EEB – Paper 12/14
Supporting Documentation

Draft 09.04.14 – amendments from FS Board not yet processed.

Natural England & Forestry Commission:

Operational Delivery Practice 03 2014 -

When to convert woods and forests to open habitat in England and when compensatory tree planting is required.

1.0 Purpose

This Delivery Practice Note aims to give both Forestry Commission (FC) and Natural England (NE) staff further guidance on the conversion of woodland to open habitats, in particular how the requirement for compensatory tree planting for different site types will be applied. It identifies:

- Which habitats may be restored;
- What supporting information is required, and
- When compensatory tree planting will be required.

This guidance should be read in conjunction with the Open Habitats Policy document and also Action Note …. – Definition of Woodland and Trees. A link to these documents can be found in the 'Further advice' section of this note. (Insert links and AN number)

2.0 Context

The Government's Open Habitats Policy (OHP) was introduced in 2010 and reconfirmed in the Government's forestry and woodland policy statement in January 2013. Since its launch there have been a number of applications, many funded through Higher Level Stewardship (HLS) for removal of woodland to open habitat. Many of these have been on or adjacent to high priority conservation sites. Implementing the policy requires judgements and interpretations and there has been some confusion as to when compensatory tree planting is required, when deforestation may not be allowed and when a licence for tree felling to achieve exceptional biodiversity benefit should simply be approved, with no conditions attached. This guidance seeks to clarify these in light of policy and our experience to date.

3.0 Balancing mechanism

The OHP has a mechanism to manage the rate of woodland removal so that the area of woodland in England continues to increase in line with Government policy. This is an

active mechanism that may alter the position of the cut-off point for allowing woodland removal without the need for compensatory planting as a condition for approval. Key elements of this will be:

- the scale of any woodland loss on an annual basis;
- what level of this loss is 'productive woodland';
- the current level of woodland creation being undertaken.

This guidance reflects the position as at 12th March 2014. We work out our approach on at least an annual basis in an open and transparent way. We will update this guidance accordingly. It should be noted that the balancing mechanism will take account of de-forestation and afforestation that is happening over a three year period, which will help to average out any peaks and troughs that may arise (often the result of availability of grant aid).

Further information on the balancing mechanism can be found in the Open Habitats Policy.

The OHP is relevant to any proposal to permanently remove woods[1] to restore or expand priority open habitats as referred to in section 41 of the Natural Environment and Rural Communities Act (NERC)[2]. It does not apply to small-scale woodland removal as part of 'restructuring', such as creating glades, rides, and open areas by watercourses.

Priority open habitats are primarily lowland meadows, upland hay meadows, lowland and upland calcareous grassland, lowland dry-acid grassland, purple moor-grass and rush pasture, upland and lowland heathland, blanket bog, limestone pavement, lowland raised bogs, upland and lowland fens, reedbeds, wood-pasture and parkland .

When considering applications for conversion to open habitat the FC must consider the impact this work will have under The Environmental Impact Assessment Regulations (Forestry) (England and Wales 1999). In doing so, FC staff will consider the likely impacts that the work will have especially in relation to local community empowerment, climate change, the wider environment (such as water levels, increased fire risk etc.) and the likely ability of the applicant to manage the land post conversion. Where any impacts are deemed to be significant (and therefore the conversion is a 'relevant' project under the legislation), the applicant will be required to undertake an Environmental Statement. FC staff will consider the content of this Statement and make the decision to

