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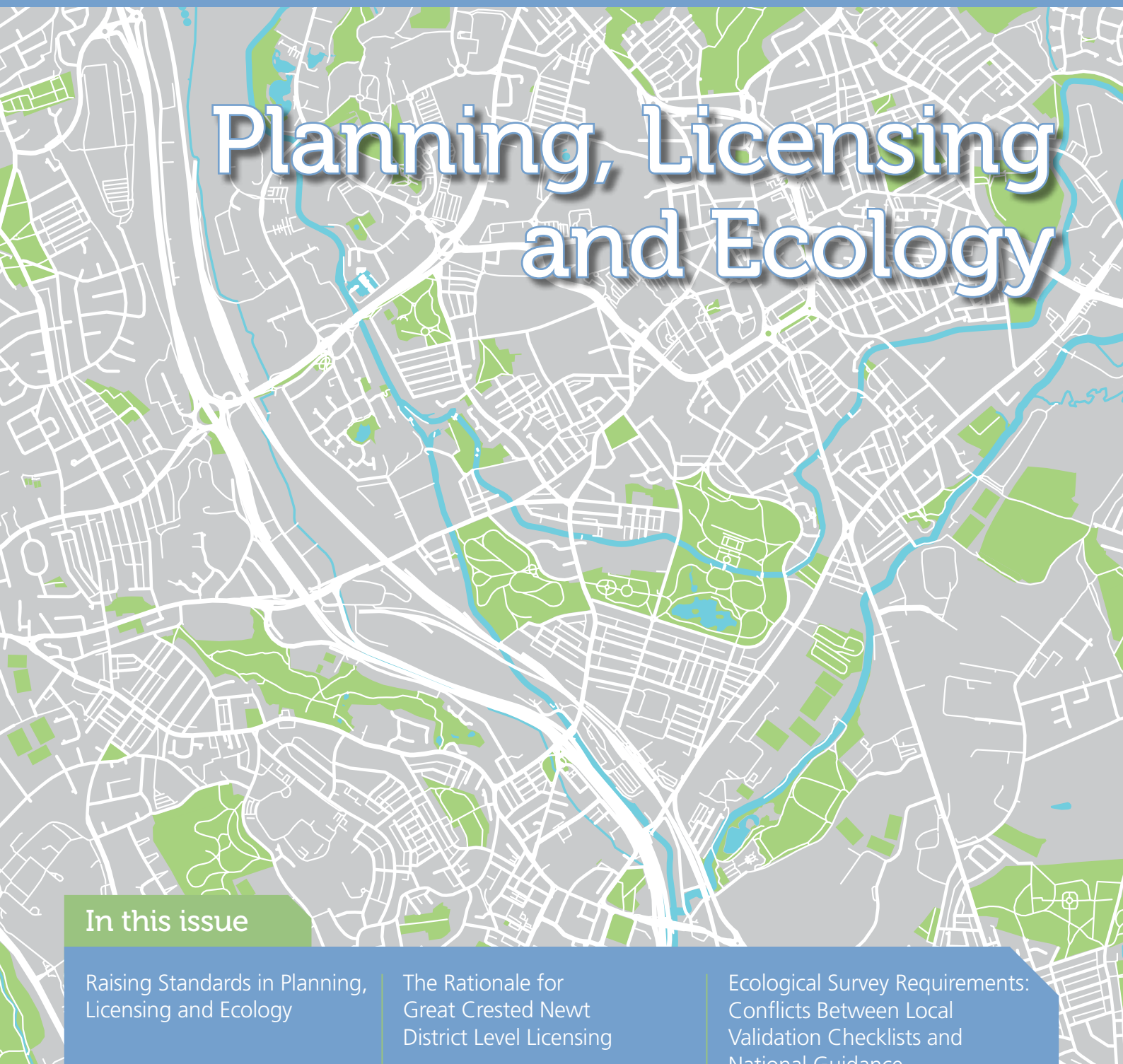

Planning, Licensing and Ecology

In this issue

Raising Standards in Planning, Licensing and Ecology

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Great strides have been made by CIEEM but raising professional standards in ecology and related sectors can still be a challenge, and effective external regulation is crucial. Impending political changes may exacerbate the problem and we need to focus our efforts.

