

Appendix 2 Consultation Summary

Introduction

This consultation summary sets out details of how the Council carried out consultation on the draft Biodiversity and Nature Conservation Supplementary Planning Document (SPD), a summary of the responses received and how the responses have been addressed in the final SPD. The consultation was conducted in line with Brighton & Hove City Council's Statement of Community Involvement (SCI)

Who was consulted

The following groups and individuals were contacted by the city council for their views on the draft SPD:

- The public
- Elected Members
- Individuals/organisations registered to receive alerts on planning consultations including local community and amenity groups, environmental groups, developers and landowners, planning agents and architects, and statutory consultees.
- National Highways
- Natural England
- Historic England
- Environment Agency
- Other Local Planning Authorities within the wider area

How these people were consulted

The draft SPD was subject to a 6-week consultation between the 7th February and 21st March 2022. The consultation included a press release, advertisement on the Council's website, emails sent to numerous stakeholders and interested parties, and hard copies of documents made available in all libraries and the Bartholomew's House Customer Service Centre. Information about the consultation was publicised on the Council's social media including Facebook and Twitter. Other council teams and local partnerships also circulated information on the consultation including the council's Communities and Equalities team, Sussex Local Nature Partnership and The Living Coast Biosphere.

The consultation also included:

- A survey available on the council's online consultation portal
- 2 dedicated online events for stakeholders -attended by 16 individuals/group representatives

- 1 dedicated online event for the local Planning Agents Forum – attended by 14 local agents/architects
- 1 dedicated online event for council officers – attended by 11 council officers
- Briefing for Carbon Neutral 2030 Members Working Group

Consultation response

The council received 19 responses on the SPD. 12 of these were submitted via the consultation portal with respondents completing the online survey; 7 were submitted via email. The breakdown of respondents is as follows:

- 6 individuals
- 4 Environmental/wildlife organisation (Benfield Wildlife & Conservation Group, Benfield Valley Project, BH Wildlife Forum, Sussex Wildlife Trust)
- 2 Local Residents Associations (Goldstone Valley RA, Hanover Action)
- 2 Statutory Consultees (Environment Agency, Historic England)
- 1 internal officer
- 1 civic/amenity group (Hove Civic Society)
- 1 developer/agent (Enplan)
- 1 District Council (Horsham)
- 1 local partnership (The Living Coast)

In addition, the council received responses from the following 5 organisations, all of which had no comments to make:

- Natural England
- Coal Authority
- National Highways
- Southern Water
- BADGE (Brighton Access for Disabled Groups)

Summary of comments and officer response

The following tables summarise the comments received and how the comments have informed the changes to the final version of the SPD.

Section/comments/issue raised	BHCC response
Section 1 Introduction	
Links between climate change and biodiversity declines and reference to the climate and biodiversity declaration in paragraph 1.2 makes emotive political point rather than a scientific one. Although linked, biodiversity is a different issue affected by human actions, as well as natural climate change.	Section 1.2 has been amended to make it clear that biodiversity declines are not just associated with climate change.
Setting an arbitrary date for 'carbon neutral' is wishful thinking rather than science or good community planning. Need to be more active in controlling population growth, which has the biggest effect on the UK environment, and seek net zero by 2030.	Net zero and carbon neutrality are the same, meaning to reduce carbon emissions from operations as far as possible and to offset remaining emissions. The rationale for the 2030 target date is linked to the Paris Accord 2015, signed by most countries in the world, to limit global temperature rise. In order to limit temperature rise to 1.5°C above pre-industrial levels, the world as a whole must reach net-zero emissions by 2050. BHCC, along with hundreds of other UK councils and businesses, has declared targets with a 2030 deadline. This is faster than the UK government target of 2050.
Other issues also important including reducing carbon emissions, reducing water wastage in distribution. Question around cost vs benefit. Costs and benefits should be more clearly described.	Comments noted; however the scope of this SPD is focussed on improving biodiversity outcomes. The government recognises the potential for negative ecological impacts from development and aims to secure measurable improvement in habitats for biodiversity through its policy on BNG. This has been subject to its own impact assessment with full cost analysis and is available to the public. Providing details on costs vs benefits would be overly detailed for an SPD.

Section 2 Biodiversity Resource	
Do you agree that Section 2 accurately describes Brighton & Hove's local biodiversity?	
11 out of 19 respondents answered this question of which: <ul style="list-style-type: none"> • 2 strongly agreed • 8 tended to agree • 1 tended to disagree 	Support for this section noted.
Suggested changes	

Difficulty viewing sites/areas protected as document hard to read in consultation portal.	Maps showing key designations are included within Section 2. A full and enlargeable version of the draft SPD was also available on the council website during the consultation. Hyperlinks will be included from the consultation portal during future consultations for ease of accessing enlargeable versions.
Public need to know how to find out if an area is included.	Maps showing key designations are included within Section 2. This section also includes hyperlinks to the interactive MAGIC map and the City Plan Policies Map where designated sites can be seen in greater detail.
Protecting residents' gardens would help local biodiversity. Increased parking permit costs resulting in an increase in paved gardens for parking use.	It is acknowledged that private gardens can provide important habitat and that this needs to be encouraged. Householders benefit from certain 'permitted development rights' which can include paving over of front gardens provided certain criteria are met. Text has been added to the SPD to encourage retention of front gardens, but this cannot be required where permitted development applies.
SPD should refer to people as part of the biodiversity. Need to ensure the environment people live in is conducive to wellbeing.	The link between the wider environment and people's health is acknowledged and recognised under section 1.1 of the SPD. In this way, guidance in the SPD should help to support people's health and wellbeing through the protection and enhancement of habitats and species.
Local green spaces and parks within urban areas not adequately described. Development around green spaces could have negative impacts on pollinators and birds accessing these resources.	Additional text has been added to this section to acknowledge that the city's parks and green spaces, which are not designated nature conservation sites, also contribute towards biodiversity.
Provide more general context in the initial paragraph to highlight the 3 key types of environments found: the rural Downs, the urban environment and the coastal and marine environments. Strengthen reference to coastal and marine environments to ensure this environment is not overlooked.	Additional contextual information text about the 3 key environments has been added to the initial paragraph.
Other comments on this section	
Climate change mitigation and adaptation through biodiversity	
Opportunity for planning to take into account the climate crisis, e.g. tree-planting and limited car-use to reduce CO2 output; use of verges to capture water and provide green infrastructure.	City Plan Parts 1 and 2 comprise the development plan for the city. These include a range of policies that support sustainable patterns of growth, climate change mitigation and adaptation. It is recognised that biodiversity has multi-functional benefits including those that are linked to climate change adaptation such as carbon sequestration, temperature regulation and surface water management. These benefits are set out in section 6.1 under the "wider benefits of landscaping" as well the case study in section 6.7. The focus of the

