



Report

Date: 13th March 2024

To: The Chair and Members of Cabinet

Report Title: Biodiversity Duty First Consideration

Relevant Cabinet Member(s)	Wards Affected	Key Decision?
All. Lead Cabinet Member: Cllr Mark Houlbrook, Cabinet Member for Sustainability and Waste	All	No – this is a non-key decision

EXECUTIVE SUMMARY

1. The Biodiversity Duty (the Duty), as set out in the 2021 Environment Act (the Act), places a legal requirement on the Council to consider what action it can take to **conserve and enhance** biodiversity and to report the actions agreed and taken. A 'first consideration' of the Duty has been undertaken and accompanies this report.

EXEMPT REPORT

2. This report is not exempt.

RECOMMENDATIONS

3. Members of Cabinet are recommended to:
 - Note and endorse the publication of the Council's first consideration of the Biodiversity Duty. The actions that the Council subsequently agrees to take, will be approved as a separate decision.



WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

4. Compliance with the Duty, in line with guidance and best practice, means that the citizens of Doncaster can be assured that the delivery of their Council services will consider the conservation and enhancement of biodiversity. This is important as a legal duty and as a measure of the Council's commitment to its priorities and to the global climate and biodiversity agenda.
5. Compliance with the Duty means that the Council has considered ways to deliver its functions whilst reducing pressures on biodiversity, and to taking opportunities to restore nature in line with strategic national and local priorities.
6. Compliance with the Duty does not require the Council to implement all actions where change is needed. The delivery of action must be viable (e.g., financially, and practically) and the Council will agree which actions it will deliver within a given timeframe.
7. Compliance with the Duty represents an opportunity to communicate with citizens of Doncaster about positive and transferable measures and messages to tackle the climate and biodiversity emergency.

BACKGROUND

8. The duty of all public authorities to have regard for biodiversity in carrying out their functions was originally contained in the 2006 Natural Environment and Rural Communities Act. The 2021 Environment Act has strengthened the duty to require all public authorities to consider what action they can take to '**conserve and enhance**' biodiversity. The Act also introduced statutory requirements for reporting on compliance with the Duty.
9. The actions public authorities take for biodiversity will contribute to the achievement of national goals and targets on biodiversity. The [Environmental Improvement Plan \(EIP23\)](#), published in January 2023, sets out government plans for significantly improving the natural environment.

By 2030, the government has committed to:

- halt the decline in species abundance
- protect 30% of UK land for nature

By 2042, the government has committed to:

- increase species abundance by at least 10% from 2030 levels (includes surpassing 2022 levels)
- restore or create at least 500,000 ha of a range of wildlife rich habitats
- reduce the risk of species extinction
- restore 75% of England's one million hectares of terrestrial and freshwater protected sites to favourable condition, securing their wildlife value for the long term.

These commitments are legislated in the [Environmental Targets \(Biodiversity\) \(England\) Regulations 2023](#), which also came into force in January 2023.

Biodiversity as a City of Doncaster Council priority

10. Doncaster Council declared a Climate and Biodiversity Emergency in September 2019 and have incorporated action for biodiversity within the City's Environment and Sustainability Strategy but does not have a corporate biodiversity strategy or plan.
11. The Council is actively engaged with the development of the South Yorkshire Local Nature Recovery Strategy (LNRS) – a new statutory requirement of the Environment Act. The Duty requires the Council to have regard to the delivery of the LNRS in considering the action it can take for biodiversity. The LNRS must be published by March 2025.
12. The Council currently monitors some of its own action for biodiversity through Service Plans and to measure progress against specific priorities (such as the Tree Challenge) but does not currently report on its wider consideration of and action for biodiversity. It is anticipated that the LNRS will drive further action and additional monitoring requirements for the Council. The Environment Act also introduced the requirement for Biodiversity Net Gain (BNG) and action for biodiversity, delivered through this mechanism, must also be reported as part of the Duty.
13. This reporting is a new and considerable work area for the Council. The Government's suggested format will drive action for biodiversity based on; an initial, in-house, 'first consideration' of how biodiversity is conserved and enhanced through Council functions; followed by subsequent reviews of progress and actions required at regular intervals.

Biodiversity Duty requirements and timescale for compliance

14. The strengthened Duty requires the Council to:
 - a. Consider what it can do to conserve and enhance biodiversity.
 - b. Agree policies and specific objectives based on its in-house first consideration.
 - c. Act to deliver these policies and achieve its objectives.
15. The Council had to complete a 'first consideration' of what action to take for biodiversity by 1 January 2024; this was completed late 2023 and as per the report appended to this paper. The Council must now agree any necessary policies and objectives as soon as possible after completion of our 'first consideration'.
16. Following the 'first consideration' the first biodiversity report is due no later than 1st January 2026, following which reporting cycles must be within 5 years of the previous report. The Council could decide to report actions quarterly, annually or every 5 years. These reports must be published.