Inadequate surveyor coverage for bat activity surveys, particularly on sites with a complex of buildings, is a common flaw. Photo credit Mike Sharp.

Planning, licensing and ecology form the backbone of many CIEEM members' work, and this *In Practice* theme prompted me to reflect on my 30-odd year career, which has encompassed all three ecology sectors – public, NGO, and private (largely England focused, but much will be relevant elsewhere). I am acutely aware that planning and licensing processes cannot play their part in maintaining and enhancing biodiversity if ecological input falls short of a good standard. So, where have standards improved and where have they got worse? In this time of huge political change, what is critical to raising and maintaining standards in our industry into the future?

In the last three decades, prevailing political ideology has caused a significant shift in ecological input to the planning process: once mainly the preserve of the public/NGO sector (as it largely still is across the rest of Europe), ecological input is now provided mainly by the private sector, in line with politicians' general belief that market forces can be relied upon to maintain high standards by weeding out incompetent or unscrupulous operators. Unfortunately, however, many clients view ecological input as an unwelcome obligation, so there is a tendency to avoid or minimise associated costs regardless of the quality of the service; therein lies a big difference between ecological consultancy and many other services. Thus, a plumber who repeatedly does a poor job is likely to end up with fewer clients as word gets around; by contrast, the ecological consultant who repeatedly flouts guidance and enables a planning permission or licence to be obtained more quickly and cheaply than one who is more diligent, is very likely to prosper.

On the positive side, we are fortunate to have a dynamic and evolving professional institute which, as it matures and grows in stature and influence, has been pivotal in setting higher standards and finding ways to maintain them. We now have a wealth of technical and professional guidance and are beginning to fill long-standing gaps – such as in bat mitigation. We have much better training provision, and government is finally beginning to seek our advice on ecological policy, although we need to ensure this continues. We are also working closely with other relevant bodies, including Natural England, Association of Local Government Ecologists (ALGE) and Bat Conservation Trust (BCT), on issues around planning and licensing.

However, there is still some way to go, and membership of CIEEM or similar Institutes does not, in itself, guarantee good standards of practice. What it does provide is a benchmark against which members can be assessed and, if necessary, disciplined. There is no such recourse with non-members and, whilst I see poor ecological assessments carried out by CIEEM members, by far the worst I have seen have come from non-members; for example:

- We were approached by a local planning authority (LPA) regarding an application for a development on a site containing several ponds and supporting nesting

Schedule 1 birds. An ecological survey had been carried out, by a retired employee of a nature conservation body, but objectors to the scheme had commissioned a second survey that disagreed with the first. The LPA, lacking an ecologist, was unable to make a decision and needed an independent opinion. The original report, possibly the worst example that I have ever seen, was appallingly written and structured, not in line with any standard guidance/format, did not even mention the Schedule 1 birds let alone assess possible impacts on them, and revealed a totally inadequate survey effort for great crested newts; it concluded that there was no likely impact. In fact, the report/survey effort were simply not adequate to make this assessment. Unfortunately, the client returned to the same ecologist to do the resurvey.

- A landowner asked us to review a report relating to his planning application for the renovation of a farmhouse and several barns, because he felt it was not robust. The consultants were experienced ex-employees of an statutory nature conservation body (SNCB). They had used wholly inadequate survey effort, comprising just two surveyors for bat activity surveys of this complex site (four separate, substantial structures plus outbuildings) and had relied on static detectors to support their findings. One of their conclusions, with potentially significant implications, was the presence of a maternity colony of Natterer's bat *Myotis nattereri* in one of the barns; this was determined based entirely on static detector data and turned out to be wholly incorrect. By contrast, they overlooked several feeding perches including lesser horseshoe bat *Rhinolophus hipposideros*. They took nearly a year to produce their report, which followed no standard guidance. The surveys had to be completely re-done, involving considerable delays and extra costs to the client.

In short, lengthy experience and a knowledge of nature conservation, in themselves, do not necessarily confer an ability to carry out a robust ecological assessment.

