li>• Deliberately capture, injure or kill an animal of such species;</li> <li>• Deliberately or recklessly disturb, in particular (i) any disturbance which is likely to impair their ability to survive, to breed or reproduce, or to rear or nurture their young; (ii) any disturbance which is likely to impair their ability to hibernate or migrate; or (iii) any disturbance which is likely to affect significantly the local distribution or abundance of the species;</li> <li>• Damage or destroy a breeding site or resting place - even if animals are not occupying the place at the time;</li> <li>• Intentionally or recklessly obstruct access to a sheltering or resting place.</li> </ul>	<p>The ecological report should provide the results of protected species surveys wherever habitats likely to support such species are present within a site. Where protected species are likely to be impacted, the applicant should provide details of how they propose to firstly avoid, then mitigate and finally compensate for these impacts. This is referred to as the mitigation hierarchy. Natural England can issue a European Protected Species (EPS) licence which allows activities, that would otherwise be illegal, to take place legally. Natural England considers the extent to which an EPS will be affected, and licences have strict conditions. Because of these licences, the presence of a protected species often does not lead to the refusal of a planning application, but more commonly to amendments which reduce impacts and satisfy the law.</p>

Level of Protection / relevant law or policy	Protection	Things to look out for in a planning application
<p><b><u>Nationally Protected Species – Wildlife and Countryside Act 1981 (as amended)</u></b></p> <p>Wild birds and a number of animal species – including most of those listed above as EPS - are also protected by the Wildlife and Countryside Act 1981 (WCA, as amended). The Countryside and Rights of Way (CROW) Act 2000 provides additional species protection, including the addition of the term 'recklessly' to the WCA.</p>	<p>Part 1 Section 1(1) of the Wildlife and Countryside Act makes it an offence to intentionally:</p> <ul style="list-style-type: none"> <li>• kill, injure, or take any wild bird;</li> <li>• destroy, damage, or take the nest of any wild bird (while in use or being built);</li> <li>• destroy or take an egg of any wild bird.</li> </ul> <p>In addition, birds listed in Schedule 1 of the Act (such as barn owl) are given further protection from anyone intentionally or recklessly:</p> <ul style="list-style-type: none"> <li>• disturbing a bird while in, on or near a nest containing eggs or young, or while it is building its nest;</li> <li>• disturbing the eggs or dependent young of the bird.</li> </ul> <p>Part 1 Section 9(1) of the Wildlife and Countryside Act makes it an offence to kill, injure or take any animal listed in Schedule 5. Section 9(4) also makes it an offence to intentionally or recklessly damage or destroy, disturb an animal occupying, or obstruct access to any structure or place which any wild animal specified in Schedule 5 uses for shelter or protection.</p> <p>Schedule 5 species include:</p> <ul style="list-style-type: none"> <li>• All species of bat</li> <li>• Great crested newt</li> <li>• Otter</li> <li>• Water vole</li> <li>• Smooth snake</li> <li>• Sand lizard</li> <li>• Red squirrel</li> <li>• Pine marten</li> </ul> <p>here are also numerous butterfly, moth, beetle, cricket, dragonfly, spider, mollusc, crustacean, hemipteran, annelid worm and sea anemone species listed on Schedule 5.</p> <p>Some species on Schedule 5 receive partial protection only (Schedule 5 section 9). The following species are protected against killing and injury only:</p> <ul style="list-style-type: none"> <li>• Slow worm</li> <li>• Adder</li> <li>• Viviparous lizard</li> <li>• Grass snake</li> </ul>	<p>The clearance of vegetation and site works during the breeding season (March to August inclusive) have the potential to cause an offence under the Wildlife and Countryside Act. Therefore, the applicant should demonstrate that works will be timed to avoid the breeding season wherever possible and provide details of additional surveys/mitigation for instances where this may not be possible. Breeding bird surveys may also be required on some sites.</p> <p>Where there is potential for impacts to these species, the applicant should demonstrate how an assessment of these impacts has been carried out and what they will do to avoid, mitigate or compensate for impacts. As is the case for European Protected Species, it is more often the case that the presence of a species, such as slow worm, will result in changes to the scheme design and the translocation of the animals to prevent a crime being committed.</p>

