



North Devon Council

Report Date: Monday, 13 May 2024

Topic: North Devon Council Biodiversity Duty and Actions

Report by: Mark Saunders, Sustainability Officer

1. INTRODUCTION

1.1. This report relates to the Council's Corporate and Planning roles and responsibilities under the Environment Act 2021 for protecting and enhancing biodiversity across the District, and covers how the Council will:

- Respond to the new corporate Biodiversity Duty imposed under the Environment Act 2021 requiring Local Planning Authorities to propose and report on actions for biodiversity within a Biodiversity Report.
- Deliver and monitor Biodiversity Net Gain (BNG) as a mandatory requirement of new development which came into force January 2024 and which must form part of the Biodiversity Report.

1.2. The Government published the 25 Year Environment Plan (25YEP) in 2018 signalling that they would strengthen the Biodiversity Duty and introduce a mandatory system for development of Biodiversity Net Gain (i.e. making sure that the habitats for wildlife associated with a development are on completion of that development in a better state than before the development took place).

1.3. The Environmental Improvement Plan (EIP23) published in January 2023, builds upon the foundation of the 25YEP and sets out government plans for significantly improving the natural environment by working with landowners, communities and businesses towards the joined vision:

- By the end of 2030, we will halt the decline in species abundance.
- By the end of 2042, we will increase species abundance so that it is greater than in 2022 and at least 10% greater than in 2030.
- By the end of 2042, we will restore or create in excess of 500,000 hectares of a range of wildlife-rich habitats outside protected sites, compared to 2022 levels.
- By the end of 2042, we will improve the GB Red List Index for species extinction compared to 2022 levels.

1.4. The Planning authorities considerations, actions and reporting on those actions are required by the Environment Act to be set out in a Biodiversity Report and the legislation and accompanying guidance sets out the timescale



and required content of the report which includes reporting on Biodiversity Net Gain.

1.5. Mandatory 10% Biodiversity net Gain (BNG) for all Major development came into force in January 2024. For the remaining non-exempt development mandatory 10% BNG will come into force in April 2024. Using the Council's 2018 adopted Local Plan Policy ST14: Enhancing Environmental Assets 'providing a net gain in northern Devon's biodiversity where possible, through positive management of an enhanced and expanded network of designated sites and green infrastructure, including retention and enhancement of critical environmental capital' and the National Planning Policy Framework (NPPF) paragraphs 174(d) and 179(b) the Council ensures all new development contributes towards biodiversity.

1.6. The Council has formally recognised the need for urgent action on Biodiversity through a declaration of a climate and biodiversity emergency and the adoption of the Carbon, Environment and Biodiversity Plan in October 2023.

1.7. The 2011 Natural Environment White Paper announced Defra's intention to trial an approach to biodiversity offsetting. A two-year national biodiversity offsetting pilot began in April 2012. Devon was one of six areas taking part in this pilot and Strategies were produced for South Devon and the North Devon Biosphere Reserve.

1.8. This report is intended to set out what the Council currently does to deliver biodiversity and how the Council will meet the new challenges posed by the Environment Act 2021. The Council will continue to build on its existing policies, partnerships and actions setting out a clear strategy that will maximise biodiversity within the resources and influence available to the Council.

2. RECOMMENDATIONS

2.1. That the requirements of the Biodiversity Duty be noted.

2.2. That the actions taken be noted.

2.3. That this report provides a basis for discussion for members on our way forward

3. REASONS FOR RECOMMENDATIONS

3.1. To enable members to ensure North Devon Council continues to enhance its biodiversity in line with The Environment Act 2021.

4. REPORT

4.1. The Environment Act 2021 amends section 40 of the Natural Environment and Rural Communities Act 2006 (NERC Act). The original duty was “so far as is consistent with the proper exercise of [the public authority’s] functions, to the purpose of conserving biodiversity” and this has been replaced by a more proactive duty (new section 40(1)) to “from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective”.

4.2. Public authorities must also under section 40A of the NERC Act evidence the action it takes by the publication of a Biodiversity Report which must also report on the outcomes of mandatory Biodiversity Net Gain.

4.3. This is a corporate responsibility that goes across all Council departments, actions and decision making. The Government guidance specifically requires Local Authorities to publish biodiversity reports which contain:

- a summary of action which the authority has taken over the period of the report
- a summary of the Authorities plans for the 5 years following the report
- quantitative data and any other information the authority considers is appropriate is include in the report”.

4.4. In complying with the biodiversity duty, all public authorities must agree policies and objectives they consider appropriate to comply with the biodiversity duty. In making the consideration and taking any subsequent action, public authorities must have regard to:

- any relevant local nature recovery strategy, and
- any relevant species conservation strategy or protected site strategy prepared by Natural England.