[1] Refer to description in the Open Habitats Policy

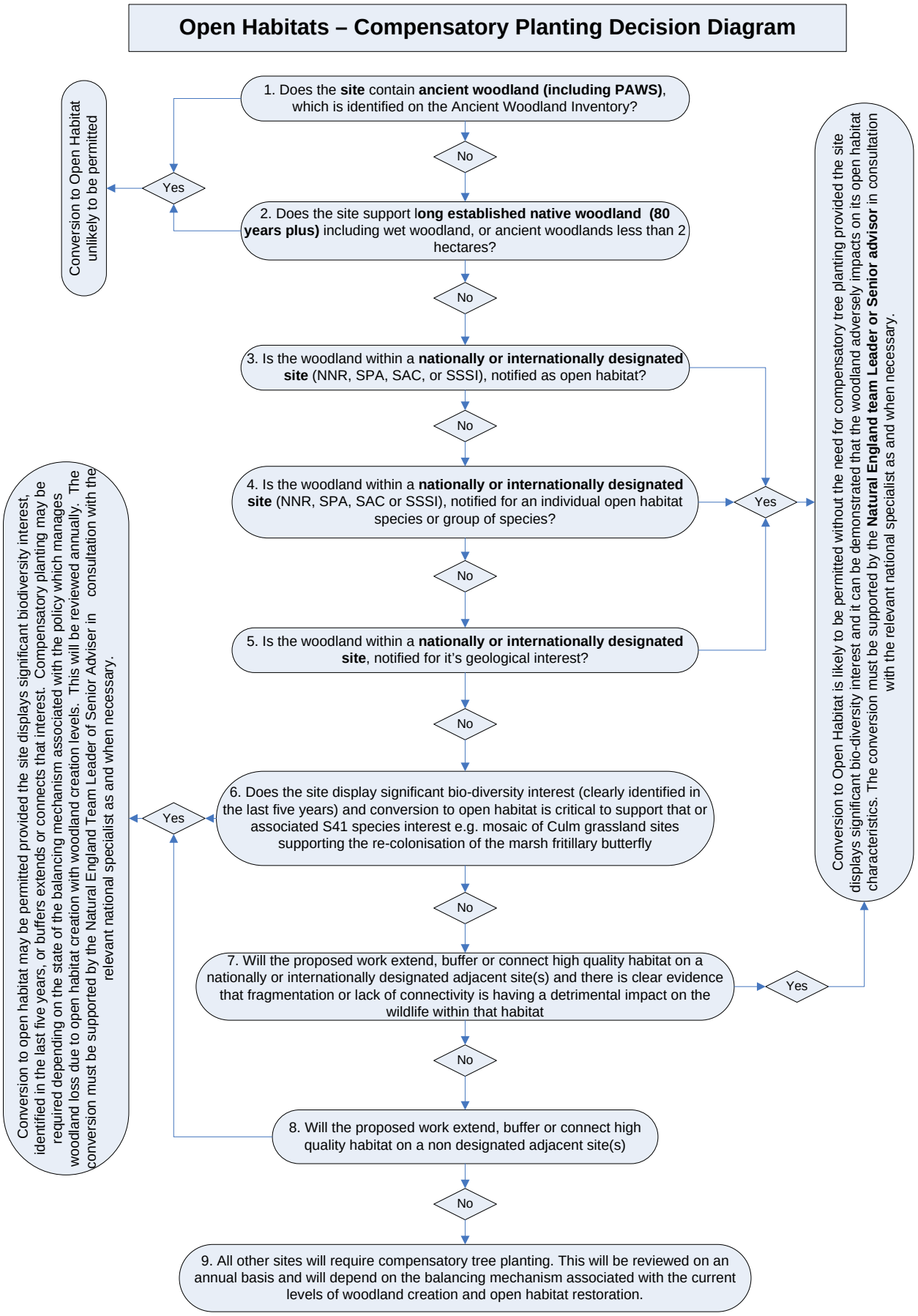
[2] http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx

either refuse or approve the conversion to open habitat, depending on the likely impacts of the work proposals

4.0 Compensatory Planting – Flow Diagram

The following flow diagram aims to clarify the expectations in relation to compensatory tree planting. This provides a clear steer as to where the 'bar' for requiring compensatory tree planting is currently set. This will be reviewed at least annually.

Local staff should always explore any opportunities for compensatory tree planting, regardless of the site. The insistence on such planting must only be in line with this guidance. Remember this 'bar' may change from year to year to reflect the balancing mechanism. Local FC staff should check with their national office colleagues for the current position if in any doubt.


