

12 June 2023

Report of Shelley-Blackaby
Principal Planning Policy Officer
(Environment), Place and Client Services

07977 184926

Title Biodiversity Supplementary Planning Document

Wards affected All

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.
- 1.2 The draft Active Travel and Climate Change SPDs will be presented to a future Local Plan Committee (LPC) meeting. This report summarises the comments received following consultation on the draft Biodiversity SPD and contains the amended SPD. The Committee are asked to adopt the Biodiversity SPD.
- 1.3 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 adopt the Biodiversity SPD.

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 adopt 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 and how they will apply to 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 draft Active Travel and Climate Change SPDs 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 ecological surveys and 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 16 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 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. Officers are working with other Essex Councils through the Essex Planning Officers Association (EPOA) on a template Biodiversity Net Gain SPD. The working group includes planners, Essex County Council Green Infrastructure Officers, the Local Nature Partnership and Natural England. Once drafted, the Essex Biodiversity Net Gain SPD template will be presented to this Committee.
- 5.12 Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment (HRA) screening has been carried out, which has concluded that neither SEA nor HRA are required. Natural England agrees with this conclusion.

Engagement and Consultation

- 5.13 Engagement with DM Officers, the cross-service Climate Opportunities Working Group, Members and environmental experts took place as part of the process of drafting this SPD. In accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012, the draft Biodiversity SPD was published for a 4 week public consultation. Appended to this report is a statement setting out who was consulted, a summary of the main issues raised and how those issues have been addressed in the SPD.
- 5.14 The key changes made to the draft Biodiversity SPD include:
- Additions to chapter 4 to include reference to other ecological surveys that may be required and to make reference to the Essex Biodiversity Validation Checklist. The title of this chapter has been amended to refer to 'ecological surveys' rather than just protected species.
 - Reference to a list of locally significant species that will be prepared by Colchester Natural History Society and published on the Council's website, alongside this SPD.
 - Further text about the mitigation hierarchy has been added.
 - Information about irreplaceable habitats has been added.
 - More information has been added to the design principles, including widening the avoiding artificial grass principle to include reference to flowering lawns.
 - A requirement for a Construction Environment Management Plan.
 - Additions to the further reading and references section.

Some comments have been made to Policy ENV1 (this was also the case as part of the informal engagement). Policy ENV1 is part of the adopted Local Plan and cannot be amended, however the comments will be taken into account as part of the Local Plan Review.

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 'Respond to the climate emergency' 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. This statement is appended to this report.

9. Publicity Considerations

- 9.1 The SPD consultation was 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

Biodiversity SPD

Statement of Representations