4.5. The Guidance on reporting your biodiversity duty actions stipulates that the end date of the first reporting period should be no later than 01 January 2026 which means that the first review or reporting period will be far less than the 3 years maximum allowable. This report will form a record of actions, plans and strategies taken to date in order to inform the first Biodiversity Report.

Current policies and actions

4.6. The Council has declared a Climate and Biodiversity emergency and has taken decisive action by being an early adopter of Biodiversity Net Gain in 2013. In line with the declaration, the Council engages in projects and takes



initiatives to protect our most important sites, inclusive of but not limited to significant parks, woodlands and nature reserves, which improve all habitats for wildlife across the District and build in resilience to climate change.

4.7. The Council has a series of policies in the adopted Joint North Devon and Torridge Local Plan 2018 for biodiversity, habitats and ecological management:

- Policy ST02: Mitigating Climate Change
- Policy ST03: Adapting to Climate Change and Strengthening Resilience
- Policy ST14: Enhancing Environmental Assets
- Policy ST23: Infrastructure
- Policy DM02: Environmental Protection
- Policy DM08: Biodiversity and Geodiversity
- Policy DM09: Safeguarding Green Infrastructure
- Policy DM10: Green Infrastructure Provision

4.8. The Council collaborates with all Devon Authorities on the Devon County Council hosted BNG guidance which contains planning guidance, validation statements, offsite habitat bank criteria, monitoring fees and draft s106 agreements.

4.9. The Council also participates in the Devon Local Nature Partnership in developing the emerging the Local Nature Recovery Strategy due for publication in March 2025 and the Devon Nature Recovery Network (NRN) Map

4.10. The Council has been involved in a number of key longstanding partnerships that support biodiversity:

- [North Devon Biosphere Reserve Partnership](#)
- [North Devon Coast National Landscape](#)
- [Devon Local Nature Partnership](#)
- [North Devon Biosphere Nature Recovery Plan](#)
- [Devon Wildlife Trust](#)
- [Devon Biodiversity Records Centre](#)

Work to develop the first Biodiversity Report

4.11. Whilst the Council is proud of its work and achievements for biodiversity it views the production of the Biodiversity Report as an opportunity to undertake a review of what it currently does and to consider how it might improve outcomes for biodiversity.

- 4.12. Planning and the Estates team play a key role in the protection and improvements to biodiversity across the District but through reporting on its biodiversity duty the Council will raise awareness of biodiversity across the whole organisation.
- 4.13. Set out below are the actions the Council will take in order to inform the first Biodiversity Report:
- The Council will continue to apply Local Plan environmental policies to planning applications and will continue to review and update guidance and practice to inform the emerging Local Plan.
 - The Council will review and report on BNG achieved since 2019 both on and off site and monitor mandatory BNG as it develops.
 - The Council will consider opportunities to identify and develop sites for the provision of offsite BNG on council owned and third party land.
 - The Council will work with DCC and landowners to secure the provision of offsite BNG through appropriate legal agreements.
 - The Council will continue to support and work with relevant partnerships to deliver wildlife conservation activities, environmental education, landowner advice, community engagement and conservation volunteering.
 - Through internal discussions the Council will review procedures and practices across the Council to ensure that any reasonable opportunities to protect and enhance biodiversity are identified and actioned.
 - The Council will engage with key stakeholders to review current partnership working on biodiversity and look to new opportunities to improve outcomes for biodiversity.
- 4.14. One of the main elements of the Council's biodiversity duty is delivering Biodiversity Net Gain (BNG) through new development. The Council also has a role as landowner because it has land that could potentially receive and benefit from BNG delivered away from a development site. If the Council doesn't offer sites, then other landowners, perhaps in other Districts will.
- 4.15. An assessment of the need and supply generated by future development would be difficult to quantify. However, the Council will continue to explore opportunities to deliver habitat improvements on its own Estate in order to benefit from offsite BNG contributions and deliver added value to communities and wildlife.

4.16. The Council has continued to work on developing internal skills, providing formal and informal training and knowledge sharing across departments:

- Building with Nature Approved Assessor accreditation
- Devon County Council BNG Training for Development Management Officers
- Devon County Council BNG Presentation to all Councillors
- Planning Agents Forum BNG soft launch for agents
- Strategy and Resources presentation
- Freeths Legal BNG training for NDC/TDC/ENPA Planning and Legal Officers
- BNG Metric training for Development Management Officers and Validation teams
- BNG Development Management Process Mapping
- BNG Legal requirements for Habitat Banks and developer owned sites
- Discussion with Mastergov DEF regarding BNG functionality and future monitoring module
- BNG Monitoring and Enforcement with Development Management Officers
- BNG Monitoring discussions with third party software solutions e.g. Verna, AiDash, Joesblooms, Map Info
- Collaboratively funded Strategic BNG officer co-ordinating the Devon Local Authority BNG Steering Group
- Successfully secured DLUHC funding for use of specialist BNG monitoring software