Open Habitats – Compensatory Planting Decision Diagram
1. Does the site contain ancient woodland (including PAWS), which is identified on the Ancient Woodland Inventory?
No
2. Does the site support long established native woodland (80 years plus) including wet woodland, or ancient woodlands less than 2 hectares?
Yes
Conversion to Open Habitat unlikely to be permitted
No
3. Is the woodland within a nationally or internationally designated site (NNR, SPA, SAC, or SSSI), notified as open habitat?
No
4. Is the woodland within a nationally or internationally designated site (NNR, SPA, SAC or SSSI), notified for an individual open habitat species or group of species?
Yes
No
5. Is the woodland within a nationally or internationally designated site, notified for it's geological interest?
Yes
No
6. Does the site display significant bio-diversity interest (clearly identified in the last five years) and conversion to open habitat is critical to support that or associated S41 species interest e.g. mosaic of Culm grassland sites supporting the re-colonisation of the marsh fritillary butterfly
Yes
Conversion to open habitat may be permitted provided the site displays significant biodiversity interest, identified in the last five years, or buffers extends or connects that interest. Compensatory planting may be required depending on the state of the balancing mechanism associated with the policy which manages woodland loss due to open habitat creation with woodland creation levels. This will be reviewed annually. The conversion must be supported by the Natural England Team Leader of Senior Adviser in consultation with the relevant national specialist as and when necessary.
No
7. Will the proposed work extend, buffer or connect high quality habitat on a nationally or internationally designated adjacent site(s) and there is clear evidence that fragmentation or lack of connectivity is having a detrimental impact on the wildlife within that habitat
Yes
Conversion to Open Habitat is likely to be permitted without the need for compensatory tree planting provided the site displays significant bio-diversity interest and it can be demonstrated that the woodland adversely impacts on its open habitat characteristics. The conversion must be supported by the Natural England team Leader or Senior advisor in consultation with the relevant national specialist as and when necessary.
No
8. Will the proposed work extend, buffer or connect high quality habitat on a non designated adjacent site(s)
No
9. All other sites will require compensatory tree planting. This will be reviewed on an annual basis and will depend on the balancing mechanism associated with the current levels of woodland creation and open habitat restoration.

4.1 Determining the need for compensatory tree planting

Local staff should follow the thought process in the above flow diagram in order to determine whether compensatory tree planting is required when determining open habitat creation applications. In the event that staff are unsure which 'box' a site falls into they should seek advice from their line manager in the first instance and escalate to the national point of contact if still uncertain, or if you wish to confirm your position. The following paragraphs expand on the boxes in the flow diagram:

1. **Does the site contain ancient woodland (including PAWS), which is identified on the Ancient Woodland Inventory?**
   If the site is identified as an Ancient Semi Natural Woodland (ASNW) or a Plantation on an Ancient Woodland Site (PAWS) on NE's ancient woodland inventory it is highly unlikely that we would agree to the conversion of that woodland to an open habitat. Any such applications should be discussed with national colleagues before being progressed.

2. **Does the site support long established native woodland (80 years plus) including wet woodland, or ancient woodlands less than 2 hectares**?
   NE's Ancient Woodland inventory (AWI) identifies woodlands that are of 2 hectares or over in size. As such it is likely that a number of woodlands may not be recorded as 'ancient' because they are either less than 2 hectares in size, or mapping records may have proved inconclusive at the time of drafting the inventory. A decision must be taken on the ground as to whether an individual woodland falls into this category or not. In all cases there should be clear evidence by way of ground flora or other indications (old hedge banks etc.) that the native woodland is likely to have been there for longer than 80 years (as opposed to the actual trees standing on the site at present). There must be sufficient ground evidence or recorded evidence to support this. Forest Research's National Forest Inventory (NFI) should be able to assist in this decision making process.

   Example 1: *Wet alder / willow carr woodland. The woodland is 1.5 hectares in size and appears to have been coppiced some 30 years ago. The coppice stools suggest that the trees have been coppiced several times due to the width of the stools. Further investigation clearly identifies a number of indicator species among the ground flora to support the fact that the site had supported woodland species for some considerable time.*
   This would clearly be regarded as long established native woodland, probably on an ancient site, and so highly unlikely that we would agree to the conversion of that woodland to an open habitat.