	SPD is to provide guidance to assist in meeting policies focussed on improving biodiversity outcomes.
Concern regarding designations	
Concerned that the Living Coast designation can be used as a way of generating tourism /visitors to the city and this impact is not adequately taken into account in the bigger picture, where “stakeholders should seek to manage and sustainably develop the area’s resources”.	The Living Coast Biosphere designation supports people and nature thriving together in the region by enabling sustainable socio & economic development through innovation in managing our ecosystems sustainably for future generations. The visitor economy is recognised as one of the most important economies of the wider Brighton city region and working to improve the sustainability and reduce the environmental impact of this economy continues to be a significant area of research and development for The Living Coast. From 2018 – 2021 The Living Coast delivered the EU Funded BioCultural Heritage Tourism project which had the specific aim of increasing the financial value of tourism to the region whilst reducing the environmental impact. The Living Coast continues to work with visitor economy partners to enable this sector of the local economy to reduce their environmental impacts and develop within regional ecosystem boundaries.
Status of designated sites	
Clarification required of the level of protection provided by the plan and LNR status in relation to Benfield Hill.	The SPD is a guidance document, it is not a statutory Development Plan. The SPD does not provide protection; it provides guidance to assist the implementation of planning policies in the development plan. The SPD will be a material consideration in planning decisions. It is noted that the Benfield Hill LNR falls entirely within the South Downs National Park and any planning decisions for that site would be taken by the SDNPA.

Section 3 Key Legislation	
Comments of support	
Relevant legislation clear.	Support noted.

Section 4 Planning Policy and Strategies	
Issues raised on policy section	
NPPF	
Clarification required on whether NPPF or Local Plan policies have priority. It would be helpful to know where there is conflict, what the LPA will prioritise.	Development Plan policies are the starting point for decision making and have most weight. However, the NPPF in setting out national planning policy is an important material planning consideration. For a Local Plan to be found “sound” by a planning inspector, it must in general conformity with the NPPF and therefore cannot directly conflict with the NPPF.
NPPF causes conflict. Para 116 supports prior approval for telecom infrastructure masts. LPA should refuse prior approvals where there is an impact on the Biosphere. Special consideration should apply where there might be construction impacts in or around habitats or protected species.	Planning considerations relating to prior approvals are limited to those outlined in Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The LPA is not able to consider any other matters in relation to prior approvals.
The LPA should set a green priority on how it adopts the NPPF.	The LPA is not able to choose how it adopts the NPPF. All sections of the NPPF must be considered, where relevant.
SPDs	
Reference to SPD15 Toads Hole Valley omitted.	A link to SPD15 has been added to section 4.2 – Supplementary Planning Documents, Planning Advice Notes and Other Guidance.
Have any important local strategies been missed out from section 4.3?	
10 respondents answered this question of which: <ul style="list-style-type: none"> • 4 answered yes • 4 answered no • 2 answered not sure 	Partial support for this section noted. Specific queries responded to below.
Additional strategies suggested	
Educating and empowering local people to deliver on biodiversity targets.	There is no specific strategy regarding education or empowerment of local people with regards to biodiversity. However, a key objective of The Living Coast is to promote environmental awareness, knowledge and learning, and the process of developing a Local Nature Recovery Strategy will include community engagement and consultation. Both these work-strands, as well as further council work promoting biodiversity will support education around biodiversity.
Regeneration plans for the Three Corner Copse, Hove, to include plans for protecting species that will migrate from Toads Hole Valley.	There is currently no specific strategy for the regeneration of Three Cornered Copse. It is noted that this site is a Local Wildlife Site and is proposed as a Local

	Green Space in City Plan Part Two. As a LWS, it is likely to form part of the Local Nature Recovery Network and Local Nature Recovery Strategy which will drive a more coordinated approach to nature recovery.
The council's declaration of Climate and Biodiversity emergency and the Carbon Neutral 2030 programme has been omitted.	The Climate and Biodiversity emergency and Carbon Neutral Programme is already referred to in Section 1.
Other comments on this section	
BOAs	
Clarification on process of identifying / including certain sites within BOAs required.	BOAs were identified in 2009 by the Sussex Biodiversity Partnership as areas where landscape-scale conservation of biodiversity could be targeted. This explanation has been added to the SPD.
The description of the BOAs provided in 4.32 directly contradicts the fact that a large section of the Benfield Valley has been allocated for 100 dwellings in City Plan Part 2. Clarity needs to be given as to whether development of a site within a BOA is appropriate. Will this area (Benfield Valley) remain a BOA and be afforded protection?	The allocation of two areas for some development in Benfield Valley is a matter that has been addressed through the preparation and examination of the City Plan Part Two. BOAs are not a formal statutory or local designation for planning purposes. City Plan Part Two policy SA7 Benfield Valley seeks to secure biodiversity conservation and enhancement, and positive management of wildlife habitats, and recognises the role of development in facilitating this.
Areas which are BOAs should fall under 'Avoidance' in the mitigation hierarchy: site allocations on Benfield Valley BOA should be removed from City Plan Part 2. Assurance sought that the whole of Benfield to Hangleton BOA is protected from any future development plans.	See response above.
Local Nature Recovery Strategy content and process	
Local Nature Recovery Strategy preparation will provide a positive opportunity. Council should work with local groups to maximise opportunities to create improved biodiversity within BOAs.	The preparation of the Local Nature Recovery Strategy will involve community consultation and engagement. This will be carried out by the "Responsible Authority" for a certain area which will be identified by the government. These are likely to be upper tier authorities.
SPD and Local Nature Recovery Strategy should build connectivity between important habitat sites and green spaces. Maps in Figures 3 and 4 illustrate how disparate and unconnected the sites are.	The role and purpose of the SPD is to provide guidance to planning applicants and planning officers. An SPD cannot set a strategy, e.g. how to build ecological connectivity but does acknowledge the importance of this. The Local Nature Recovery Strategy and future local Nature Recovery Network will establish this strategy and part of this will focus on ecological connectivity.

