

# **Tourism Equalities, Communities and Culture Committee**

## **Agenda Item 63**

**Subject:** Biodiversity and Nature Conservation Supplementary Planning Document – Consultation Draft

**Date of meeting:** Tourism, Equalities, Communities and Culture Committee 13 January 2022

**Report of:** Executive Director Economy, Environment & Culture

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**Ward(s) affected:** All

**For general release**

### **1. Purpose of report and policy context**

1.1 This report seeks approval to consult on the Draft Supplementary Planning Document (SPD) for Biodiversity and Nature Conservation. The report outlines the relevant policy context for the SPD and summarises how the 2010 Nature Conservation and Development Supplementary Planning Document has been revised and updated to provide detailed guidance aligned to current and emerging national and local policy.

### **2. Recommendations**

2.1 That the Tourism, Equality, Communities and Culture Committee approves the Draft Biodiversity and Nature Conservation SPD, found at Appendix 1 and 2 of this report, for public consultation for a six-week period.

2.2 That the Tourism, Equality, Communities and Culture Committee authorises the Head of Planning to make any necessary minor grammatical or non-material amendments, including additional illustrations, to the Draft SPD, in consultation with the Chairs of TECC committee, prior to the public consultation.

### **3. Context and background information**

3.1 The current Nature Conservation and Development SPD (SPD11) was adopted in 2010 and was prepared to support implementation of policies in the Brighton & Hove Local Plan 2005. Since this time, City Plan Part One (2016) has been adopted and City Plan Part Two has been submitted for examination and public hearing sessions have been undertaken. Once adopted, City Plan Part Two will replace the saved policies in the 2005 Local Plan and sit alongside City Plan Part One to form part of the Development Plan for the city.

- 3.2 Since SPD11 was adopted in 2010, national planning policy has changed significantly, with the more recent updates of the National Planning Policy Framework (last updated in July 2021) setting out clearer and stronger guidance for achieving improvements for nature conservation and biodiversity. This includes the ‘mitigation hierarchy’ (avoid harm, mitigate and as a last resort compensate) and encouraging opportunities to secure measurable biodiversity net gains. In addition, Government priorities, including those within the 25-year Environment Plan and the recently enacted Environment Act, include commitments to address biodiversity loss and achieve measurable biodiversity net gains from development, with this being a mandatory requirement for many types of development<sup>1</sup>.
- 3.3 Local priorities have also changed significantly since the 2010 SPD was adopted. The need to address the climate crisis and reverse the decline in species and habitats has been recognised through the Climate and Biodiversity emergencies declared in 2018. The Corporate Plan includes an objective to promote, protect and invest in biodiversity; and the Carbon Neutral Programme includes various actions required to address the climate and biodiversity emergency, with an updated SPD being identified as a specific action.
- 3.4 An updated SPD is therefore considered timely and necessary to ensure it reflects legislation, national and local planning policies, and local priorities.

### **Draft Biodiversity and Nature Conservation SPD**

- 3.5 Supplementary Planning Documents are formal documents used by the council to provide guidance and information to planning applicants about how to deliver local planning policy as part of their development proposals. SPDs have a prescribed process for their preparation including engagement with local residents and stakeholders. Whilst SPDs provide guidance and can demonstrate best practice, they cannot make new or change existing planning policy.
- 3.6 The main purpose of the updated Draft Biodiversity and Nature Conservation SPD is to guide new development to deliver legislation and national and local planning policy requirements for biodiversity and nature conservation. It will assist planning applicants understand the importance of biodiversity and set out how development can deliver biodiversity improvements and net gains. It will also support officers in providing pre-application advice and assist in determining planning applications. The SPD will support a range of policies within the adopted City Plan Part 1 (CPP1) and Submission City Plan Part 2 (CPP2). It will particularly support policies CP10 Biodiversity (CPP1) and DM37 Green Infrastructure and Nature Conservation (CPP2) both of which seek the protection of biodiversity and the achievement of biodiversity net gains.
- 3.7 The Draft SPD includes introductory sections which outline the city’s rich local biodiversity resource including important sites and areas designated for the presence of special habitats and the species they support. This includes chalk grassland and marine chalk habitat; important downland, urban and coastal habitats and species identified as needing conservation action, such as ancient woodland, coastal vegetated shingle, house sparrow, swift and hedgehog. It also

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<sup>1</sup> Regulations for the implementation of the requirements of the Environment Act, including Biodiversity Net Gain, are anticipated next Spring, with introduction expected in 2023.

identifies key legislation of relevance to biodiversity and sets out the national and local planning policy context and requirements.

3.8 The SPD explains the overarching biodiversity principles applicable to all development and identifies key biodiversity matters that need to be considered at various stages of the planning process. These include:

- The Mitigation Hierarchy
- Biodiversity Net Gain
- Protection of irreplaceable habitats
- Habitats Regulations Assessment
- Conservation of the marine environment
- Wildlife friendly lighting

3.9 It provides guidance and examples for integrating biodiversity into the design of new buildings and spaces, including measures that can be incorporated into the building design, such as bee bricks, swift bricks/boxes, living walls and roofs and hedgehog highways, as well as opportunities for biodiversity that arise through landscaping, such as wildlife friendly and productive planting.

3.10 It includes a step-by-step guide of how and when biodiversity should be considered in the development process, from the very early design stages through to the construction and operational stages, clarifying the type of information that will be expected to support planning applications, such as ecological surveys.

