



CABINET – 17 DECEMBER 2024

BIODIVERSITY DUTY PLAN

REPORT OF THE DIRECTOR OF ENVIRONMENT AND TRANSPORT

PART A

Purpose of the Report

1. The purpose of the report is to present to the Cabinet the new Biodiversity Duty Plan for approval and publication. A copy of the Biodiversity Duty Plan is appended to this report.

Recommendations

2. It is recommended that the Cabinet:
 - a) Approves the Biodiversity Duty Plan;
 - b) Authorises the Director of Environment and Transport to approve minor amendments to the Biodiversity Duty Plan as part of the annual refresh of the Plan.

Reasons for Recommendation

3. As part of the Environment Act 2021, the Government introduced the 'strengthened biodiversity duty'. The Act requires public authorities, which operate in England, to consider what they can do to 'conserve and enhance' biodiversity in England, and to produce a Biodiversity Duty Plan that sets out what they will do to meet the duty. The Biodiversity Duty Plan appended to this report fulfils this requirement.

Timetable for Decisions (including Scrutiny)

4. The Environment and Climate Change Overview and Scrutiny Committee considered a report on 11 November 2024 and its comments are set out in paragraph 30 of this report.
5. Subject to approval by the Cabinet, the Biodiversity Duty Plan will be published on the Council's website by 21 December 2024.

Policy Framework and Previous Decisions

6. Prior to the strengthened biodiversity duty being introduced on 1 January 2023, there was the 'biodiversity duty' which required public authorities to conserve biodiversity, under the Natural Environment and Rural Communities Act 2006 (NERC Act).
7. Having regard for this, the biodiversity duty was considered in the development of the Council's Environment Strategy 2018-2030 and in the development of the supporting Action for Nature document and the Action for Nature Delivery Plan.
8. The Council will need to take account of the strengthened biodiversity duty in a number of its policies and strategies as they are reviewed or developed, such as the Council's Local Transport Plan 4 2025-2040, the Leicestershire Resources and Waste Strategy and the Procurement Policy.
9. Meeting the strengthened biodiversity duty will potentially support all of the Council's Strategic Plan 2022-2026 outcomes. It will support the 'Clean and Green' outcome, and particularly the sub-outcome that nature and the local environment are valued, protected and enhanced. In addition, the conservation and enhancement of biodiversity by the Council will contribute to supporting the 'Great Communities', 'Safe and Well', 'Improved Opportunities' and 'Strong Economy, Transport and Infrastructure' outcomes by increasing the quality of, and access to, green and blue spaces, therefore supporting residents' health and wellbeing and creating employment opportunities.

Resource Implications

10. The Council will not receive any additional funding from the Government to support meeting the additional reporting and other requirements of the strengthened biodiversity duty. Therefore, the additional costs will need to be absorbed into the existing budgets and into the available staff time.
11. It is difficult to quantify what the additional costs will be, but it is expected that there will be additional resource requirements that are needed to meet the strengthened biodiversity duty. This will need to be absorbed by the relevant officers and could equate to up to £6,000 per year, including on-costs.
12. The intention is to blend the additional data collection, monitoring and reporting requirements into the existing systems and processes where it is possible, to reduce the impact on staff time and costs.
13. There may be legal implications if the Council was found to not be meeting the strengthened biodiversity duty, but it is unclear at this time what the consequences of this would be.
14. The Director of Corporate Resources and the Director of Law and Governance have been consulted on the content of this report.

Circulation under the Local Issues Alert Procedure

15. This report will be circulated to all Members.

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PART B

Background

16. As part of the Environment Act 2021, the Government introduced the strengthened biodiversity duty. The Act requires public authorities, including local government, the police and hospitals which operate in England, to consider what they can do to 'conserve and enhance' biodiversity in England.
17. The change took the form of an amendment to the original NERC Act, section 40. This extended the biodiversity duty on public authorities to include the enhancement of biodiversity in addition to conservation, by way of creating 'the general biodiversity objective'.
18. The amendment aims to encourage the enhancement and the improvement of biodiversity in England, going beyond the mere maintenance of biodiversity in its current state. This is so that public authorities can contribute to the national goals and targets on biodiversity.
19. The Environmental Improvement Plan, which was published in January 2023, sets out the Government's plans for significantly improving the natural environment, including a commitment to:
 - a) By 2030:
 - i. Halt the decline in species abundance;
 - ii. Protect 30% of UK land.
 - b) By 2042:
 - i. Increase species abundance by at least 10% from 2030, surpassing the 2022 levels;
 - ii. Restore or create at least 500,000 hectares of a range of wildlife rich habitats;
 - iii. Reduce the risk of species extinction;
 - iv. Restore 75% of the UK's one million hectares of terrestrial and freshwater protected sites to favourable condition, securing their wildlife value for the long-term.

