**Duties to protect traditional orchards**

*Statutory regulations relevant to traditional orchards*

The quotes in this section can be used to remind planning authorities and local government of their obligations regarding traditional orchards under a variety of legislation and treaties. All of them will be relevant in most cases, although care should be taken not to overload your representations with too many dense legislative quotes which are unlikely to be read properly. Instead choose two or three aspects that you think are best to focus on for the site in question and back these up with choice quotes from the selection below.

**European Landscape Convention 2000** (Legally Binding):

*“Signatories are expected to recognise landscapes in law as an essential component of people’s surroundings, an expression of the diversity of their shared cultural and natural heritage, and a foundation of their identity.” (Article 5a)*

**The Natural Environment and Rural Communities Act (NERC Act) 2006** contains a statutory duty (Section 40):

*“Every public authority 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”*.

Traditional orchards are listed as a Habitat of Principal Importance in Section 41 of the NERC Act. Habitats and species are listed by the Secretary of State to provide guidance for local and regional authorities for the implementation of their statutory duty under Section 40.

**EU Habitats Directive**

Article 10

*Member States shall endeavour, where they consider it necessary, in their land-use planning and development policies and, in particular, with a view to improving the ecological coherence of the Natura 2000 network, to encourage the management of features of the landscape which are of major importance for wild fauna and flora. Such features are those which, by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems for marking field boundaries) or their function as stepping stones (such as ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild species.*

This translates to the UK as follows:

**The Conservation of Habitats and Species Regulations 2010 (The Habitats Regulations)**

Regulation 39: Nature conservation policy in planning contexts

*“…policies in respect of the conservation of the natural beauty and amenity of the land shall be taken to include policies encouraging the management of features of the landscape which are of major importance for wild flora and fauna.*

*The features of the landscape (referred to above) are those which by virtue of their linear and continuous structure (such as rivers with their banks or traditional systems of marking field boundaries) or their function as stepping stones (such as ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild fauna and flora.”*

**National Planning Policy Framework 2012**

*11. Conserving and enhancing the natural environment*

*109 - The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures*

*117 - To minimise impacts on biodiversity and geodiversity, planning policies should promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan.*

*118 - Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats […] the loss of aged or veteran trees found outside ancient woodland […] unless the benefits clearly outweigh the loss.*

**International Treaty on Plant Genetic Resources for Food and Agriculture 2001**

The genetic diversity of fruit varieties in the remaining traditional orchards of England and Wales is of great value from both a heritage and commercial perspective. Preservation of this genetic diversity can provide food security and resilience to threats from pests, disease and climate change, and is required under Articles 4-6 of the International Treaty on Plant Genetic Resources for Food and Agriculture, to which the United Kingdom is a signatory.

**Biodiversity 2020**

The 2020 Mission is *“to halt overall biodiversity loss, support healthy well-functioning ecosystems and establish coherent ecological networks, with more and better places for nature for the benefit of wildlife and people.”*

Targets relevant to traditional orchards’ Priority Habitat status:

* 90% of priority habitats in favourable or recovering condition
* No net loss of priority habitat and an increase in the overall extent of priority habitats by at least 200,000ha.