Query how Benfield Valley will play its part in this LNRN if it has been interrupted by the building of 100 dwellings, cutting the space in two and creating further disparity in the connectivity of our local green spaces.	A significant portion (94%) of the Benfield Valley site area does not form part of any housing site allocation. As a LWS, it is likely to form part of the Local Nature Recovery Network.
Implementation of strategies	
Staff resource is needed to implement strategies. Money required to employ more staff for monitoring and scrutiny.	BHCC is aware that the requirements relating to BNG will have resource implications and is working with East Sussex authorities on how best to resource this work, including any requirements relating to application stage, monitoring and enforcement.

Section 5 Principles and Matters	
Comments on the Mitigation Hierarchy	
Assurance sought that Benfield Hill LNR falls into the "Avoidance" category of the mitigation hierarchy and therefore any planning application for development would be refused.	The mitigation hierarchy applies to all development regardless of where it is situated and seeks to avoid significant harm in the first instance. However, the LNR status would be a material consideration in the determination of any planning application, which would be undertaken by the South Downs National Park Authority for any planning application on this site.
Do you agree that Section 5.2: Biodiversity Net Gain accurately and adequately describes Biodiversity Net Gain?	
11 respondents answered this question of which: <ul style="list-style-type: none"> • 1 strongly agreed • 8 tended to agree • 2 neither agreed nor disagreed 	Support noted.
Changes suggested	
Successful delivery of BNG requires education and empowerment of people.	A key objective of The Living Coast is to promote environmental awareness, knowledge and learning, and the process of developing a Local Nature Recovery Strategy will include community engagement and consultation. Both these work-strands, as well as further work carried out by the council on promotion of biodiversity, including for example the environmental education programme with schools, will support education around biodiversity and BNG.
Section should be updated with further information as a more defined approach to measurable BNG is achieved locally.	Prior to adoption, the SPD will be checked thoroughly against any emerging guidance in relation to BNG, including the recent Defra consultation document.

	<p>As far as possible, the SPD will be written flexibly to accommodate any outstanding uncertainties in relation to BNG.</p> <p>However, the council may need to produce further detailed technical guidance on BNG to supplement the SPD, once the secondary legislation has been produced.</p>
Do you agree with the approach of ideally providing BNG on-site, followed by off-site provision when it can't be achieved on-site?	
<p>11 respondents answered this question of which:</p> <ul style="list-style-type: none"> • 5 strongly agreed • 5 tended to agree • 1 tended to disagree 	Support noted.
Comments on this approach	
Concerns regarding off-site BNG	
<p>Clarity required requiring off-site provision. Provision of off-site BNG seems like a get-out clause for developers and doesn't equate to leaving sites in a better state.</p>	<p>The ability to provide off-site BNG is set out in the Environment Act in recognition that not all sites will be able to provide sufficient BNG on site. The government has recently consulted on the approach to BNG, including off-site provision and this will inform secondary legislation which is to follow. It is clear from the government's consultation document that the government expects BNG to be delivered on-site in the first instance to ensure BNG is consistent with the mitigation hierarchy and spatial hierarchy where impacts on mitigated on site. Delivering BNG off-site, particularly where this improves sites which are part of a wider ecological network, will still be beneficial for biodiversity and should not be considered as a "get out" clause.</p>
<p>Off-site BNG should not be the norm. Off-site BNG should only be considered where there are fully justified and exceptional reasons confirming that on-site BNG is not possible, or only partly possible, and that a better biodiversity/nature conservation outcome will be achieved by off-site.</p>	<p>Secondary legislation anticipated for later 2022 will set out more detail regarding the process in relation to BNG. However, it is understood that applicants will need to submit a BNG Plan with their application which will include consideration of on-site opportunities for delivering BNG. These will be verified by the council's ecological advisor as part of the planning application determination process.</p> <p>Delivering BNG off-site, particularly where this improves sites which are part of a wider ecological network, will still be beneficial for biodiversity.</p>
<p>SPD should clarify that off-site BNG should be an alternative to on-site BNG, rather than subsidy for on-site destruction.</p>	<p>BNG does not replace or undermine the mitigation hierarchy, therefore any onsite or offsite BNG secured must be for measurable gains; it cannot be used</p>

