

6 February 2023

Report of	Shelley Blackaby, Place and Client Services	☎ 07977 184926
Title	Biodiversity Supplementary Planning Document	
Wards affected	All wards affected	

## 1. Executive Summary

- 1.1 The Planning Policy Team are preparing three Supplementary Planning Documents (SPDs) to address the climate emergency. These SPDs are: Active Travel, Biodiversity and Climate Change. The Active Travel and Climate Change SPDs will be presented to a future Local Plan Committee (LPC) meeting. This report presents the draft Biodiversity SPD and the Committee are asked to approve publishing this draft for public consultation.
- 1.2 The Biodiversity SPD aims to clearly set out the principles the Council expects to ensure that development proposals create space for nature. The SPD includes advice on protected species as a check of what information is likely to be required, with links to guidance and Natural England's standing advice. It explains the mitigation hierarchy and includes creating space for nature design principles. These are principles the Council expects applicants to incorporate into their proposals to enhance biodiversity. Advice for householder applications on measures householders can incorporate into their proposals to enhance biodiversity is also included.

## 2. Recommended Decision

- 2.1 It is recommended that the LPC approve publishing the draft Biodiversity SPD for public consultation in accordance with the Planning Regulations and Statement of Community Involvement.
- 2.2 It is recommended that minor changes to the draft Biodiversity SPD can be approved by the Lead Officer for Housing and Planning and Chair of the LPC prior to the consultation commencing.

## 3. Reason for Recommended Decision

- 3.1 The Council has declared a climate emergency and the climate emergency SPDs provide guidance to supplement relevant policies in the Local Plan and encourage applicants to go further than Local Plan requirements.

## 4. Alternative Options

- 4.1 The alternative option is to not produce a Biodiversity SPD and rely on Local Plan policies.

## 5. Background Information

- 5.1 Supplementary planning documents (SPDs) build upon and provide more detailed advice or guidance on policies in an adopted local plan. As they do not form part of the development plan, they cannot introduce new planning policies. They are a material consideration in decision-making and should not add unnecessarily to the financial burdens on development.
- 5.2 The Council is drafting three SPDs to communicate Colchester City Council's ambitions in respect of the climate emergency for all development within the city. The three climate emergency SPDs build on the adopted Local Plan and explain how development proposals should respond to the climate and ecological emergency. The SPDs are: Active Travel, Biodiversity, and Climate Change. All development proposals should strive to achieve ambitious carbon reductions, biodiversity enhancement and promotion of active travel to contribute towards Colchester becoming a greener city that is resilient to the climate and ecological emergency. The Active Travel and Climate Change SPDs are still being drafted and will be presented to a future LPC meeting.
- 5.3 The most relevant Local Plan policy to the Biodiversity SPD is Policy ENV1 (Environment). This is a lengthy policy with different sections. The most relevant part to this SPD is Part C: Biodiversity and geodiversity, which states:

*Development proposals where the principal objective is to conserve or enhance biodiversity and geodiversity interests will be supported in principle. For all proposals, development will only be supported where it:*

- (i) Is supported with appropriate ecological surveys where necessary; and*
- (ii) Where there is reason to suspect the presence of a protected species (and impact to), or Species/Habitats of Principal Importance, applications should be accompanied by an ecological survey assessing their presence and, if present, the proposal must be sensitive to, and make provision for their needs and demonstrate the mitigation hierarchy has been followed; and*
- (iii) Will conserve or enhance the biodiversity value of greenfield and brownfield sites and minimise fragmentation of habitats; and*
- (iv) Maximises opportunities for the preservation, restoration, enhancement and connection of natural habitats in accordance with the UK and Essex Biodiversity Action Plans or future replacements; and*
- (v) Incorporates beneficial biodiversity conservation features, measurable biodiversity net gain of at least 10% in line with the principles outlined in the Natural England Biodiversity Metric, and habitat creation where appropriate.*

*Proposals for development that would cause significant direct or indirect adverse harm to nationally designated sites or other designated areas, protected species, Habitats and Species of Principle Importance, will not be permitted unless:*