Level of Protection / relevant law or policy	Protection	Things to look out for in a planning application
<p><b><u>Nationally Protected Species - Protection of Badgers Act 1992</u></b></p>	<p>Badgers are not deemed to be of conservation concern; instead, their legal protection stems from animal cruelty and welfare concerns.</p> <p>Under the Protection of Badgers Act 1992, it is an offence to:</p> <ul style="list-style-type: none"> <li>• kill (or attempt to kill), injure or take a badger</li> <li>• intentionally or recklessly 'interfere' with a badger sett through: <ul style="list-style-type: none"> <li>• damaging a badger sett or any part of it;</li> <li>• destroying a badger sett;</li> <li>• obstructing access to, or any entrance of, a badger sett;</li> <li>• causing a dog to enter a badger sett; or</li> <li>• disturbing a badger when it is occupying a badger sett.</li> </ul> </li> </ul> <p>A licence from Natural England is required to to undertake works which would result in the above</p>	<p>Due to cruelty and welfare concerns, badger survey reports are often kept confidential and are only shared with reputable organisations. If you believe that there is a badger sett on or near to the development site which has not been reported by the applicant then you may wish to share this information with the planning officer, your local badger group or us at Avon Wildlife Trust</p>
<p><b><u>Habitats and Species of Principal Importance for conservation in England</u></b> (often referred to as Priority Habitats/Species)</p>	<p>Under the Natural Environment and Rural Communities Act 2006, the Government is required to publish a list of habitats and species which are of principal importance for conserving biodiversity in England. These species are more commonly known as Priority Species. Full lists can be found on the JNCC website. National planning policy states that planning policies should “promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity” (NPPF paragraph 179b).</p>	<p>Applicants should provide information relating to these habitats and species within their ecology reports. In line with the NFPP, the Council should ensure that the development includes measures to conserve, restore and/or enhance Priority habitats and populations of Priority species.</p>

# APPENDIX 2 A sample letter / email of objection

\* This application , address and names of sites used in this example are fictional

Your name and address	Mrs. A. Smith Bridge Road Bristol Bs1 1AB
The date	1st January 2024
Planing application reference and site name	<b>Planning Application Ref: 25/00045/ - (Site name)</b>
Description of proposal	Residential development of 50 houses from Bridge road.
Name of planning officer	Dear (planning officer name)
Interest and general view of person writing	I write in relation to the above planning application. I have examined the documents within the planning application, and I wish to strongly object to the development.  There are two non-statutory wildlife sites adjacent to the site's western and northern boundaries which may be impacted by the proposed development.
Reference to any designated sites (SNCI's, SSSI's, SAC's etc), Local Wildlife Sites, Priority Habitats and Species within the site boundary or immediately adjacent.	The proposed development of 65 dwellings will cause the potential degradation of two Local Wildlife Sites (LWS): Hill Top LWS and Sandbanks LWS. The applicant has acknowledged that the development site is adjacent to the two LWS and mentions a buffer zone that will help to reduce indirect impacts. However, the applicant has not specified the size of the buffer zones proposed between the development and the LWS. There is a risk of adverse effects from indirect impacts, such as increase in artificial lighting, noise and dust pollution, recreational pressures, cat predation, contaminated surface water run-off and colonisation of invasive species from curtilages. The protection of these LWS is supported by Section 15 of the National Planning Policy Framework (NPPF, 2021), which sets out the Government's current planning policy in relation to conserving and enhancing the natural environment. Paragraph 174 of the NPPF (2021) states that planning authorities and decisions should contribute to and enhance the natural and local environment by a) protecting and enhancing valued
Reference to Government policy, local development plan policy and where acceptable, reference to the Neighbourhood Plan. Highlight any direct or indirect impacts.	landscapes, sites of biodiversity and b) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 180 of the NPPF (2021) states that when determining planning application, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.  The protection of the two LWS are also supported by Policy ENV1 in Bristol's Local Plan, which states; "Development should avoid significant harm to locally identified biodiversity assets, including Local Wildlife Sites, Local Nature Reserves and the Green Corridor as well as priority and locally important habitats and protected species." The proposed development site is also an important wildlife corridor between the two LWS. The proposals would create a fragmented landscape and reduce connectivity between wildlife sites. I have also noted that the site's location is not an allocated site for development within the neighbourhood or Bristol local plan and therefore is not in line with the development plan.



# APPENDIX 2

## A sample letter / email of objection

\* This application , address and names of sites used in this example are fictional

Reference to Government policy and to planning history - the local planning authority's previous planning decisions in the area.

A similar applicant (reference number) for 190 dwellings was proposed in 2019 at the same site. This application was rejected due to the negative impacts on the two LWS and failing to align with Policy ENV1 of the Local Plan. The number of residential dwellings has been reduced; however, the 65 dwellings will still have an overriding negative impact on the two LWS and therefore not support Policy ENV1 or NPPF.

Reference to supporting documents within the application such as Preliminary Ecological Appraisal (PEA), Ecological Impact Assessment (EcIA) and Environmental Statement (ES).

The Preliminary Ecological Appraisal submitted in support of (reference number) states that:  
"It is recommended that development proposals retain the integrity of the two adjacent LWS, through measures to avoid any impact, or mitigate and compensate where impacts cannot be avoided. An Ecological Impact Assessment (EcIA) is required to fully assess all potential impacts the proposals might have during the construction and operational phases so appropriate detailed mitigation measures can be provided." From reviewing the supporting documents within the application, it does not appear that the applicant has sought the advice of the applicants' own report and submitted an Ecological Impact Assessment. Therefore, I urge the Council to secure a detailed Ecological Impact Assessment before the decision stage.

Request to speak at the local planning authority committee meeting.

If this application is to be decided at a committee meeting, please take this letter as notice that I would like to speak at the meeting.

Signature and name

Please let me know the date of the meeting as soon as possible.

Yours sincerely,

*Amanda Smith*

Amanda Smith