	<p>to mitigate or compensate any onsite losses. This is set out in section 5.2 of the SPD.</p> <p>The way in which off-site BNG can be provided and will be regulated will be set out in secondary legislation anticipated later for 2022.</p>
Support for off-site BNG	
Draft Horsham District Nature Recovery Strategy published by Horsham District Council. SPD could reflect the need to take any opportunity to further connections and wildlife networks that are identified both within and beyond council's boundaries.	Comment noted and supported. An amendment has been incorporated to the text to refer to the potential for off-site opportunities being within a Sussex NRN.
BNG presents an opportunity to improve and enhance biodiversity within the urban realm, however offsite BNG provides opportunity to improve key local sites, such as landscape scale restoration opportunities, chalk grassland, coastal & marine restoration.	The SPD refers to off-site provision having regard to any emerging Local Nature Recovery Strategy. This should ensure that off-site BNG does invest in these landscape scale projects and contributes to the recovery of nature on a regional scale. An amendment has been incorporated to the text to refer to the potential for off-site opportunities being within a Sussex NRN.
Proportion of BNG sought	
10% BNG not considered sufficient to reverse biodiversity loss. The Living Coast is supportive of the wider regional ambition to aim for higher than 10% (e.g. minimum 20%) via planning policy and is working in partnership to both identify the required evidence base to support this as well as the percentage BNG needed locally.	Proposed Modifications to City Plan Part 2 policy DM37 Green Infrastructure and Nature Conservation proposes the addition of text which recognises the regional ambition to achieve 20% BNG. The council is committed to working with the Sussex Local Nature Partnership with regards to bringing forward evidence that would support a higher than 10% target. The review of City Plan Part 1 will provide the mechanism to require a higher than 10% target through policy if this can be supported by evidence.
Monitoring BNG	
Both on and offsite opportunities have value and the balance between the two in terms of what is being delivered will need to be monitored and managed.	Comment noted. The management and monitoring of on and offsite provision will be a requirement of the Environment Act. This ongoing monitoring should enable the benefits of onsite vs offsite to be better understood in the longer term.
Developers must be serious about achieving on-site BNG. Developers must be held to account when commitments are not delivered. BNG must be monitored.	The way in which BNG will be monitored will be set out in secondary legislation anticipated later in 2022 therefore details are currently unknown. However, there will be a legal obligation for developers to manage and maintain BNG for a period of at least 30 years and this will include reporting to the LPA to allow monitoring to take place.
Does Section 5.3: Local biodiversity matters includes all relevant local matters?	

<p>11 respondents answered this question of which:</p> <ul style="list-style-type: none"> • 5 answered yes • 4 answered no • 2 answered don't know/not sure 	<p>Some support for this section noted.</p>
<p>Additional matters suggested</p>	
<p>Other European Protected species: Section on Great Crested Newts should be expanded to include a paragraph on other European Protected Species e.g. Hazel Dormice, which has the same legal protection.</p>	<p>Comment noted. Key Biodiversity Matter 7 amended to reflect Species Conservation Strategies of relevance locally. These will be brought forward through the Environment Act and will encompass a range of species at greatest risk. The SPD may need to be amended in future as and when further information on these is known.</p>
<p>Prevention of paving over front gardens: Paving over of driveways/ front gardens damaging in terms of water retention and biodiversity. Planning system should disincentivise this practice.</p>	<p>Comments noted as addressed above. However, this not considered to be a key biodiversity matter which this section of the SPD focusses on. Some householders benefit from permitted development rights relating to the paving over of front gardens where certain criteria are met; this is therefore out of the scope of planning policy and guidance.</p>
<p>5G masts: High 5G masts create a physical change and potentially impact wildlife through environmental change. This should be recognised particularly in relation to any new evidence around the impacts of this new technology.</p>	<p>This is not considered to be a key biodiversity matter which this section of the SPD focusses on. Some telecom masts benefit from permitted development rights and are subject to prior approval. Planning considerations relating to prior approvals are limited to those outlined in Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The LPA is not able to consider any other matters in relation to prior approvals. Where a telecom mast falls outside the scope of permitted development rights, e.g. due to its height, then all planning matters will be considered.</p>
<p>Off-site mitigation: In relation to off-site mitigation, e.g. species translocation, what measures will be in place for ensuring species are thriving and who is accountable for this?</p>	<p>The issue of mitigation is not considered to be a key biodiversity matter. Mitigation is addressed in section 7. Offsite mitigation would be secured through Section 106 legal agreement. This would be reported to the council. The developer would be held accountable for this.</p>
<p>Scrutiny of developers required – development should not be permitted unless thoroughly checked prior to and throughout development process.</p>	<p>This is not considered to be a key biodiversity matter. The planning application determination process involves scrutiny of proposals, including by the council's ecological advisor. Where relevant, planning</p>

	conditions, including a Construction Environmental Management Plan would ensure any ecological matters are addressed throughout the construction process.
Include promotion of areas that can be reclaimed for biodiversity with local people, particularly where green spaces have been lost.	This is not considered to be a key biodiversity matter which this section of the SPD focusses on. The purpose of this section of the SPD is to provide guidance for planning applicants on biodiversity matters that need consideration during the entire planning process. The suggestion would not be a matter for consideration by a planning applicant.

Do you agree that each biodiversity matter is accurately and adequately described?	
1. Irreplaceable habitats	
11 respondents answered this question of which: <ul style="list-style-type: none"> • 3 strongly agreed • 6 tended to agree • 2 didn't know/weren't sure 	Support noted.
2. Habitats Regulations	
11 respondents answered this question of which: <ul style="list-style-type: none"> • 3 strongly agreed • 6 tended to agree • 2 didn't know/weren't sure 	Support noted.
3. Recreational pressure on designated sites	
11 respondents answered this question of which: <ul style="list-style-type: none"> • 3 strongly agreed • 6 tended to agree • 2 didn't know/weren't sure 	Support noted.
4. Priority habitats	
11 respondents answered this question of which: <ul style="list-style-type: none"> • 3 strongly agreed • 6 tended to agree • 2 didn't know/weren't sure 	Support noted.
5. Marine environment	

