

Draft Nature Conservation and Development SPD: Statement of Representations to public consultation, March 2008.

Respondent	Summary of Main Comments	Response to Main Comments
Natural England	Excellent document which offers a clear and comprehensive guide to conserving and enhancing biodiversity, particularly as applied within the framework of planning policy and legislation at a international, regional and local level. We are particularly impressed with the approach put forward for developer contributions.	Noted.
	Annex 6 helps to quantify what is meant by the word 'enhancement' which figures a number of times in Planning Policy Statement 9. Again this represents a step forward highlighting to developers exactly what would be required on a particular site should they wish to take it forward for development.	Noted
	Include reference to Brighton to Newhaven Cliffs SSSI and Castle Hill SAC/SSSI in Annex 1	Minor change. Reference to both sites included.
	Refer to relevant Local Plan policies and to emerging LDF policies.	No Change. The draft SPD has been written to apply to both the Local Plan and the emerging LDF. Local Plan policies have not been referred to explicitly because they will soon be superseded; at the time of writing, LDF policies are in development.
	Alter the contributions expected for developments of 1 or 2 dwellings, removing these from the 'small scale' category and including them in the 'medium/large scale' category.	No change. The categories of development used are consistent with those used in the Sustainable Construction SPD and reflect planning research.
	Improve links between the City's emerging green infrastructure network policy and this SPD	No change. A separate SPD is planned to address green infrastructure.
Environment Agency	Welcome the production of the SPD. In particular we consider that it provides a clear process to guide how nature conservation should be incorporated at all stages of the planning process.	Noted.

	Paragraph 5.15: Reference could be made to the possibility of affecting the integrity of ecological networks	Minor change. Reference to green networks made.
	Paragraph 5.36: Stronger approach could be adopted by replacing “all development <i>is expected</i> to contribute” with “all development <i>must</i> contribute...”	Minor change. Recommended text substituted.
	Paragraph 5.38 (3): We support the adoption of a creative approach to the maximization of nature conservation benefits; but greater emphasis is needed on multi-functional benefits	Minor change. Reference to multi-functional benefits included.
	Paragraph 5.38 (10): Support the inclusion of green roofs; highlight further the opportunities they provide, for example they support adaptation to climate change and can provide additional open space.	Minor change. Reference to green roofs now includes their wider benefits.
	Draw a clearer distinction between extensive and intensive roofs. Extensive roofs, whilst better than a traditional roof, are of little benefit to biodiversity. Further they will not be so good in providing the other benefits that a more intensive green roof can afford.	No change. Green roof specialists maintain that extensive roofs can also deliver important benefits for biodiversity.
Sussex Wildlife Trust	Welcome the production and adoption of this document, which sets out clearly how the Council will adhere to national guidance on nature conservation through planning decisions.	Noted.
	Compensation is the final stage identified in the process and this should be the case in practice. Compensation measures should be closely monitored over time to ensure success and a contingency fund should be available for any remedial action that may be required.	Noted.

Appendix 1

	Concerned that the calculator detailed in Annex 6 underestimates the true cost of the creation and maintenance of nature conservation features. Figures do not seem adequate to cover equipment and materials as well as professional assessment and advice.	Minor change. The figures in Annex 6 are based on real costs, excluding professional advice and land purchase. Note has been inserted clarifying costs which have been excluded.
Prestonville Community Association	Welcome the intention of the proposed SPD.	Noted.
	It is important that developers and their clients are helped to implement conservation measures effectively. Poorly thought out, 'bolt on' features will not serve any useful purpose.	Noted. Detailed guidance will be offered as part of the development control process and through Planning Advice Notes as required.
	The council should give more weight to planning enforcement, on the grounds that environmental damage may lead to serious public order and safety issues if developers ignore planning requirements. Essential this is addressed if the aims of the SPD are to be implemented successfully.	Noted.
Older People's Council	Broadly welcome the proposals in the draft Supplementary Planning Document and are impressed by the scope of the document and the attention to detail.	Noted.
	Implementation may lead to delays to an already lengthy planning process	The SPD is written to reduce uncertainty and to establish a clear process and therefore speed up the planning process.
Brighton and Hove Organic Gardening Group	Document seems very positive, particularly the commitment to enhance as well as maintain biodiversity. Hopes the Council will be rigorous in enforcing the measures outlined.	Noted.

Appendix 1

	Compensation for habitat loss should include a large punitive payment (to be imposed on a discretionary basis). The amount proposed for mitigation is not large in relation to the overall costs of a large development, and would not deter unscrupulous developers from destroying habitat after they had obtained planning permission.	No change. The recommended changes do not follow national guidance on planning obligations.	
	Planning Policy Guidance 3 superseded by PPS 3	Minor change. Text updated.	
	Various detailed changes to the lists of ornamental plants of wildlife value recommended	Minor change. Text amended to incorporate recommended changes.	
56	Consultation Meeting on Annex 6 (developer contributions): King's House, 13 th March 2008. Represented: Brunswick Developments, Natural England, B&HCC, DP Architects, Water Works Consulting, Eco-Logically, Council for the Protection of Rural England, Parker Dann	Consider weighting nature points in favour of maximising wildlife gain, rather than the cost of creating them.	No change. Developer contributions must be directly related to the proposed development and fairly and reasonably related to it in scale and kind in order to meet national policy requirements.
	Starts from a theoretical position which bears no relation to the existing site features and does not relate at all to the development proposed or the characteristics of the site. Hard to justify that the same developer contribution costs would be applied to a site covered in tarmac as with a site covered in rich scrubland (for example) where a good deal of avoidance costs would already be generated.	No change. All calculations are based on the site size and existing biodiversity interest and therefore do relate to the characteristics of the site. In so far as relating to the requirements of PPS 9, site size and existing biodiversity value are the most relevant attributes to biodiversity potential. The same costs would not be applied to a site where existing features are preserved (their area would be deducted from the total) as to a site with no existing value.	
	Poorly thought out, 'bolt on' features will not serve any useful purpose.	Noted. Detailed guidance will be offered as part of the development control process and through Planning Advice Notes as required.	

