

**Maldon District Council**

**BIODIVERSITY REPORT - First consideration**

**Version 1 – 27<sup>th</sup> March 2024**

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# The Biodiversity Duty

## 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:
  - i. Respond to the new corporate Biodiversity Duty imposed on Local Planning Authorities under the Environment Act 2021 requiring Local Planning Authorities to propose and report on actions for biodiversity within a Biodiversity Report.
  - ii. Deliver and monitor Biodiversity Net Gain (BNG) as a mandatory requirement of new development which comes into force in 2024 and which must form part of the Biodiversity Report.
- 1.2. The Environment Act 2021 received Royal Assent on 9 November 2021 and amended section 40 of the Natural Environment and Rural Communities Act 2006 (duty to conserve biodiversity) so that there is now a general biodiversity objective which is the "conservation and enhancement of biodiversity". To comply with the duty Planning Authorities must consider what action the authority can take "to further the general biodiversity objective".
- 1.3. The Planning Authority's 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.
- 1.4. The Government advised that 10% Biodiversity net Gain (BNG) would become mandatory for all major development in early 2024, and only applies to major development with BNG and for most other relevant development coming into force in Spring 2024.
- 1.5. The Local Development Plan policy N2 (Natural Environment, Geodiversity and Biodiversity) required that all development should seek to deliver net biodiversity gain where possible. The Local Development Plan review will carry forward the national requirement for 10% Biodiversity Net Gain (BNG).
- 1.6. The Council has for many years, through successive Local Plans, identified and designated a range of Local Wildlife Sites (LoWS) to be protected for their wildlife interest and seeks to ensure their continued protection and enhancement through policies and actions.
- 1.7. This report is intended to set out what the Council currently does to deliver biodiversity and to set out how the Council will meet the new challenges posed by the Environment Act 2021 in respect of biodiversity building on its existing policies, partnerships and actions setting out a clear strategy for going forward that will maximise the benefits for biodiversity within the resources and influence available to the Council.]

## The Biodiversity Report

- 1.8. The Environment Act 2021 amends the Natural Environment and Rural Communities Act 2006 (NERC Act).by introducing (section 40(1)) a proactive duty 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”.
- 1.9. 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.
- 1.10. This is a corporate responsibility that goes across all Council departments, actions and decision making. The Government guidance (Reporting your biodiversity duty actions) 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 included in the report”.
- 1.11 The Environmental Act 2021, section 102 to 103 and its associated guidance (Reporting your biodiversity duty actions) stipulates publication and frequency dates as follows:
- the first report must cover no longer than 3 years, subsequent reports must cover no longer than 5 years and run consecutively
  - the report must be published within 12 weeks of the last day of the report
- 1.12 The Government guidance (Complying with the biodiversity duty) summarises what, under the legislation, public authorities must do:
- “Consider what you can do to conserve and enhance biodiversity.
  - Agree policies and specific objectives based on your consideration.
  - Act to deliver your policies and achieve your objectives”.
- 1.13 The report has three compulsory sections which are described in the Government guidance as follows:

“Section 1: Your policies, objectives and actions

You must include this information in your report.

Explain:

- the policies and objectives you have set to meet your biodiversity duty;
- the actions you’ve completed, either alone or in partnership with others, that benefit biodiversity.

Section 2: How you have considered other strategies

You must include this information in your report.

Explain how you’ve taken into account:

- Local Nature Recovery Strategies
- protected site strategies
- species conservation strategies

For example, include information about how:

- you’ve advised or worked in a Local Nature Recovery Strategy (LNRS)

- partnership in your area
- these strategies influenced your policies, objectives or actions

#### Section 3: Your future actions

You must include this information in your report.

- Explain how your organisation plans to fulfil your biodiversity duty over the 5 years following the end of this reporting period.

You can report your plans for future actions in each section of your report alongside the ones you've achieved".