<p>11 respondents answered this question of which:</p> <ul style="list-style-type: none"> • 3 strongly agreed • 5 tended to agree • 1 neither agreed nor disagreed • 2 didn't know/weren't sure 	Support noted.
6. Wildlife sensitive lighting	
<p>11 respondents answered this question of which:</p> <ul style="list-style-type: none"> • 4 strongly agreed • 5 tended to agree • 2 tended to disagree 	Support noted.
7. Great Crested Nest District Licensing	
<p>11 respondents answered this question of which:</p> <ul style="list-style-type: none"> • 4 strongly agreed • 4 tended to agree • 2 strongly disagreed • 1 didn't know/wasn't sure 	Support noted.
Changes suggested to Biodiversity Matters section	
Matter 1 Irreplaceable Habitats	
<p>Benfield Hill considered to be an Irreplaceable Habitat. Confirmation required on this interpretation and that no planning application for development will ever be approved.</p>	<p>Habitats within Benfield Hill are not considered to be irreplaceable habitats under current definition provided by the NPPF. In recent BNG consultation, the government has proposed to produce a list of irreplaceable habitats. The Benfield Hill LNR is situated entirely within the South Downs National Park. Any planning decisions for this site would therefore be undertaken by the SDNPA.</p>
Matter 5 - Conservation of the marine environment	
<p>Marina inner lagoon is an active recreational and business area. Any restrictions need to have consideration of operational needs of boatyard business required.</p> <p>Outer tidal area has suffered from extensive silting, which seems to have been affected by recent building resulting in reduced marine access and many boats aground. Dredging not being carried out quickly enough. Restrictions need to take this into account.</p>	<p>The purpose of Biodiversity Matter 5 is to highlight the biodiversity issues that need to be considered in relation to the marine environment.</p> <p>Any existing ongoing requirements relating to the use of the inner harbour for recreational and business purposes would have been assessed during the determination of any previous planning applications relevant to the area. Consultation on any future planning applications affecting this area will provide the opportunity for these issues to be raised and scrutinised, where relevant.</p>

Licences need to be readily available for dredged mud disposal at sea.	Licencing for dredged mud disposal falls outside the scope of this SPD.
Matter 6 Wildlife sensitive lighting	
Insufficient detail, advice and guidance provided in this section for the wildlife mentioned e.g. Dormouse.	The section on Wildlife Sensitive Lighting includes a link to guidance produced by the Institute of Lighting Professionals which sets out the process of mitigating lighting impacts for bats, which is also applicable to other species.
Matter 7 Great Crested Newt Licensing Scheme	
The map does not show roads and/or major city features/locations. Query how stakeholders will know whether development will be impacted by GCN.	Map provided for illustrative purposes only. Further details, including maps shown at larger scale, are available on the NatureSpace website, hyperlinked from the SPD.

Section 6 Integrating Biodiversity into Development	
Are the good practice examples helpful or unhelpful?	
11 respondents answered these questions of which: <ul style="list-style-type: none"> 6 found all the good practice examples extremely helpful 5 found all the good practice examples helpful 	Support noted.
Changes suggested	
Photographs	
Photograph of the biodiverse roof on Velo Café is disingenuous and does not reflect its current state. Consideration for provision of ongoing maintenance required.	Although this issue is recognised, the photograph is considered helpful in showing an example of a green roof. However, the importance of maintenance is recognised and planning conditions are used to secure maintenance. A new paragraph highlighting the importance of maintenance has been added to this section. Any features providing mandatory BNG will be required to be maintained and managed for a period of at least 30 years.
Photograph of chalk grassland at Swanborough Drive is allocated for housing in CPP2. Concerned that BHCC were unaware Whitehawk Hill was LNR when allocated in CPP2, despite local community raising this an issue. Improved communication within BHCC and between BHCC and local organisations required.	This error is noted and the photograph deleted. The role of the SPD is to provide guidance to help ensure positive and improved outcomes for biodiversity where development takes place. Concerns regarding Whitehawk Hill are noted and these matters have been addressed through the examination of the City Plan Part Two. The production of the Local Nature Recovery Strategy will provide further opportunities for partnership working.
Maintenance / management	

The need for planning long-term management of new features required throughout.	A new paragraph highlighting the importance of management and maintenance has been added to this section and will reflect the requirement to manage mandatory BNG for a period of at least 30 years.
Plant species	
Emphasise use of native species or local provenance from suppliers such as the WildFlower Conservation Society or other reputable sources such as Emorsgate and the Millennium Seed Bank.	Comment noted. Additional references to encourage the use of native species of local provenance have been added, in addition to further cross-references to Annex 7. The council cannot specify the use of certain suppliers.
Use of SuDS	
Use of SuDS supported. Choice and design of SuDS must not cause adverse impact to the Brighton Chalk Block Aquifer. SPD should specify that only specific types of SuDS will be appropriate in some locations.	A reference to the need for SuDS to be appropriate to the location has been added to section 6.7, to ensure they do not have an adverse impact on groundwater quality.
Comments of support	
All examples are great ideas/solutions in an urban context and need to be implemented wherever possible.	Support noted.
Section is well-presented.	Support noted.
Other comments	
Measures need to take account of any hazards.	Annex 6 of the SPD includes a hazard prevention checklist.
Are there any other good practice examples that would be useful to include in Section 6?	
Butterfly Haven at Dorothy Stringer school	A case study on the Dorothy Stringer Butterfly Bank has been added.
Exclusion of gas central heating in new developments in favour of heat pumps and similar, more ecologically-sound means of heating houses.	This matter is not considered to be of relevance to this SPD.
Do you have any relevant local case studies that could be incorporated into Section 6?	
SPD would benefit from more local case studies of mitigation measures, including mitigation that has been carried out well and mitigation which has failed to deliver, with analysis of why this was the case to ensure errors are not repeated. Example of mitigation which was carried out well, involving local community expertise and given long term support is The Liz Williams Butterfly Haven, Dorothy Stringer .	Role of SPD is to set examples of good practice. Comments are noted and inclusion of local good practice examples supported. The Liz Williams Butterfly Haven, Dorothy Stringer has been added as a case study in section 6.