   Example 2: *Wet alder / willow woodland. The woodland is 1.5 hectares in size and there is no evidence of the trees having been previously coppiced. Age of the trees is estimated at approximately 30 years old. There is some ground vegetation but this is more indicative of a lowland fen type site. Indications are that the woodland is secondary in nature which has colonised the site following reduction of grazing pressure or similar. The site is clearly not native woodland of 80 years*

of age or more. It may be suitable for conversion to open habitat, but must fall into one of the subsequent site types in the flow diagram and may or may not require compensatory tree planting as directed by this guidance.
If cleared the site would require a felling licence and an EIA opinion/determination as appropriate.

3. Is the woodland within a nationally or internationally designated site (NNR, SPA, SAC, or SSSI), notified as open habitat?

These will be sites designated as priority open habitat, either nationally or internationally, where, due to a variety of reasons they have become colonised with trees over a period of time. This colonisation will have taken place in the previous 80 years. If the woodland is native in origin (as opposed to coniferous) and evidence suggests that it has been in existence for longer than 80 years then the woodland removal must be considered under section 2 above.

The trees may occur as individuals, groups or as woodland (as identified in the definitions paper insert link). In order to create open habitat you must consider the following:

- It is extremely likely that the trees to be removed will require a felling licence.
- If a felling licence is not required, any woodland that is comprised of young trees (they are undersize), where they could form 20% or more canopy cover and are capable of reaching at least 5 metres in height on that particular site, will require at least an 'Opinion' under the EIA (Forestry) Regulations. In the event that the work is identified as a 'relevant project' under the legislation, FC staff will be required to identify whether the work will have a significant impact and thus whether a full EIA statement will be required. The fact that the site is designated does not exempt it from this process, as consideration must be given to all the other factors relevant to the site such as people, carbon, landscape etc.
- **The one exception** to the above is where there is very young successional growth of either trees or shrubs, where the trees can be purely controlled by non-mechanical means. In other words the young trees will be of such a size that they can be controlled by either grazing (domestic or non-domesticated) or by hand pulling.

Example 3: *A 10 hectare heathland site designated as SSSI supports a 2 hectare plantation of Scot's pine planted approximately 55 years ago. There is on-going seeding and a variety of age classes present. Colonisation by seeding has established over a further 3 hectares of the site, all adjacent to the plantation. The majority of this is at 'thicket stage' mostly 2 – 3 metres in height. Canopy cover for the plantation is 90% and for the self- seeded area 35%. The proposal is to remove the plantation to stop further seeding as well as the younger successional growth. Conversion to Open Habitat is likely to be permitted without the need for compensatory tree planting provided the site (i.e: the total designated area under consideration, not just the parcel that happens to support the plantation) displays*

significant bio-diversity interest and it can be demonstrated that the woodland adversely impacts on its open habitat characteristics. The conversion must be supported by the Natural England team leader or senior advisor in consultation with the relevant national specialist as and when necessary.
Removal of the plantation will require a felling licence and the removal of the plantation and adjacent successional seeding will require an EIA opinion/ determination as appropriate.

Example 4: *A 10 hectare heathland site supports a 2 hectare plantation of Scot's pine planted approximately twenty-five years ago The trees have just started casting seed and natural regeneration is taking place on the adjacent 2 hectares of the site. The proposal is to remove the plantation to stop further seeding and to control the successional seeding by introducing limited grazing to the site.*
Conversion to Open Habitat is likely to be permitted without the need for compensatory tree planting provided the site displays significant bio-diversity interest and it can be demonstrated that the woodland adversely impacts on its open habitat characteristics. The conversion must be supported by the Natural England team leader or senior advisor in consultation with the relevant national specialist as and when necessary.
Removal of the plantation will require a felling licence and will require an EIA opinion/ determination as appropriate. The successional seeding will not be included within the EIA process as it is to be controlled by grazing and so will not be regarded as a relevant project.