What is required to meet the Biodiversity Duty

20. To meet the strengthened biodiversity duty, a public authority must:
 - a) Consider what it can do to conserve and enhance biodiversity;
 - b) Agree policies and specific objectives based on that consideration;
 - c) Act to deliver the policies and achieve the objectives.
21. The Council's existing Action for Nature document and Action for Nature Delivery Plan largely meet the requirements of considering what it can do to conserve and enhance biodiversity, as set out in point a) above.

22. Building on this, a review of the Council's policies and strategies was conducted to assess where the Council was and was not meeting the strengthened biodiversity duty. The review also acknowledged the need to consider species conservation strategies and protected sites strategies when they are released by the Government and the Local Nature Recovery Strategy (LNRS) when it is published after July 2025. These will be considered in future iterations of the Biodiversity Duty Plan.
23. A review also took place of the Environmental Legislation Register, which is part of the Council's Environmental Management System. This review assessed whether the Council was meeting the relevant biodiversity legislation and regulations.
24. The results of these considerations and reviews were used to form the basis of identifying the policies and specific objectives for how the Council will meet the strengthened biodiversity duty, and these are set out in the Biodiversity Duty Plan, which is appended to this report.
25. The Council is required to reconsider the actions that it takes to meet the strengthened biodiversity duty at least within five years of completing the previous consideration.
26. In addition, the Council is required to produce a Biodiversity Report with the end date of the first reporting period being no later than 1 January 2026. The Council's first Biodiversity Report will be aligned with the process of developing the Annual Environmental Performance Report for 2024-2025, meaning that the Environment and Climate Change Overview and Scrutiny Committee should receive the report in January 2026. The Council is then required to produce a Biodiversity Report within five years of the end date of the previous reporting period, therefore by January 2031.
27. The Government intends to include references to the Biodiversity Reports from local authorities in the five-yearly reviews of the national Environmental Improvement Plan.

Consultation

28. The Biodiversity Duty Plan has been developed in consultation with officers from the key service areas likely to be instrumental in enabling the Council to meet the strengthened biodiversity duty.

Comments of the Environment and Climate Change Overview and Scrutiny Committee

29. A report on the Biodiversity Duty Plan was considered by the Environment and Climate Change Overview and Scrutiny Committee on 11 November 2024. The Committee welcomed the report and the measures to improve biodiversity across Leicestershire.

30. Following a discussion, the below matters were raised:

- a) A member expressed concern about balancing the policy for increased housebuilding with policies on increasing and maintaining biodiversity to protect 30% of UK land. It was noted that Local Plans dictated how the country would change spatially and that they also referenced the Biodiversity Net Gain (BNG) requirement within them.
- b) The County Council would do all that it could within the remit and budget constraints to provide services to the public. However, some issues, such as flooding, biodiversity and environment agendas, were not wholly within the County Council's remit, and so it would work in partnership to support other organisations and communities to address these issues. It was noted that the remit of the Council needed to be made clearer to residents.
- c) The County Council had been clear within the report and the draft Biodiversity Duty Plan about its role in reporting of BNG. However, action could not be taken until further guidance in relation to this reporting duty had been received from the Government.
- d) The Government had introduced a range of measures to improve nature; the components of which needed to be looked at as a whole and not in isolation; for example, measures associated with the Biodiversity Duty Plan, water quality, air quality and waste management. Additionally, the LNRS would map the measures and actions that would improve nature throughout Leicester, Leicestershire and Rutland and it was agreed that a chart showing how the biodiversity duty interacts with other policies would be included in the relevant policy documents.