<p>Example of mitigation which was carried out poorly would be translocation of reptiles to Whitehawk Hill and Mile Oak from land near Overdown Rise LWS, Mile Oak 2018</p>	
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<p>Section 7 Step by Step Guide to Biodiversity and the Development Management Process</p>	
<p>Do you agree that this section clearly sets out the various stages of the process and identifies what information is required at each stage?</p>	
<p>11 respondents answered this question of which:</p> <ul style="list-style-type: none"> • 2 strongly agreed • 7 tended to agree • 1 neither agreed nor disagreed • 1 didn't know/wasn't sure 	<p>Support noted.</p>
<p>Changes suggested</p>	
<p>Pre-application stage</p>	
<p>Important that the LPA provides service at all stages including pre application to avoid poor site choices.</p>	<p>A pre-application advice service is provided by BHCC; however it is not mandatory and is the applicant's choice whether they request it. The SPD emphasises the need to consider the mitigation hierarchy from site search stage and suggests that pre-application advice at this stage would be useful and is encouraged.</p>
<p>Heavy weight on requiring avoidance of damage to nature by developments must be required: not considered that this has been pursued in decision making.</p>	<p>The county ecologist is consulted on any relevant planning applications and ecological advice is provided and considered as part of the determination process, alongside other planning matters.</p>
<p>Ecological survey timing</p>	
<p>Clarity on when ecological surveys for proposals should be undertaken required; assurance that surveys will not be undertaken at inappropriate times of the year.</p>	<p>Annex 4 of the SPD provides full details on ecological survey seasons. A cross reference to this Annex is provided within the section on Ecological Impact Assessment. For an Ecological Impact Assessment to be in accordance with best practice standards, any ecological surveys would need to have been undertaken at the correct time of year. This is a requirement for relevant planning applications and would be checked during the determination of applications.</p>
<p>Connections with local expertise – site assessment and mitigation</p>	
<p>SPD should encourage and facilitate developers to make early connections with local community expertise including reviewing and carrying out site surveys and</p>	<p>Section 7 of the SPD includes a section on choosing a consultant, and section A3 clearly states that an ECIA should be produced in accordance with best practice</p>

<p>assessment, planning and delivering mitigation, and long-term monitoring and management.</p> <p>A precedent for using local community expertise is the NatureSpace scheme, using Amphibian and Reptile Conservation and The Freshwater Habitats Trust's involvement and expertise to plan and carry out mitigation measures for GCN district licensing.</p>	<p>guidance, including ensuring ecologists are suitable for the role. It would not be appropriate for the SPD to suggest using local groups to carry out site survey and assessment. The role of local groups is acknowledged and are encouraged to submit records to the local Record Centre and this information is then used in the planning process. Local groups also have the opportunity to contribute to proposals during consultation on the planning application. The county ecologist is consulted on all relevant planning applicants which includes consideration of mitigation measures.</p> <p>Where mitigation measures are required, these would be secured by condition or legal agreement and would include a requirement to monitor.</p>
<p>Mitigation measures</p>	
<p>Include up to date information and reviews of latest research on value of mitigation measures. Recent studies show that commonly used mitigation measures such as translocations of reptiles and Badgers may have extremely limited success.</p>	<p>Comment noted. Any mitigation or compensation measures, such as translocation, are identified and delivered in accordance with best practice guidance. Section 7 Stage D has been amended to reflect this point.</p>
<p>BNG Assessment</p>	
<p>To ensure the SPD wording is consistent with the Defra Metric User Guide, the following amendment is suggested:</p> <p><i>“For major developments, the latest version of the Defra Biodiversity Metric should be used <u>as a tool to inform the assessment of demonstrating biodiversity value and measurable mandatory net gain.</u>”</i></p>	<p>Comment noted. Text amended as suggested.</p>
<p>Application and construction stages</p>	
<p>Developers not to be trusted. Each stage needs checking as well as after construction. Do not support the ability to mitigate or compensate: will be used as a get out clause.</p>	<p>The mitigation hierarchy is set out in the NPPF and allows impacts to be mitigated, where they cannot be avoided, or compensated as a last resort. Applications are scrutinised as part of the determination process to ensure the mitigation hierarchy has been appropriately followed.</p>
<p>Post Construction stage – management and monitoring</p>	
<p>Mitigation plans should be followed up with surveys to ensure any relocations of wildlife are thriving. SPD and final planning approval should include sanctions to be applied where mitigation, including translocation, fails.</p>	<p>Some mitigation measures would include monitoring of the effectiveness. This would be reported to the council. Secured by condition or legal agreement.</p>
<p>More detail required on management of sites.</p>	<p>The specific details of site management will vary on a site-by-site basis. The SPD is considered to provide an overview of the requirement for management and</p>

	specifies that details will be secured through a Landscape and Ecological Management Plan.
Management of sites should include opportunities for community group involvement.	<p>Community groups have the opportunity for involvement with site management where appropriate but this will depend on what has been agreed in the Landscape and Ecological Management Plan. However, it is recognised that there could be issues with community group involvement, such as long-term reliance on volunteers etc. British Standards also set out information with regards to suitability for management work.</p> <p>It is likely that any monitoring of mandatory BNG will be regulated. Further information on this is anticipated through secondary legislation.</p>

Other questions

Comments	BHCC Response
Do you agree that the SPD sufficiently reflects the requirements of the Environment Act 2021?	
11 respondents answered this question of which: <ul style="list-style-type: none"> • 8 tended to agree • 1 neither agreed nor disagreed • 2 didn't know/weren't sure 	Support noted.
Changes suggested	
Percentage BNG	
SPD should set out that the 10% Biodiversity Net Gain is a legal minimum. Where BNG is less than 15% developers must provide an explanation / justification. Meeting the minimum BNG requirements is not acceptable.	Section 5.2 and Section A5 has been updated to reflect that the mandatory requirement is to achieve a minimum 10% BNG. The SPD is a guidance document. To require developers to justify why they are providing less than 15% BNG would be a policy requirement and cannot be included within an SPD.
Need for further review	
The SPD will need amendment in future to reflect statutory targets in relation to biodiversity and decline in species abundance.	Statutory targets are currently unknown and are currently out for consultation by the government. The SPD will be written flexibly to accommodate this and it is recognised that further amendment or technical guidance may be required
SPD must be amended/reviewed in future to ensure emerging requirements of the Environment Act, including BNG, are incorporated into the SPD.	The SPD has been checked thoroughly against any emerging guidance in relation to BNG, including the recent Defra consultation document. The council may need to produce further detailed technical guidance on BNG as well as other requirements relating to the Environment Act to supplement the SPD, once the secondary legislation has been produced.
Future review of SPD to include up to date information on how development is affecting our city's natural capital.	The council will have various monitoring responsibilities through implementation of the Environment Act which will be set out in secondary legislation. This will include monitoring of BNG.
SPD may need further review to reflect BHCC position. BHCC has not established its position on the regional ambition of achieving a greater than 20% BNG, and the balance between on and offsite delivery of BNG in relation to	The potential to secure 20% BNG will be explored through evidence gathering undertaken as part of the preparation for a local nature recovery strategy and plan. This can then be reflected in further forthcoming plan reviews.