4.17. The Council has continued to participate in and contribute to strategic partnership meetings to develop strategies and local actions:

- Devon Local Nature Partnership Working Group
- Devon Nature Recovery Network Mapping Steering Group
- Local Nature Recovery Strategy Warm-up Webinar - Nov 11th 2022
- Local Nature Recovery Strategy Conference - June 13th 2023
- Pledge for Nature Steering Committee
- Devon Landscape Policy Group
- Publication of Trees for Devon: Devon's Tree and Woodland Strategy Jan 2024
- Nature Improvement Working Group – Nature Recovery Plan progress
- Nature Recover Plan - Towns and Villages Action Plan
- Devon Local Nature Recovery Strategy: Marine Webinar Nov 31st 2023
- North Devon and Torridge Landscape Character Assessment update - Stakeholder Workshops Nov 30th 2022

- 4.18. The Council continues to co-ordinate and contribute to habitat and wildlife enhancement projects:
- Yeo Valley woodland creation with 24,000 new trees
 - Braunton Burrows SAC Mitigation Strategy and Access Management Plan
 - RSPB/NT/NE Recreational Disturbance Conference - February 21st 2023
 - Dynamic Dunescapes Project Conference - March 14th 2023
 - NDC/TDC Taw-Torridge Estuary SSSI winter roost signage and marine users guidance
- 4.19. The Council continues to explore opportunities to delivery habitat enhancement on its own Estate and liaise with local land owners and facilitators:
- Discussions with the Biosphere Reserve to utilise the Natural Capital Marketplace
 - Site visits to explore opportunities to develop pilot BNG sites at Hillsborough and Brynsworthy
 - Discussions with the National Trust regarding securing BNG on local estates
 - Discussions with Environment Bank on potential Habitat Bank models
 - Discussions with Biogains regarding Council Estate habitat condition assessments and Habitat Bank models
 - Discussions and site visits with Oxygen Conservation at Mornacott Estate to create a significant Habitat Bank

Monitoring

- 4.20. As part of the actions noted above the Council will consider how both existing and any new actions will be monitored.
- 4.21. BNG as part of planning has its own monitoring requirements set out in legislation and guidance which the Council will follow. In addition the Council publishes an Annual Monitoring Report (AMR) for the Local Plan policies. The relevant content of these reports will form part of the Biodiversity Report.
- 4.22. Most partnerships that form part of the Councils commitment to biodiversity already have reporting requirements which can be captured for the Biodiversity Report.
- 4.23. In devising monitoring proposals the Council will have to be mindful of the resources available and will seek to avoid duplicating work done elsewhere so that where monitoring is already being done this will be



incorporated into the Biodiversity Report ahead of publication on the Council's web site.

Next steps

- 4.24. The Council will undertake discussions across the different departments seeking to improve understanding of and response to biodiversity.
- 4.25. Consult with key stakeholders to seek views on the work the Council currently does for biodiversity and how that might be improved in the future.
- 4.26. The results of these discussions and any new proposals will be reported to and discussed with members through the committee procedure for Cabinet reports to agree and finalise the first Biodiversity Report in 2026.

5. RESOURCE IMPLICATIONS

- 5.1. All work described in this report has been funded by using existing base budgets and Defra funding aimed at helping local planning authorities (LPAs) in England implement mandatory BNG in the planning system. Funding of £26,807 per annum has been secured for 22/23 and 23/24. Defra have recently confirmed that the same amount will be available covering 24/25.

6. EQUALITIES ASSESSMENT

- 6.1. There are no equalities implications anticipated as a result of this report.

7. ENVIRONMENTAL ASSESSMENT

- 7.1. This report is neutral with respect to the environment, but it does provide the baseline data on which to act and report.

8. CORPORATE PRIORITIES

- 8.1. What impact, positive or negative, does the subject of this report have on:
 - 8.1.1. The commercialisation agenda: n/a
 - 8.1.2. Improving customer focus and/or: n/a
 - 8.1.3. Regeneration or economic development: n/a
 - 8.1.4. Climate & Environment: Positive - This report demonstrates actions to date and those planned for the future that support the council's commitment to protecting and enhancing the environment.



9. CONSTITUTIONAL CONTEXT

The decision in respect of the recommendations in this report can be made by this Committee pursuant to delegated powers provided in Part 3 Annex 1 paragraph 1.

10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

11. BACKGROUND PAPERS

12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers:Mark Saunders, Sustainability Officer

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