4. Is the woodland within a nationally or internationally designated site (NNR, SPA, SAC or SSSI), notified for an individual open habitat species or group of species?

These may well be linear sites such as rivers or surrounding other water features (such as estuaries) which support a mosaic of specific habitat types within the notified area. Groups of species may, for example, be an assemblage of wader species on say a Special Protected Area (SPA). An example of an Individual species may be white clawed crayfish, or Desmoulin's whorl snail. The designation will often include areas of woodland either native or plantation in origin. If the woodland fits with the descriptions in either boxes 1 or 2 of the flow diagram, then the presumption is that the woodland will not be permitted to be removed. If it does not fall into either of these boxes, then woodland removal may be permitted provided it meets the qualifying criteria and the same process outlined in 3 above will apply.

Example 5: *An upland stream, a tributary of the river Tees has an isolated population of white clawed crayfish, one of only a few surviving in this area. Its survival is under threat from the continuing acidification and shading out of the water course. A ten hectare plantation of Norway spruce, adjacent to the water course has been identified for clearance in order to reduce the impact. Conversion to Open Habitat is likely to be permitted without the need for compensatory tree*

planting provided the site displays significant bio-diversity interest and it can be demonstrated that the woodland adversely impacts on the relevant open habitat characteristics, individual or group of open habitat species. The conversion must be supported by the Natural England team Leader or senior advisor in consultation with the relevant national specialist as and when necessary. Due to the nature of the work there may be the opportunity to establish some open, native woodland adjacent to the stream, with a mixture of dappled shade and open sun.
Removal of the plantation will require a felling licence and will require an EIA opinion/ determination as appropriate.

***Example 6:** A linear SAC on a chalk river system. The river supports a nationally important population of Desmoulin's whorl snail in the adjacent meadow land. Within this area is a poplar plantation which is proposed to be felled. There is no supporting evidence for its removal that suggests that the trees are having any adverse impact on the individual species, other than the fact that it is non-native. There is limited support from the Natural England team leader. We may agree that removal of the poplar is reasonable but we would not support its removal without compensatory tree planting being agreed either on or near to the site in question.*
Trees will require a felling licence and also an EIA opinion / determination as appropriate

5. Is the woodland within a nationally or internationally designated site, notified for its geological interest?

Occasionally sites designated for their geological may also come forward for consideration.

Natural degradation is a serious problem on many geological sites. Uncontrolled vegetation encroachment and slumping of faces are the commonest problems, resulting in geological features becoming obscured. This is particularly so on man-made inland sites such as disused quarries and cuttings, where erosion rates are too low to maintain clear exposures. Positive management is required for effective conservation of these sites.

Applications must provide detail describing the:

- Importance of the specific interest, and
- Evidence that the woodland to be removed is having a detrimental effect on the specific interest.

Conversion to Open Habitat is likely to be permitted without the need for compensatory tree planting provided the site displays significant bio-diversity or geological interest and it can be demonstrated that the woodland adversely impacts on its open habitat characteristics. The conversion must be supported by the Natural England team leader or senior advisor in consultation with the relevant national specialist as and when necessary.

Example 7: *Tideswell Dale site is a disused quarry within the Wye Valley SSSI, selected as part of a network of sites in the English Midlands to demonstrate the volcanic history of the region during the early Carboniferous period (about 340 million years ago). At that time, there were a number of volcanic centres in Derbyshire and other parts of the country. The volcanoes intermittently erupted basaltic lava and ash into the tropical sea that covered much of the country at the time.*

The Tideswell Dale site contains lava flows and a thick sill (lava which froze underground before reaching the surface). The sill overlies a fine-grained clay-rich rock with a very unusual columnar jointed structure. This material was covered by rubble and had not been seen by geologists for many years. The main face of the quarry was becoming overgrown in places by scrub and sycamore trees. The scrub and trees need to be removed from the main quarry face. Conversion to Open Habitat is likely to be permitted without the need for compensatory tree planting provided the site displays significant bio-diversity or geological interest and it can be demonstrated that the woodland adversely impacts on the relevant open habitat characteristics of the site.