- (i) They cannot be located on alternative sites that would cause less harm; and*
- (ii) The benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats; and*
- (iii) Satisfactory biodiversity net gain, mitigation, or as a last resort, compensation measures are provided.*

*The Local Planning Authority will take a precautionary approach where insufficient information is provided about avoidance, mitigation and compensation measures and secure mitigation and compensation through planning conditions/obligations where necessary.*

- 5.4 Biodiversity protection and provision is a duty that public bodies, developers, landowners and society generally all share. Biodiversity is an important consideration in plan making and decision making. The Biodiversity SPD aims to clearly set out the protection that should be afforded to biodiversity features and the principles the Council expects to ensure that development proposals create space for nature.
- 5.5 Chapter 2 of the SPD sets out the background and context and chapter 3 sets out the Colchester context, including maps of Colchester's environmental designations.
- 5.6 Chapter 4 includes advice on protected species as a check of what information is likely to be required in support of an application, with links to guidance including Natural England's standing advice.
- 5.7 Chapter 5 explains the mitigation hierarchy. The mitigation hierarchy is a widely used tool that guides users towards limiting harm to features of biodiversity value through avoiding harm, minimising and mitigating harm and, as a last resort, compensating or offsetting harm.
- 5.8 Chapter 6 includes 15 creating space for nature design principles. These are principles the Council expects applicants to incorporate into their proposals to enhance biodiversity. Each principle includes a description of why it is important and core requirements. Examples of creating space for nature design principles include:
- contribute to Colchester's green infrastructure network;
  - plant new trees across the development site, including street trees;
  - fit integral swift bricks and house martin nest boxes in all new development;
  - fit integral bat boxes in appropriate locations in all new development;
  - create wildlife highways in boundary walls and fences.
- 5.9 Chapter 7 includes a list of examples of ways householder applications can enhance biodiversity. Even small-scale development can enhance biodiversity.
- 5.10 Chapter 8 lists planning application expectations – what the Council will expect applicants to submit with an application. This includes independent ecological surveys carried out by suitably qualified experts, the latest Defra Metric calculator and biodiversity gain plan to demonstrate how 10% biodiversity net gain will be achieved and details of how the creating space for nature design principles have been incorporated into the design of the proposal. This chapter makes reference to a Climate Emergency Checklist. This will be developed as the Biodiversity, Active Travel and Climate Change SPDs progress to pull together the content of each SPD into one simple checklist.
- 5.11 The Biodiversity SPD is intended to be concise and includes references and links to numerous other documents that Officers and applicants should read where appropriate. A separate guidance note will be prepared on biodiversity net gain which is a requirement of the Environment Act. At the time of drafting this SPD, secondary legislation and guidance is being prepared.
- 5.12 The Biodiversity SPD has been designed by the Council's Corporate and Improvement Service. The design is intended to make the SPD user friendly and easier to read. It is intended that the Active Travel SPD and Climate Change SPD will also follow this design.
- 5.13 Strategic Environmental Assessment (SEA) screening has been carried out, which has concluded that SEA is not required.

## Engagement

5.14 As part of the process of drafting this SPD, Policy Officers engaged with DM Officers, the cross-service Climate Opportunities Working Group, Members and environmental experts. In November 2022, all Members were invited to give thoughts and ideas for matters which they wish to see addressed in the climate emergency SPDs. The key points raised in relation to the Biodiversity SPD were:

- Wildlife corridors to be identified where gaps are and in planning green space and landscaping etc in developments.
- Green infrastructure role in biodiversity net gain (BNG) and identify gaps to provide connections and channel S106 funds etc where appropriate.
- Encourage / require hedges as boundaries between properties in some areas rather than hard landscaping and fences.
- Identify a network of greenspaces in CCC ownership where we can direct opportunities for BNG where BNG cannot be met on site. Create wildlife corridors and use hedges etc where appropriate to make connections.
- Utilise linkages with Design Code work for BNG opportunities.
- Encourage Bath / Shower water diversion to water butts etc.
- All houses should have water butts.
- Street trees – encourage / require more- role in BNG as well as placemaking.