Completing the ‘first consideration’

17. Prior to the publication of Government guidance on the Duty, a study was undertaken between October 2022 and March 2023 to establish baseline information relating to the consideration of biodiversity across a selected subsample of Council functions in the Place Directorate.:
18. Whilst this study pre-empted the Government guidance, it has collected relevant information through a set of questions focused on the Council’s policies and objectives (relating to biodiversity); land, water, and asset management; and engagement with the natural environment.
19. Insight from the study and Government guidance highlight potential areas where action for biodiversity could be strengthened. These potential action areas have been incorporated into the ‘first consideration’ report.
20. The ‘first consideration’ report follows the format of the Government’s [Biodiversity Reporting requirements](#), with a focus on the mandatory content:

Section 1: Your policies, objectives, and actions

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

Section 2: How you have considered other strategies, and specifically:

- local nature recovery strategies,
- protected site strategies and
- species conservation strategies

Section 3: Your future actions

- How the Council plans to fulfil its biodiversity duty over the 5 years following the end of this reporting period.

Biodiversity Net Gain information

- A summary of the actions carried out to meet biodiversity net gain obligations
- Details of biodiversity gains resulting, or expected to result, from biodiversity gain plans approved.
- A summary of how the Council plans to meet biodiversity net gain obligations in the next reporting period.

Next Steps to be taken to comply with the Duty

21. Following completion of the ‘first consideration’, the Council must agree any necessary policies and objectives as soon as possible, and act to deliver them.

22. To facilitate this process, the Planning Advisory Service (PAS) are developing a Nature Recovery Toolkit for public authorities to use, which will be launched in March 2024. The toolkit is being developed to encourage:
- Across the council / political buy-in and joining up work across departments.
 - Read-across into other plans and strategies and streamlining benefits.
 - A clearer understanding of how to deliver change, saving costs and securing additional funding.
 - Better Local Nature Recovery Strategy production readiness, with a clearer picture of the issues, opportunities and how to tackle them.
 - A shortlist of priority activities and interventions that can start to be delivered.
23. The Council could choose to develop its own process for agreeing what action to take to conserve and enhance biodiversity, or it could follow the PAS toolkit approach. The actions chosen will need to be documented e.g. through an Action Plan, and it will be these and future actions identified and agreed through the Council's consideration of the Duty, that will be reported on through the Biodiversity Reporting requirement.

OPTIONS CONSIDERED

24. **OPTION 1 - RECOMMENDED – To: Note and endorse the publication of the Council's first consideration of the Biodiversity Duty.**
25. An alternative option, which is NOT RECOMMENDED, is considered below.

OPTION 2 - To not support the first consideration report

The 'first consideration' of the Biodiversity Duty is a legal requirement of the Environment Act and therefore the Council must undertake this process.






The process undertaken, which has resulted in the Council's 'first consideration' is based on a combination of Service insights, Government guidance and discussions with peers consulting the national PAS Basecamp forum. It is considered that it is sufficiently informed and detailed to continue the process of agreeing actions to meet the Duty and to deliver them, and will need to be reviewed over time in line with the Act's requirements.




The format of the 'first consideration' report follows that set out for future Biodiversity Reporting and could be published if the decision is taken to do so. Future Biodiversity reports are required to be published and to include similar mandatory information, if not in this format.

REASONS FOR RECOMMENDED OPTION

26. Option 1 will ensure that the Council meets its legal obligations under the Act and takes proactive measures to make a positive contribution to addressing the climate and biodiversity emergency, through its own actions.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

Great 8 Priority	Positive Overall	Mix of Positive & Negative	Trade-offs to consider – Negative overall	Neutral or No implications
 Tackling Climate Change	✓			
<p>Comments: Compliance with the Biodiversity Duty, in line with guidance and best practice, will directly contribute to tackling climate change by advocating informed decision making around sustainability, land use, and the adoption of nature-based solutions.</p>				
 Developing the skills to thrive in life and in work	✓			
<p>Comments: Compliance with the Biodiversity Duty, in line with guidance and best practice, presents opportunities for skills development, awareness raising and changed behaviours relating to how we consider biodiversity in delivering local services and how we communicate changes and choices.</p>				
 Making Doncaster the best place to do business and create good jobs	✓			
<p>Comments: Compliance with the Biodiversity Duty, in line with guidance and best practice, will not inhibit development, but presents Doncaster as a forward thinking and conscientious organisation, as well as a City embracing growth and improvement opportunities in new 'green' sectors.</p>				
 Building opportunities for healthier, happier and longer lives for all	✓			
<p>Comments: The biodiversity crisis poses as much a danger to life on Earth as climate change does. Compliance with the Biodiversity Duty, in line with guidance and best practice, will ensure that informed decisions are encouraged around land use, our sustainable use of resources and minimisation of damaging processes and products. It will also promote strategic opportunities for nature recovery, the use of nature-based solutions, and the provision of ecosystem services including clean air and access to nature.</p>				
 Creating safer, stronger, greener and cleaner	✓			