3.11 The SPD also includes several annexes. These provide further detailed information on habitats and species, ecological survey seasons, construction stage hazard-prevention, guidance on habitat creation and enhancement, and an updated Biodiversity Checklist which is anticipated to become a validation requirement for some applications.

3.12 The anticipated timetable for preparing and adopting the SPD is:

- Approval to consult: January 2022
- Public consultation: February/March 2022
- Consideration of comments and revisions to Draft SPD: April-June 2022
- Seek approval to adopt: June/September 2022

#### **4. Analysis and consideration of any alternative options**

4.1 Updating the Biodiversity and Nature Conservation SPD is one of the priority actions identified in the Carbon Neutral Programme and is considered necessary to ensure planning guidance reflects local and national planning policy and local priorities. The relevant Regulations require an SPD to be subject to public consultation prior to its adoption. The alternative options of not updating the SPD and not undertaking public consultation have been considered and dismissed for the above reasons.

#### **5. Community engagement and consultation**

5.1 The Draft Biodiversity and Nature Conservation SPD has been prepared by ecological consultants working closely with officers in the Planning Policy and Sustainability teams. During its preparation, the Draft SPD has been subject to

internal consultation with officers in the Development Management team, as well as externally with the East Sussex County Council County Ecologist and has been amended in response to their comments.

- 5.2 SPDs are required to be subject to a period of public consultation prior to adoption. The Planning Service's Statement of Community Involvement (SCI) sets out policy and standards for engaging residents, local groups, stakeholders and statutory consultees in the preparation of planning-related documents, including supplementary planning documents.
- 5.3 Stakeholder organisations and individuals, including residents, developers, landowners, local ward councillors, planning agents, community groups and environmental organisations registered in the Planning Policy database will be invited to comment on the Draft SPD during a six-week public consultation to be held in February/March 2022. Additional stakeholders will be made aware of the consultation via the council's Biosphere Programme Manager. Consultation documents will be made available on the council's website and will be made publicly available in libraries if possible, taking into consideration any ongoing Covid-19 restrictions. Consultees will be invited to comment using the council's online consultation platform and attend a virtual consultation event.
- 5.4 All consultation comments and requested changes to the SPD will be considered prior to bringing it back to Committee to seek its adoption later in 2022.
- 5.5 The SPD was subject to a screening exercise at an early stage of preparation to assess the need for a Strategic Environmental Assessment (SEA). The screening was subject to consultation with statutory consultees (Natural England, Environment Agency and Historic England) who agreed with the conclusion that the SPD did not require a SEA, as was not likely to result in significant adverse environmental effects.

## **6. Conclusion**

- 6.1 The updated SPD will reflect national and local planning policy as well as local priorities and ensure biodiversity is considered and integrated into the planning process and outcomes. Consultation will enable stakeholders to contribute to the further development of the SPD before it is adopted.

## **7. Financial implications**

- 7.1 There are no direct financial implications arising from this report. The cost of officer time, document production and consultation associated with the recommendations in this report will be funded from existing revenue budget within the Planning service. Any significant variations to budget will be reported as part of the council's monthly budget monitoring process.

*Finance Officer Consulted: John Lack*

*Date: 03/12/21*

## **8. Legal Implications**

- 8.1 The contents of a SPD are governed by The Town and Country Planning (Local Planning) (England) Regulations 2012. The Regulations provide that SPDs

cannot contain planning policy but can contain statements regarding environmental, social, design and economic objectives relevant to the attainment of the development and use of land. The Regulations also provide that a draft SPD must be subject to public consultation for a period of at least four weeks. Once adopted the SPD will be a material planning consideration in the determination of those planning applications to which it is relevant

*Lawyer Consulted:*

*Name Hilary Woodward*

*Date: 7/12/21*

## **9. Equalities Implications**

- 9.1 Equalities issues relevant to this SPD have been considered during the Health & Equalities Impact Assessment (HEQIA) undertaken for City Plan Parts 1 and 2 (CPP1 and 2) particularly those identified for policies CP10 Biodiversity (CPP1) and DM37 Green Infrastructure and Nature Conservation (CPP2). These assessments did not find any sensitive groups that were affected by these policies. Equalities groups that have signed up to the Planning Policy team's consultation database will be contacted as part of the public consultation on the SPD and assistance will be sought from the Communities and Equalities teams to ensure inclusivity.

## **10. Sustainability Implications**

- 10.1 The protection and enhancement of biodiversity is a key strand of sustainable development and can support the achievement of multiple environmental objectives, such as improved air quality and reduced flood risk. The SPD will help ensure biodiversity is protected and enhanced through the planning process and will therefore contribute to the delivery of sustainable communities.

## **11. Other implications**

### **Social Value and procurement implications**

- 11.1 The social value of biodiversity includes recreational value, such as through access to nature, aesthetic value such as improved visual amenity, and cultural value. The protection and enhancement of biodiversity through the planning process recognises these social values and the contribution that biodiversity makes to the delivery of sustainable communities

- 11.2 There are no procurement implications.

### **Crime & Disorder Implications:**

- 11.3 None identified.

### **Public Health Implications:**

- 11.4 Evidence indicates that exposure and access to nature improves mental and physical wellbeing. Ecosystem services provided by biodiversity can also have benefits for health, for example through attenuation of noise and absorption of pollutants. The updated SPD could therefore have positive implications.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Draft Biodiversity and Nature Conservation SPD
2. Draft Annexes to the Biodiversity and Nature Conservation SPD

### **Background Documents**

1. City Plan Part One (2016)
2. Submission City Plan Part Two (2020)