The tree removal would require a felling licence and the tree and scrub removal will require an EIA opinion/ determination as appropriate.

6. Does the site display significant bio-diversity interest (clearly identified in the last five years) and conversion to open habitat is critical to support that or associated S41 species interest e.g. mosaic of Culm grassland sites supporting the re-colonisation of the marsh fritillary butterfly

We will consider the conversion of other sites such as areas that are of SSSI quality, or examples of habitats listed in Section 41 of the NERC Act. Some of these may be classed as Local Sites[3]. We will also consider conversion where it is critical for associated species interest.

Conversion to open habitat may be permitted provided the site displays significant biodiversity interest, identified in the last five years, or buffers extends or connects that interest. Conversion to Open Habitat is likely to be permitted, provided the site displays significant bio-diversity interest and it can be demonstrated that the woodland adversely impacts on the relevant open habitat characteristics, individual or group of open habitat species. The conversion must be supported by the Natural England team leader or senior adviser in consultation with the relevant national specialist as and when necessary. Compensatory tree planting (or greater woodland retention) may however be required within this category of sites depending where the balancing mechanism sits.

Example 8: *An area of wet woodland has established on a culm grass land site. The woodland is clearly recent being approximately 30 years old, with no history*

[3] Refer to Defra guidance- 'Local Sites : Guidance on their identification, selection and management'.

of previous cutting. The site is designated as a 'local site' because of its grassland interest. The proposal is to remove the woodland to re-create the open grassland, which is also critical for encouraging re-colonisation of the marsh fritillary butterfly to this and neighbouring sites. The wet grassland site is a priority habitat that also supports a section 41 species. It was surveyed three years previously and identified a number of key species expected to be present in culm grassland. There are other culm grassland sites in the area, but these are too far away from existing colonies of marsh fritillary to permit colonisation to take place. This site is crucial to ensure this process takes place.
Conversion to Open Habitat is likely to be permitted and may or may not require compensatory tree planting depending on where the balancing mechanism sits, provided the site displays significant bio-diversity interest and it can be demonstrated that the woodland adversely impacts on the relevant open habitat characteristics, individual or group of open habitat species. The conversion must be supported by the Natural England team Leader or senior advisor in consultation with the relevant national specialist as and when necessary.
The tree removal will most probably require a felling licence (depending on size) and the tree and scrub removal will require an EIA opinion/ determination as appropriate. The open habitat policy provides further guidance on prioritisation where a site displays both habitat and species interest.

7. **Will the proposed work extend, buffer or connect high quality habitat on a nationally or internationally designated adjacent site(s) and there is clear evidence that fragmentation or lack of connectivity is having a detrimental impact on the wildlife within that habitat**

We will consider the conversion of other sites, which are neither formally designated nor classed as 'local sites'. These **must be adjacent** to sites that are designated. There must be clear evidence that the fragmentation of the designated sites or lack of connectivity is having a detrimental impact on the wildlife interest within these sites, or is preventing colonisation of the important ground flora.
Conversion to Open Habitat is likely to be permitted without the need for compensatory tree planting provided the conversion is supported by the Natural England team leader or senior advisor in consultation with the relevant national specialist as and when necessary.
The tree removal will require a felling licence and the tree and scrub removal will require an EIA opinion/ determination as appropriate.