Key points from the Biodiversity Duty Plan

31. The key points from the Biodiversity Duty Plan are as follows:

- a) The majority of the relevant Council policies and strategies were contributing to enabling the Council to meet the strengthened biodiversity duty, although most of the policies and strategies will need to be amended to reference the strengthened biodiversity duty and the other relevant changes from the Environment Act 2021, when they are next updated.
- b) The Council's Environment Strategy 2018-2030 and its supporting Action for Nature document provided a solid foundation on which the Council could demonstrate how it was meeting the strengthened biodiversity duty.
- c) The Council raises awareness and educates people on biodiversity conservation and enhancement across a number of its functions, including through the Council's Country Parks, and the Environment, Waste and Communities teams. Further opportunities to educate and raise awareness of biodiversity should be identified by the Council where possible.
- d) Many of the sites owned and managed by the Council have existing management plans or processes in place that detail how the land is

managed in order to comply with the laws in relation to biodiversity. Steps will be taken by the Council to ensure that the proper control measures are in place and recorded in the Council's Environmental Legislation Register.

- e) The Council will need to report on what has taken place within the County in relation to BNG. However, the Government has yet to provide the secondary guidance or the regulation that stipulates exactly what information should be captured and reported. Once this is known, it will be included in a future iteration of the Biodiversity Duty Plan.
- f) A full list of the actions that were identified by the review exercise can be found in Appendix 1 of the Biodiversity Duty Plan. These actions will be integrated into the existing Action for Nature Delivery Plan to reduce the need for additional monitoring and reporting processes.
- g) The monitoring and reporting for the Biodiversity Duty Plan will be integrated into the existing Environmental Performance Monitoring and Reporting systems and processes.
- h) A separate Biodiversity Report will be developed every five years, as required, to meet the strengthened biodiversity duty reporting requirements.

Equality Implications

- 32. There are no equality implications arising from this report.
- 33. There may be equality implications arising from how the Council seeks to meet the strengthened biodiversity duty. An Equality Impact Assessment will be carried out at the point where the Council seeks to meet the duty.

Human Rights Implications

- 34. There are no human rights implications arising from this report.

Environmental Implications

- 35. Delivery of the Biodiversity Duty Plan is expected to have positive environmental implications as meeting the strengthened biodiversity duty is intended to result in the conservation and enhancement of biodiversity.

Risk Assessment

- 36. The following risks have been identified in relation to the Council's ability to meet the strengthened biodiversity duty:
 - a) **Insufficient funding** – In light of the financial position of the Council, there is a risk that there may be insufficient funds available to cover some

of the costs of meeting the strengthened biodiversity duty, including ensuring that there are enough staff in place.

- b) **Insufficient knowledge or skills of staff** – There is a risk that some staff may not have the sufficient knowledge or the skills to recognise the need to meet the strengthened biodiversity duty or how to meet it.
- c) **Working with contractors and third-party providers** – There is a risk that contractors or third-party providers may not be aware of the need to meet the strengthened biodiversity duty or how to meet it. Even where they do have this knowledge, there is a risk that the contractor or its staff may choose knowingly or otherwise to do something that contravenes the strengthened biodiversity duty.
- d) **Cause harm to the environment or people** – There is a risk that where the strengthened biodiversity duty is not being met, harm could be caused to the environment or people.
- e) **Legal challenge and prosecutions** – Depending on the nature of any breach of the strengthened biodiversity duty, there may be the risk of legal challenge or prosecution should the breach be reported to, or identified by, the relevant authorities.
- f) **Reputational harm** – Should a breach of the strengthened biodiversity duty take place, and especially if such a breach results in prosecution, there is a risk of reputational harm to the Council.

37. The above risks will in part be mitigated by the fact that staff from the key functions that are likely to have an impact on how the Council meets the strengthened biodiversity duty have been involved in the development of the Biodiversity Duty Plan. In addition, some of the actions are aimed at supporting staff to ensure that they are aware of the strengthened biodiversity duty and of what they need to do to meet it.

Background Papers

Leicestershire County Council Action for Nature: A Strategic Approach to Biodiversity, Habitat and the Local Environment for Leicestershire County Council, June 2021:

<https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2021/8/16/action-for-nature-strategic-approach-to-biodiversity.pdf>

Action for Nature Delivery Plan:

<https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2021/8/16/action-for-nature-delivery-plan.pdf>

Appendix

Leicestershire County Council's Biodiversity Duty Plan