

Briefing Paper: Homes Policy Development Group

Date of Meeting: 19 March 2024

Subject: The Biodiversity Duty

Responsible Officer(s): Jason Ball, Climate and Sustainability Specialist.
Richard Marsh, Director of Place and Economy.

1.0 Introduction.

1.1 The Council's statutory duty to conserve and enhance biodiversity (habitats and species) is set out by the Environment Act 2021 and the amended Natural Environment and Rural Communities Act 2006 (NERC Act). This is known as 'the biodiversity duty'. The Department for Environment, Food & Rural Affairs (Defra) has published [guidance](#) on purpose and compliance.

1.2 The first consideration of what action to take with regard to this duty was carried out by Cllr Natasha Bradshaw, Cabinet Member for Climate Change, and a [Biodiversity Duty report](#) submitted to [Cabinet](#). Cabinet Decision [published here online](#). The next step is to develop a policy framework and action plan, in consultation with committees and teams across the Council.

1.3 The Council must:

- Consider what it can do to conserve and enhance biodiversity.
- Agree policies and specific objectives based on its consideration.
- Act to deliver its policies and achieve its objectives.
- [Report on its biodiversity duty actions](#). (Defra has [guidance](#) on this.)

2.0 The approach to action and policy development.

2.1 The legislation's explanatory notes (Part 6, section 102) carry key points:

- a) A requirement for public authorities to assess how they can take action to conserve and enhance biodiversity, and then to take these actions (beyond simply discharging its duties as the Local Planning Authority).
- b) The aim is to provide for the enhancement or improvement of biodiversity, not just its maintenance in its current state.
- c) To comply, a public authority must periodically consider the opportunities available across the full range of its functions. This represents a

proactive, strategic assessment of a public authority's functions, rather than considering each function in isolation.

- d) The Council may decide there is no action it can reasonably take that is consistent with the proper exercise of its functions. For example, if particular action is not possible within budget constraints, not good value for money, or it conflicts with other priorities. However, if there is action it can take, then it must decide how that action can be put into effect, through appropriate policies and objectives.
- e) It is possible the duty can be satisfied by adjusting existing policies and objectives, rather than requiring public authorities to introduce new policies or undertake new projects.

2.2 Committee contributions to the Council's action planning.

2.2.1 Action and policy development will be split into two separate streams: either matters within the Council's statutory Planning Policy making process and the statutory powers as a Local Planning Authority (LPA) largely governed and prescribed by national policy and through the work of the Forward Planning and Development Management teams; or items outside those functions, such as land management and its wider corporate operations.

2.2.2 Responsibility to deliver on the general biodiversity duty is shared across all Council operations. As such, this matter will be raised on agendas for all Policy Development Groups (PDGs) and, where within the jurisdiction of the LPA, the Planning and Policy Advisory Group (PPAG) to request input to the policy framework and action plan.

2.2.3 Cabinet has delegated authority to the Cabinet Member for Climate Change, the Director of Place and the Climate and Sustainability Specialist to develop a policy framework and action plan in consultation with staff and Council bodies as above, with recommendations to be brought to Cabinet.

2.2.4 Cabinet seeks to consider initial recommendations by the end of this Administrative year cycle (April 2024) to enable a plan to be finalised.

2.3 Examples of actions and policy areas that could be taken forward by different committee remits are provided below. Details may be developed later but some initial feedback at this stage will help shape the action plan.

2.3.1 Economy PDG: promote sustainable local food systems; promote environmental land management grants and partnerships; promote local investment in urban green space, habitat carbon sequestration (carbon banking) and biodiversity net gain (biodiversity banking); recognise / monitor the economic benefits of e.g. natural flood management schemes; promote green business schemes and innovations; include habitat gains in

major regeneration bids; support ecology training for key trades e.g. roofers and retrofitters (opportunity to conserve and enhance biodiversity value of built assets in Mid Devon).

- 2.3.2 Homes PDG: tenant engagement projects to help celebrate and monitor biodiversity on Council owned land; build enhancement targets into estate and asset strategy e.g. roost bricks, mowing regimes; basic ecology awareness training for key staff e.g. garden wildlife, bats, nesting birds.
- 2.3.3 Community PDG: review strategic grants to include biodiversity benefits; promote and monitor the health and wellbeing benefits of community and nature engagement activities; consider the community / social benefits of nature-based solutions for climate change e.g. natural flood management schemes, urban tree cover.
- 2.3.4 Environment PDG: monitor the effects of conservation management and less mowing regimes in cemeteries and green spaces; review management plans to ensure gains; strengthen tree policy; devise a tree strategy; engagement projects to help celebrate and monitor biodiversity on Council owned land; build enhancement targets into estate and asset strategy.
- 2.3.5 PPAG, Forward Planning and Development Management: build on the Biodiversity Net Gain work so far e.g. local policy, promote biodiversity banking; build on the ecological elements of the climate emergency interim planning policy statement (resources and practice); measure impacts / celebrate success of the Ecology Service Level Agreement; reinforce policy and practice around delivering the NERC Act duty and new Environment Act obligations such as the Local Nature Recovery Strategy (LNRS) with service targets e.g. for number of non-BNG cases with gains conditioned, district tree cover, bat roost bricks installed in buildings, wildlife road crossings, dark zones, connectivity and areas permeable to wildlife movement.

Cabinet member notified: Yes.

Report: Exclusion of the press and public from this item of business on the published agenda on the grounds that it involves the likely disclosure of exempt information. No.

Contact Details and Background Papers

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Background papers: Biodiversity statutory duty [report](#) submitted to [Cabinet 09 January 2024](#).