These ideas have largely been incorporated into the SPD. The comments about BNG are being considered separately and the ideas about water efficiency will be included in the Climate Change SPD.

5.15 In October 2022, a questionnaire was sent to Colchester Natural History Society, the Environment Agency, Essex Wildlife Trust, Natural England and the RSPB to ask for their initial comments and ideas on the scope of the Biodiversity SPD. This engagement has been invaluable in shaping the draft Biodiversity SPD and ensuring that the scope and content is influenced by those with excellent knowledge of the natural environment. Some of the ideas raised included:

- Numerous ideas and principles to include in the SPD.
- The Council should have a green infrastructure plan, which acknowledges the current crisis of biodiversity loss.
- The SPD should include: the biodiversity resource in the borough; key legislation for ecology and biodiversity; national planning policy framework and guidance; local planning policies and local biodiversity strategies; the mitigation hierarchy; biodiversity net gain; Habitats Regulations Assessment; local biodiversity issues; integrating biodiversity into development; step by step guidance for developers.
- Support the emphasis on the mitigation strategy of the National Planning Policy Framework, particularly avoidance, which applicants should be encouraged to look at an early stage of their plans.

Officers thank the organisations that responded to this questionnaire and hope these organisations will submit comments to the draft SPD consultation about anything that is missing from the draft SPD and anything that should be expanded upon in the SPD.

## **6. Equality, Diversity and Human Rights implications**

- 6.1 An Equality Impact Assessment has been prepared for the Local Plan, and is available to view by clicking on this link:

<https://cbccrmdata.blob.core.windows.net/noteattachment/Equality%20Impact%20Assessment%20June%202017.pdf>

## **7. Strategic Plan References**

- 7.1 'Conserve and enhance biodiversity' is one of the priorities under the 'Tackling the climate challenge and leading sustainability' theme. Relevant goals include enhance environments to create more space for nature to grow and thrive through natural seeding and greening; discover, nurture and enable the work led by communities that promotes biodiversity; plant native species and manage our woodlands, meadows and greenspace whilst sustaining existing habitats; and work alongside communities to maintain clean, green neighbourhoods and urban spaces that we all look after and enjoy.

## **8. Consultation**

- 8.1 It is a requirement of The Town and Country Planning (Local Planning) (England) Regulations 2012 to consult on draft SPDs for a minimum of 4 weeks and to prepare a statement setting out who was consulted, a summary of the main issues raised and how those issues have been addressed in the SPD.

## **9. Publicity Considerations**

- 9.1 The SPD consultation will be publicised through written / email consultations with statutory consultees, general consultees on our database, other relevant stakeholders, individuals and organisations who have expressed a wish to be consulted or have previously made comments as set out in the Statement of Community Involvement.

## **10. Financial implications**

- 10.1 There are no financial implications.

## **11. Health, Wellbeing and Community Safety Implications**

- 11.1 The three climate emergency SPDs will bring multiple benefits including benefits to health and wellbeing. A healthy environment plays a role in improving health and wellbeing. An increase in biodiversity and green infrastructure is good for people's mental wellbeing.

## **12. Health and Safety Implications**

- 12.1 No direct implications.

## **13. Risk Management Implications**

- 13.1 No direct implications.

## **14. Environmental and Sustainability Implications**

- 14.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.
- 14.2 The Council is drafting three SPDs to communicate Colchester City Council's ambitions in respect of the climate emergency for all development within the city. SPDs are material considerations in planning decisions. They build on adopted planning policy and provide guidance on how policy requirements should be implemented. The three climate emergency SPDs build on the adopted Local Plan and explain how development proposals should respond to the climate and ecological emergency. The SPDs are: Active Travel, Biodiversity, and Climate Change. All development proposals should strive to achieve ambitious carbon reductions, biodiversity enhancement and promotion of active travel to contribute towards Colchester becoming a greener city that is resilient to the climate and ecological emergency.

## **Appendices**

### Draft Biodiversity SPD