1.14 In addition the guidance also refers to the following optional content:

Section 4: Information about your authority

Section 5: Your top achievements

Section 6: How your policies and actions have helped

Section 7: How you've raised awareness and educated the community

Section 8: Monitoring and evaluating your actions

Section 9: Biodiversity highlights and challenges

1.15 Whilst the first Biodiversity Report must be reviewed within three years and subsequent reports every five years there is a requirement for a first report that sets out the Council's first consideration of what action to take for biodiversity to be published by 01 January 2024 and "agree your policies and objectives as soon as possible after this". This report is then the Council's first consideration.

1.16 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.

## First consideration

2.1 There is no guidance on what should be in a first consideration report and so the Council is using this opportunity to set out how it will:

- Review what the Council already does for biodiversity.
- Undertake internal discussions across all departments to develop policies and actions that will improve outcomes for biodiversity.
- Monitor progress and effectiveness on agreed policies and actions.

2.2 The Council is proposing the following route and timetable to the production, adoption and review of the Biodiversity Report noting the requirement that the end date of the first reporting period should be no later than 01 January 2026 and thereafter every 5 years.

## Report Stage Target date for

Draft publication	Reporting period end date	Target date for Draft Publication	Sign off approval procedure	Target date for publication
First report	1 January 2026	September 2025	Strategy & Resources Committee	December 2025
Second report	1 January 2031	September 2030	Strategy & Resources Committee	December 2030
Third report	1 January 2036	September 2035	Strategy & Resources Committee	December 2035

## Current policies and actions

2.3 The Council has a series of policies in the adopted and emerging Local Plans for biodiversity, habitats and ecological management. Current policies are set out below noting that when the LDP Review is adopted, the 2017 LDP will be superseded:

- S1 Sustainable Development
- S3 Place Shaping
- S8 Settlement Boundaries and the Countryside
- D1 Design Quality and the Built Environment
- D2 Climate Change and environmental Impact of New Development
- N1 Green Infrastructure Network
- N2 Natural Environment, Geodiversity and Biodiversity

2.4 In addition the made/emerging Neighbourhood Plans all have a strong environmental focus and contain policies that protect and encourage improvements to nature and wildlife within the Plan's area.

2.5 The Council's planning work is supported by the following assessments and Supplementary Planning Documents (SPD):

- Maldon District Nature Conservation Study 2007, and its review 2023
- Maldon Landscape Character Assessment 2006
- Strategic Environmental Assessment (LDP 2017 and site specific)
- Habitats Regulations Assessment (LDP 2017 and site specific)
- Green Infrastructure Strategy SPD 2019
- Essex Coast Recreation, disturbance, Avoidance Mitigation Strategy (RAMS) SPD 2020

2.6 The Council has been involved in key partnerships that support biodiversity:

- Essex Coast Recreation, disturbance, Avoidance Mitigation Strategy (RAMS) partnership
- Essex Local Nature Partnership
- Blackwater Partnership

- Essex Planning Officers Association
- LNRS working group- probably same as Essex County Council (ECC) Nature Partnership
- Essex Coastal Forum
- North Essex Farm Cluster
- Essex Wildlife Trust
- National Trust Project Seagrass

### Work to develop the first Biodiversity Report

2.7 Set out below are the actions the Council will take to inform the first Biodiversity Report:

- The Council will continue to apply the environmental policies to planning applications and will continue to review and update guidance and practice to improve outcomes.
- The Council will monitor mandatory BNG as it develops.
- The Council will continue to support and work with the relevant partners to deliver wildlife conservation activities and environmental improvements.
- 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 working on biodiversity and look to new opportunities to improve outcomes for biodiversity including but not exclusively working with Project Seagrass to host a small-scale Sea Grass trial in St Lawrence Bay. Collaboration with Essex Forest Initiative to submit a funding bid application to Coronation Living Heritage Fund to support the establishment of the community orchard at Washington Close and at other sites across the District.

### Monitoring

2.8 As part of the actions noted above, the Council will consider how both existing and any new actions will be monitored.

2.9 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.

2.10 Most partnerships that form part of the Council's commitment to biodiversity already have reporting requirements which can be captured for the Biodiversity Report.

2.11 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 website.