	<p>The use of section 106 agreements to achieve the commuted sums, where nature conservation features cannot be provided on site is the only means to enforcing costs. However section 106 agreements must meet the following tests:</p> <ul style="list-style-type: none"> (i) Relevant to planning; (ii) Necessary to make the proposed development acceptable in planning terms; (iii) Directly related to the proposed development; (iv) Fairly and reasonably related in scale and kind to the proposed development; and (v) Reasonable in all other respects. <p>Given that the menu of works has yet to be determined, cannot say whether they will be relevant to any development proposed. Given that they are off site and pre determined, cannot see how they can be directly related to the proposed development, fairly and reasonably related in scale and kind to the proposed development and necessary to make the proposed development acceptable.</p>	<p>No change. The menu of works is set out in Annex 6 from which developers can select items which together account (in 'nature points') for the total area of the development site (excluding any features preserved in situ). This is required to properly address the requirement in PPS 9 for all development to maximise biodiversity benefits and fully addresses all the tests described.</p>
	<p>Starting with a premise that 100% of a site should be of biodiversity value may not be reasonable. If similar assumptions were made about maximising other needs, costs to developers would be prohibitive.</p>	<p>No change. In order to ensure a development is relevant to planning and necessary to make the proposed development acceptable in planning terms, it must meet the requirement to maximise opportunities to build-in biodiversity set out in PPS 9 para 14. Other needs to not have this 'maximise' requirement.</p>
	<p>The distinctions drawn between different sizes of development need to be reviewed. A householder application for a small extension should not be put in the same category as a development of two new houses.</p>	<p>No change. The categories of development used are consistent with those used in the Sustainable Construction SPD and reflect planning research.</p>
	<p>The text should explicitly recognise that because of the financial implications to some schemes, it may not be possible to implement the SPD in all cases.</p>	<p>No change. All planning gain is subject to negotiation as part of the development control process. Inserting this text would only reduce certainty for developers.</p>

	The menu of options needs to be broadened to give more choice to developers.	No change. The menu must address Biodiversity Action Plan targets and promote habitats and species which can reasonably be incorporated into development schemes. However the existing menu also includes an option to suggest additional habitats.
	Some of the definitions of nature conservation features would benefit from more flexibility.	No change. The definitions are required to be fairly detailed to ensure real biodiversity gain is delivered.
Hanna Waldbaum	The SPD should require green roofs and walls on all new developments.	No change. To be sufficiently adaptable to all development scenarios the SPD offers a menu of options rather than attempting to prescribe any one feature. This was specifically requested during consultation on the first draft.
Stuart Derwent	Various recommendations to change the style of wording to give more emphasis to the support of national biodiversity standards and to give greater clarity to the meaning of the text .	Minor changes. Text revised at various places.
	How are the nature conservation features maintained post-development?	No change. Existing planning mechanisms are in place to require features to be maintained by developers.
	Would rather see “New Benefits” as Stage A3 to demonstrate the importance of enhancing nature conservation.	No change. The stages follow a logical sequence; existing features need to be properly addressed before looking at the creation of new features.
David Brookshaw	'ACCESS AREAS' should be included because they comprise unimproved chalk grassland in Brighton & Hove	No change. Access Areas are not primarily designed for nature conservation, although in practice all such sites are also Sites of Nature Conservation Importance in Brighton and Hove and therefore already addressed by the draft SPD.

Appendix 1

John Patmore, Eco-logically	SPD remains poorly drafted and muddled, with different segments from statutory legislation and advice strung together inconsistently.	Noted
	Corporate social responsibility (CSR) targets should be referenced as a reason for addressing the SPD.	Minor change. Reference to CSR included.
	It is uncompetitive to list just one organisation as the appropriate professional body. Other appropriate organisations exist. There are extremely competent ecologists who do not wish to belong to such knowledge and experience.	No change. The draft SPD does not require membership of any professional body in order to submit full ecological surveys as part of development proposals.
	No mention of churchyards as an urban habitat	No change. Churchyards are not currently included in the national, regional or local BAPs
	Pleased to note the recommendation that plants of local provenance is encouraged. Phrase should be strengthened to read: 'should not be used unless there is adequate reason for using plants from other sources agreed with the council ecologist'.	Minor change. Recommended textual change included.
	Various changes to the lists of plants recommended for use in Brighton and Hove to exclude all species which are not endemic to the local area	No change. Restricting the use of plants to endemics takes no account of the urban nature of much of Brighton and Hove or of Climate Change effects on local botany.
	Why are opportunities for progressing the RSS 'Regional Biodiversity Targets' not included?	No change. Such targets are addressed by the SPD where they are relevant to development in Brighton & Hove.