the overarching context of Nature Recovery Networks / Local Nature Recovery Strategies.	It is anticipated that work to progress the Local Nature Recovery Strategy will help develop the council's approach and position in relation to onsite and offsite BNG. The SPD has been checked to ensure it is written flexibly to accommodate any future position in relation to this.
Other suggestions	
User-friendly version of the Environment Act required to enable local people can see how it applies to our city and communities.	It is agreed that a user-friendly version of the Environment Act would be helpful, however this is outside the scope of this SPD and would be for the government to produce.

Is there anything else that you think should be included in the SPD?	
Glossary of definitions would be useful.	Further definitions provided
SPD should emphasise the 3 Tests that must be passed (overriding public interest, no alternative, favourable conservation status) where a licence from Natural England is required before any building work can take place, for European Protected Species.	Comment noted. Further information added to the revised Biodiversity Matter on Species Conservation Strategies and Species Licenses.
Heat pumps or similar should be required in all new builds.	This matter is not within the scope of this SPD.
Sites situated within BOAs should be removed from all planning documents.	BOAs do not represent a formal planning designation. The site allocations proposed in City Plan Part 2 are not a matter for consideration in this SPD consultation. This issue has been addressed through previous consultations on CPP2 and is continuing through the CPP2 examination process.
SPD fails to provide a framework that would help achieve measurable BNG. Council should identify opportunities for delivery of off-site BNG.	The role and purpose of the SPD is to provide guidance to applicants on how to ensure biodiversity is considered at each stage of the planning process to ensure biodiversity is protected and enhanced and to provide guidance on how to achieve mandatory BNG. The introduction of mandatory BNG is measurable BNG. It is anticipated that the identification of sites for delivery of off-site BNG will come forward as part of the forthcoming Local Nature Recovery Strategy.
SPD does not develop practical opportunities for carbon sequestration across the city. E.g. large paved areas exist throughout the city that could be used for tree planting, providing carbon capture and having associated benefits. Opportunities exist to increase the "green network" through upgrading	This is beyond the scope and remit of the SPD which is to provide guidance for how specific planning policy requirements can be met through new development to ensure biodiversity is protected and enhances. Some of the ideas cited may be better addressed through other initiatives e.g. highways

ecological function of smaller underused sites. Council should identify which parts of the built-up areas could be re-dedicated to a more natural use.	improvements and local transport plan initiatives. Future climate change adaptation projects as part of the Carbon Neutral Programme work may also look at this.
Proposed policy (Hove Station Neighbourhood Plan) of one street tree per new dwelling provides link between carbon sequestration and BNG.	The proposed policy contained in the Submission Hove Station Neighbourhood Plan will be a matter considered as part of the examination for that plan. The content of the SPD is guided by regulations and cannot introduce new planning policies.
Southern Water need to be held to account for the spaces that it owns / manages. Areas owned by Southern Water in Hanover could be used for biodiversity gain; SW not open to suggestions.	Comment noted. This matter falls beyond the scope of this SPD.
SPD should consider the inter-relationship between conservation of heritage assets and historic landscape character and nature conservation and biodiversity where there are overlapping interests; e.g. Stanmer Park Registered Park and Garden where landscape restoration could have benefits to both biodiversity and heritage significance.	The multiple policy benefits from improving biodiversity are recognised in the SPD and through adopted and emerging local planning policies. A reference to the potential for landscape restoration to have benefits to both biodiversity and heritage has been added to section 6.1
Confirmation sought of how BHCC will ensure implementation of the SPD.	Indicators for SPD11 are reported annually in the AMR . These indicators will be reviewed to determine whether they are still relevant and suitable. It is likely that the Environment Act will set out specific requirements for monitoring. These requirements will be reflected in any future monitoring for the SPD.
The value of the SPD is in how it will be used. Useful to know whether any analysis has been carried out as to how the adopted SPD was utilised by developers, decision makers and elected members, whether there are examples of how it worked in practice, what enforcement of conditions relating to the SPD were undertaken and how could this be improved upon for the future. Interested to see examples of development in the city that has followed the mitigation hierarchy and delivered biodiversity enhancements in line with the previous version of the SPD, for reassurance that the SPD has been implemented.	Indicators for SPD11 are reported annually in the AMR . These indicators will be reviewed to determine whether they are still relevant and suitable. It is likely that the Environment Act will set out specific requirements for biodiversity monitoring. These requirements will be reflected in any future monitoring for the SPD.
Query whether the Urban Greening Factor is an approach being considered by BHCC	The SPD supports the delivery of CP10 and DM37, neither of which refer to the Urban Greening Factor but which do refer to the importance of incorporating green infrastructure within new development. The review of City Plan Part 1

	will provide the opportunity to consider other approaches such as the Urban Greening Factor.
Do you have any local images that could be used in the SPD?	
Images of "Blooming Hanover"	Comment noted and will be investigated where appropriate.
Any images available on The Living Coast website (www.thelivingcoast.org.uk/business-resources) as needed.	Comment noted and will be investigated where appropriate.