Example 9: *A poplar plantation was established on a 35 hectare site some 15 years ago. The site was not designated at the time of planting. The trees are struggling through annual attacks of rust and are not thriving. There is a linear SSSI running through part of the site, which is associated with an old, disused private canal. This has been notified mainly for its lowland fen residual interest.*

There is a further SSSI to the side of the site notified as lowland bog. The creation of Lowland Fen is a priority target habitat for this area. The planted area has been drained in the past. The proposal is for the removal of the poplar plantation and the re-wetting of the site in order to permit the spread of lowland fen flora across the site, from the canal SSSI as a source to the lowland bog area. The work has been fully supported by NE team leader citing the tree canopy as being crucial in preventing the spread of the lowland fen flora across the site.
Conversion to Open Habitat is likely to be permitted without the need for compensatory tree planting provided the site displays significant bio-diversity potential and it can be demonstrated that retaining the woodland would adversely impact on the relevant open habitat characteristics, individual or group of open habitat species. The conversion has been supported by the Natural England team leader or senior advisor in consultation with the relevant national specialist as and when necessary.
The tree removal will most probably require a felling licence (depending on size) and the tree removal will require an EIA opinion/ determination as appropriate.

8. **Will the proposed work extend, buffer or connect high quality habitat on a non designated adjacent site(s)**
We will consider the conversion of other sites, which are neither formally designated nor classed as 'local sites'. There must be clear evidence that the fragmentation of the adjoining sites or lack of connectivity is having a detrimental impact on the wildlife interest within these sites, or is preventing colonisation of the important ground flora. There must be supporting evidence that clearly identifies the value and importance of the high quality habitat that is adjacent, and explains why it is necessary for the extension, buffering or connectivity to take place. This information should identify what is expected to be achieved on the site to be converted.
Conversion to Open Habitat is likely to be permitted but the conversion must be supported by the Natural England team leader or senior advisor in consultation with the relevant national specialist as and when necessary.
The tree removal will require a felling licence and the tree and scrub removal will require an EIA opinion/ determination as appropriate. Conversion to Open Habitat is likely to be permitted and compensatory tree planting may be required, depending on where the balancing mechanism sits.

9. **All other sites will require compensatory tree planting. This will be reviewed on an annual basis and will depend on the balancing mechanism associated with the current levels of woodland creation and open habitat restoration.**
If, following the flow process identified above, the site in question does not fall into any of the mentioned categories, then it currently falls below the threshold for conversion to open habitat. Generally **we will not permit the removal of woodland** from these sites, unless there is very strong evidence to suggest that it would be beneficial to do so. The conversion must be supported by the Natural England team leader or senior advisor in consultation with the relevant national

specialist as and when necessary. In this event compensatory tree planting **must be agreed** before approval can be given

5.0 Support Information Required

To assist in the assessment process the application must be supported by:

- A completed felling licence application FCE – Reg-01insert as an appendix(where appropriate);

The felling licence application should be supported by:

- FCE form – Reg-02 – Application to convert woodland to open habitat – **all applications whether they need a felling licence or not, should be supported by this document** insert as an appendix;
- A completed Environmental Impact Assessment (Opinion Request) form FCE – Reg-03 (where a felling licence application has not been submitted) insert as an appendix;
- Any other documentary evidence e.g. photographs, species data that supports the significant status of the site and/or identifies the adverse impacts that the woodland is having on the characteristics of the open habitat site.

Evidence as described on form Reg-02 must include details such as:

- Site size (to include area of woodland to be removed, area of existing open habitat, area of open habitat to be extended and size and cover of any remaining woodland);
- linkage or distance to existing sites;
- features of specific interest (habitats, species or geological) and how the proposal will improve the condition of these features;
- site designations;
- date and details of condition assessment
- evidence that the woodland to be removed is having a detrimental effect on the open habitat condition , its significant species (where the interest is an individual species or group, as opposed to the site itself) or prevents work necessary to restore the site and
- tree felling details (area, volume, species etc.).

6.0 Escalation in the event of dispute

Any dispute must be referred to the relevant area manager (team leader for NE, and Field Manager for FC), for all cases where a satisfactory position cannot be agreed among local staff. They will, with the assistance of national input if necessary, agree an acceptable solution.

7.0 Sources of further advice

For further information for FC staff, please contact Steve Hunt in the SFM team in National Office, or Neil Riddle from the National Expertise team. NE staff will contact the relevant national specialist and / or woodland specialist.

The Open Habitats Policy can be viewed here.

8.0 Versions

Version 1 issued xxxxxxxxxxx