

## **National legislation to which the management of the common must adhere.**

### **Wildlife and Countryside Act 1981 as amended by CROW Act 2000**

This Act refers to protected species: Great Crested Newts, Bats, Adders, Peregrine falcons, Dormice.

It is a criminal offence to wilfully or recklessly damage or kill the listed species. All of the species listed have been recorded on or near to the common.

The EU Habitats directive protects habitats for example a pond and its vicinity containing Great Crested Newts, and makes it criminal offence to deliberately or recklessly damage them.

### **Site of Special Scientific Interest (SSSI) designation**

A significant proportion of the Castlemorton Common is SSSI. Under the Wildlife And Countryside Act (WACA) 1981 it is a criminal offence to wilfully or recklessly damage a SSSI.

The Malvern Hills Conservators are a **CROW Act Section 28 G** Authority, which means:

(Planning and policy statement 9, Section 57) "the Wildlife and Countryside Act 1981, as amended, imposes an important general duty on a range of authorities [Section 28 G Authorities] exercising functions which are likely to affect SSSIs. This general and overarching duty requires an authority to take reasonable steps, consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the features for which the sites are of special interest. It applies whenever an authority is exercising its functions, including when it has the power to take action, and applies at every stage from the formulation of plans, to the carrying out operations and the making of decisions."

Under the **CROW Act 2000** there is a duty:

"to take reasonable steps, consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest."

Natural England has fairly strong powers of enforcement for the protection of SSSIs from financial penalties, to taking over the jurisdiction of a site and managing it, if they deem it necessary.

### **The Natural Environment and Rural Communities (NERC) Act 2006 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"*

**Common Land Law, Commons Act 2006 (S38) Law of property Act 1925 (S194)** (Section 194 of the law of property act has been repealed by S38 of the Commons Act). These govern the works on Common Land.

Certain Works on common land are considered illegal if carried out on a common without a licence from the Secretary of State (e.g. fencing, buildings, car parks etc.) to gain permission an authority must apply for a s38 consent. However the Malvern Hills Conservators have provision in their Acts to carry out works on the common such as temporary fencing and building car parks and therefore do not need consent under section 38.

### **The Ancient Monuments and Archaeological Areas Act 1979**

This Acts protects listed sites from the Criminal Offence of damaging the site. There are two listed features Midsummer Hill Camp and Shire Ditch both on the edge of the common.