The above examples relate to planning, because licence applications are not generally seen outside the SNCB, but Natural England confirm that there are problems here too; quality is hugely variable. In 2017 (the most recent year where data have been compiled), over 20% of new Bat Low Impact Class Licence (BLICL) site registrations and around 7% of full bat mitigation licence applications resulted in Further Information Requests (this does not include minor amendments, which an advisor estimated were required in over 50% of BLICL registrations).

Opportunities to develop robust accreditation schemes, such as proposals for a new Earned Recognition scheme for bats, should be pursued.

Operating outside a reasonable interpretation of guidance happens across the consultancy spectrum: whether the tendency to do as little as can be got away with or, conversely, the tendency to employ disproportionately heavy survey effort, 'repeat offenders' can often be identified. Inadequate surveyor coverage is a frequent failing but, almost as often, clients have had to pay for completely unnecessary surveys and been told they need a licence in very low-risk situations that could be dealt with via reasonable avoidance methods; this does conservation, and consultants, no favours. Other trends include deliberately underestimating what survey is required, thus undercutting those who provide more realistic costs (and blaming the regulatory authority when this is found unacceptable); and stating that sites have negligible potential to support protected species and no further surveys are required, when it is

clear from site photographs alone that this is simply not the case.

There are also issues in other sectors: LPA ecologists are sometimes inconsistent, even within the same authority; SNCB employees often have less knowledge and experience than the consultants whose licence applications they are assessing; and chartered surveyors, planners and architects have been known to carry out their own 'bat surveys' in support of planning applications, tamper with ecologists' reports and in one recent case, submit an entirely fabricated report using the name of my company; all in contravention of their own codes of practice.

The undeniable fact, despite the great strides made by CIEEM, is that unless we become a regulated profession (something Governments have no appetite for), a critical role in pushing up standards is played by the external regulator; whether the LPA or the SNCB. Although poor standards can be addressed through the complaints process, this relies on someone being willing to raise a complaint; as a consequence the spotlight falls only on the most serious cases. Potential initiatives such as Earned Recognition licensing for bats, based upon strict training, assessment and accreditation, would have the potential to significantly increase standards, while at the same time improving conservation outcomes and making the licensing process easier. However, not all bat surveys result in a licence application, and unless the LPA in the first instance rejects surveys that have not been carried out by accredited consultants and to a required standard, the system will continue to fail in some important respects; and, obviously, our work covers much more than bats.

The proportion of LPAs with some level of in-house ecological expertise has dropped from over 60% in 1985 (England, Wales and Scotland) (Tyldesley 1986) to only a third of authorities (England) in 2013 (Oxford 2013). These figures are not directly comparable, but paint a general picture of loss of effective ecological scrutiny. It is true that some LPAs may have access to ecological advice through external sources, e.g. wildlife trusts, but this is often under-resourced and over-stretched meaning that many planning applications with an ecological impact do not get assessed at any level. Recent budget cuts to Natural England have been substantial, resulting both in fewer staff and in the replacement of experienced ecologists with junior personnel; also, staff have recently been seconded to Defra to work on Brexit-related issues: a cut in ecological capacity/competence on three levels.

As I write, there is a new Environment Bill looming; as yet, we have no knowledge as to what it will encompass, but given the political ideology already mentioned, I doubt it will include new funding for Natural England and the ecology function in LPAs. In addition, by the time you read this we may, lamentably, have left the EU, which will bring with it a whole new level of uncertainty. Thus, whilst we need to keep pressing for greater ecological capacity/competence in our regulators, we also have to be realistic and find alternative ways to aid their decision-making by providing them with simple solutions; for example, only accepting ecology surveys from those with specific accreditation. And for that to work, the accreditation process must be comprehensive, robust and have broad stakeholder support. There is a lot of work ahead.

This house, located in an area of excellent bat foraging habitat, with slipped/missing roof tiles and gaps beneath weatherboarding/lead flashing leading to voids behind, was deemed to have "negligible bat potential" by a surveyor. Photo credit Lisa Kerslake.

References

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About the Author

Lisa is CIEEM's Vice President for England and Managing Director of Swift Ecology. Lisa started work with the then Nature Conservancy Council and subsequently held senior positions at Nottinghamshire County Council, Northumberland Wildlife Trust and the North and East Yorkshire Ecological Data Centre, before reluctantly becoming a consultant!

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