### Next steps

2.12 The Council will undertake discussions across the different departments of the Council seeking to improve understanding of and response to biodiversity.

- 2.13 The results of these discussions and any new proposals will be reported to and discussed with members through the Strategy and Resources Committee to agree and finalise the first Biodiversity Report.

## Appendix

### National policies

Environmental Improvement Plan 2023 (Defra)

<https://www.gov.uk/government/publications/environmental-improvement-plan>

Environment Act 2021 – Part 6: Nature and biodiversity

<https://www.legislation.gov.uk/ukpga/2021/30/part/6>

National Planning Policy Framework (NPPF) 2023 paragraphs 180 to 194

<https://www.gov.uk/guidance/national-planning-policy-framework>

Nature Recovery Network <https://www.gov.uk/government/publications/nature-recovery-network/nature-recovery-network>

Guidance on Compliance with Biodiversity Duty <https://www.gov.uk/guidance/complying-with-the-biodiversity-duty>

Local Nature Recovery Strategies <https://www.gov.uk/guidance/complying-with-the-biodiversity-duty#local-nature-recovery-strategies>

Species Conservation Strategies (Pending) <https://www.gov.uk/guidance/complying-with-the-biodiversity-duty#species-conservation-strategies>

Protected Site Strategies (Pending) <https://www.gov.uk/guidance/complying-with-the-biodiversity-duty#species-conservation-strategies>

Guidance on Reporting Biodiversity Duty <https://www.gov.uk/guidance/reporting-your-biodiversity-duty-actions>

Green Infrastructure Planning and Design Guide 2023 by Natural England

<https://designatedsites.naturalengland.org.uk/GreenInfrastructure/downloads/Design%20Guide%20-%20Green%20Infrastructure%20Framework.pdf>

### Regional policies

Essex Local Nature Recovery Strategy (LNRS) (not yet published, will be consulted on in 2024)

Essex Coast RAMS

[https://www.maldon.gov.uk/info/20045/planning\\_and\\_building\\_control/9825/section\\_106\\_agreements\\_for\\_rams](https://www.maldon.gov.uk/info/20045/planning_and_building_control/9825/section_106_agreements_for_rams)

### Local Policies

Maldon District Local Development Plan 2017

[https://www.maldon.gov.uk/info/7050/planning\\_policy/9712/approved\\_local\\_development\\_plan\\_2\\_1\\_july\\_2017](https://www.maldon.gov.uk/info/7050/planning_policy/9712/approved_local_development_plan_2_1_july_2017)

Green Infrastructure Strategy SPD

[https://www.maldon.gov.uk/info/7050/planning\\_policy/9729/maldon\\_district\\_green\\_infrastructure\\_strategy\\_spd](https://www.maldon.gov.uk/info/7050/planning_policy/9729/maldon_district_green_infrastructure_strategy_spd)

Government Guidance

**Main Biodiversity Guidance collection** <https://www.gov.uk/government/collections/biodiversity-net-gain>

Understanding biodiversity net gain <https://www.gov.uk/guidance/understanding-biodiversity-net-gain>

Sell biodiversity units as a land manager guidance <https://www.gov.uk/guidance/sell-biodiversity-units-as-a-land-manager>

What you can count towards a development's biodiversity net gain (BNG) guidance <https://www.gov.uk/guidance/what-you-can-count-towards-a-developments-biodiversity-net-gain-bng>

Draft biodiversity net gain planning practice guidance <https://www.gov.uk/guidance/draft-biodiversity-net-gain-planning-practice-guidance>

### **Compliance and Reporting Biodiversity Duty Guidance**

Complying with the biodiversity duty guidance <https://www.gov.uk/guidance/complying-with-the-biodiversity-duty>

Reporting your biodiversity duty actions guidance <https://www.gov.uk/guidance/reporting-your-biodiversity-duty-actions>

### **Statutory guidance**

The Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 <https://www.legislation.gov.uk/ukxi/2024/50/contents/made>

The Biodiversity Gain Requirements (Exemptions) Regulations 2024 <https://www.legislation.gov.uk/ukxi/2024/50/contents/made>