communities where everyone belongs				
Comments: The biodiversity crisis poses as much a danger to life on Earth as climate change does. Compliance with the Biodiversity Duty, in line with guidance and best practice, will ensure that informed decisions are encouraged around land use, our sustainable use of resources and minimisation of damaging processes and products. It will also promote strategic opportunities for nature recovery, the use of nature-based solutions, and the provision of ecosystem services including clean air and access to nature.				
 Nurturing a child and family-friendly borough	✓			
Comments: Access to nature and green spaces have proven benefits for people's mental health and personal wellbeing. Compliance with the Biodiversity Duty, in line with guidance and best practice, will promote opportunities for nature-rich and accessible greenspaces for families and more education opportunities around nature recovery.				
 Building Transport and digital connections fit for the future	✓			
Comments: Compliance with the Biodiversity Duty, in line with guidance and best practice, will not inhibit development, but will deliver better outcomes e.g., more sustainable and/or greener transport.				
 Promoting the borough and its cultural, sporting, and heritage opportunities	✓			
Comments: Compliance with the Biodiversity Duty, in line with guidance and best practice, will raise awareness of and promote the City's natural heritage and opportunities to enjoy, conserve and enhance it.				
Fair & Inclusive				✓
Comments: In line with the corporate approach for compliance against the Equality Act 2011 due regard must be shown across all activity within the Council. Many of the recommendations in this report represent high level strategic decisions, hence there are no detailed impacts on any people, groups, or individuals on which to base a due regard statement. However, as our policy commitments through the Biodiversity Duty become further developed, a due regard statement may need to be completed and reported.				

27. Legal Implications [Officer Initials: AH | Date: 12/12/2023]

The proposals will demonstrate the Council's consideration of biodiversity through strategic development of policy and identification of objectives to meet its statutory duty under the Environment Act 2021. There are no specific legal implications resulting from the recommendation in the report.

28. Financial Implications [Officer Initials: OB | Date: 14.12.2023]

There are no direct financial implications arising from the recommendation in the report.

29. Human Resources Implications [Officer Initials: DK Date: 12/12/2023]

There are no direct HR Imps in relation to this report, but if in future staff are affected or additional specialist resources are required then further consultation will need to take place with HR.

30. Technology Implications [Officer Initials: PW Date: 12/12/23]

At their meeting in July 23, the Technology Governance Board (TGB) agreed a proposal to work with a company called Verna (as part of an early access software group) to help develop a software package for assessing, monitoring and reporting on Biodiversity Net Gain Plans. In addition, a separate proposal for the Local Records Centre to migrate to the Orca solution for managing biological records was also agreed. Digital & ICT must be consulted where any new, amended or replacement technology is needed to support the Biodiversity Duty Requirements.

RISKS AND ASSUMPTIONS

31. There are no risks associated with taking the recommended option.

32. The risks associated with not taking the recommended option are:

- Non-compliance with legislation;
- Reputational damage; and,
- Missed opportunity to demonstrate leadership and promote and deliver actions that will contribute towards corporate priorities.

CONSULTATION

33. Consultation on the process underpinning the 'first consideration' has taken place with PAS, and with peers engaged with the national PAS Basecamp forum.

34. The Biodiversity Duty requirements and proposed format of the Place study were presented to the Director of Place, the Portfolio Holder for Sustainability and Waste, and officers from Policy Insight and Change, Planning, and the Sustainability Unit in December 2022. Discussions began with Heads of Service (or their representatives) from Planning Services, Sustainability, Street Scene, Property Services, Major Projects and Investment, and Drainage and Street Works (& Waste and Recycling) between December 2022 and March 2023.

35. Following the Place study, a briefing paper 'Local Authorities and Biodiversity' was produced for the Chief Executive, Director of Place and officers from Policy Insight and Change, Planning, and the Sustainability Unit in July 2023.

36. The 'first consideration' was presented to the Director of Place's Extended Leadership Team in November 2023, the Executive Leadership Team on 8th January 2024, and at an informal Executive Board on 24th January 2024.

BACKGROUND PAPERS

37. Accompanying 'first consideration' report.

GLOSSARY OF ACRONYMS AND ABBREVIATIONS

The Duty – The Biodiversity Duty

The Act – The Environment Act 2021

LNRS – Local Nature Recovery Strategy

PAS – Planning Advisory Service

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