Annexes

Comments	BHCC Response
Annex 1 Legislation	
Annex 2 City Plan policies supported by SPD	
Annex 3 Priority habitats and species in Brighton & Hove	
Annex 4 Protected species and ecological survey seasons	
Annex 5 Biodiversity Checklist	
Annex 6 Biodiversity and Development Sites – Hazard Prevention	
Annex 8 Building with Nature	
17a. Is the information contained in the above Annexes helpful?	
11 respondents answered these questions of which: <ul style="list-style-type: none"> • 2 found the above Annexes extremely helpful • 7 found the above Annexes helpful • 2 didn't know/weren't sure 	Support noted
Annex 7 Habitat Creation and Enhancement	
17a. Is the information contained in the Annex helpful?	
11 respondents answered this question of which: <ul style="list-style-type: none"> • 3 found it extremely helpful • 6 found it helpful • 2 didn't know/weren't sure 	Support noted
Suggested changes	
No changes to any of the above Annexes were suggested by any respondents under this question although various comments were put forward regarding the Biodiversity Checklist, Annex 5, under a separate section.	

Annex 5 Biodiversity Checklist	
Do you agree that Annex 5 clearly sets out the validation requirements?	
11 respondents answered this question of which: <ul style="list-style-type: none"> • 1 strongly agreed • 5 tended to agree • 1 neither agreed nor disagreed • 3 strongly disagreed • 1 didn't know/wasn't sure 	Some support noted.
Suggested changes	
A typical householder would struggle with this checklist. Further explanations and definitions required e.g. what a European protected species is, what a woodland designated nature site is (and where they are).	Comments noted. Householder Checklist has been reviewed and amended. Some further clarification has been provided, including links back to the relevant sections of the SPD, and further clarification on when survey is required. .
In Q7 there is a benefit in not asking whether the applicant is aware of protected species. Instead, ask if there is any record or sign of protected species. Developer unlikely to give positive answer to subjective question.	This question has been deleted from the checklist to reduce the risk of subjective response.
Do you agree that a biodiversity checklist should be a validation requirement for relevant applications, including householder applications?	
11 respondents answered this question of which: <ul style="list-style-type: none"> • 8 strongly agreed • 1 tended to agree • 2 neither agreed nor disagreed 	Support for this requirement noted.
Justification:	
Strongly agree:	
Loss of green space and gardens for building works is resulting in reduced air quality and destruction of local area.	Comment noted.
People need to be aware of species which might be affected by their proposal.	Comment noted
All need to consider the impacts on biodiversity	Comment noted
Ecology and the environment should be protected as a priority in all developments.	Comment noted

Will ensure best practice is being adhered to, although the review of such documentation would be necessary.	Comment noted. The documents submitted will be reviewed by the case officer responsible for determining the planning application which could also include further advice from an ecological advisor where necessary/relevant.
Biodiversity is our life support system and should be considered as an integral part of the design process for all applications, regardless of size, scale or national importance. Supports council's declaration of biodiversity emergency.	Comment noted. The importance of biodiversity is reflected in the citywide Urban Design Framework SPD17.
Helps to demonstrate applicant's efforts but query why not required for permitted development?	The checklist is only applicable to applicants who must submit a planning application. Some types of development, e.g. householder extensions that meet certain criteria, are permitted development meaning they can go ahead without any application to the Local Planning Authority. It would therefore be unreasonable to request a checklist when no planning application is made.
Tend to agree	
Will help people to think things through.	Comment noted
Neither agree nor disagree	
Checklist not considered to be of value for a typical existing residential building but will be of value for a new build or a redevelopment of a brownfield site.	Comment noted. It is welcomed that checklist is considered of value for a new build or redevelopment. The checklist has been reviewed to clarify further details, including when survey is required.

Other General Comments

Comments	BHCC Response
GENERAL COMMENTS OF SUPPORT, CAVEATED WITH FURTHER COMMENTS BY RESPONDENTS, AS SUMMARISED ABOVE	
Excellent draft dealing well with the broad range of areas that need protection and enhancement already identified and being looked after across the city.	Support noted.
SPD contains good checklists for on-site requirements by developers	Support noted.
Production of SPD supported to "ensure development protects, conserves and enhances biodiversity, including providing gains for biodiversity." The key to its success in delivering these outcomes for biodiversity will be in ensuring that it is implemented effectively.	Support noted.

Pro-active approach to biodiversity and nature conservation and the guidance provided in the SPD supported.	Support noted.
Encouraged to see BHCC taking active steps to ensure developers deliver biodiversity as part of the planning process.	Support noted
OTHER GENERAL COMMENTS / ISSUES	
SPD should require an impact assessment on people's wellbeing in areas affected by changes.	Health Impact Assessment (HIA) is not within the scope of this SPD. Some developments are required to undertake a HIA, however this is mainly strategic or larger developments.
<p>SPD not considered effective in current format. Layout should ensure users do not feel overwhelmed/lost in the initial detail but understand the purpose of the document and the required steps they need to take.</p> <p>The information in section 7, especially Figure 6 and Table 3 should feature more prominently at an early stage in the document and provide links through to some of the more detailed information that is presented elsewhere.</p>	<p>BHCC SPDs are prepared to a certain format and it is considered important to provide the local context and policy basis first particularly as SPDs are required to hang from adopted policy.</p> <p>The introduction to the SPD clarifies the role of the SPD and its purpose.</p> <p>The overview has been reviewed and a table added to provide signposting to certain sections of the SPD.</p>
Query how developers will be held to account given this is a guidance document.	The SPD is guidance but has the status of a material planning consideration in the decision-making process and the guidance is directly relevant to the ability or otherwise to meet planning policy requirements. Some of requirements explained in the SPD will become mandatory, e.g. the achievement of BNG and all of the requirements in relation to the stages of the planning process, in particular, those relating to the process of ecological assessment which need to be in accordance with best practice and British Standards. As a material planning consideration, the SPD will be afforded weight in planning decisions.
<p>The introduction during the on-line public consultation sessions acknowledged that this document is advisory and sits below many layers of council policy and procedure in terms of influence over decision making.</p> <p>Clarification sought as to what extent the council is reviewing policy and procedure in light of the biodiversity and climate emergencies.</p>	<p>The role of the SPD is to provide guidance on how to meet the planning policy requirements as set out in statutory local plans e.g. adopted City Plan Part One and emerging City Plan Part Two. The SPD clearly acknowledges the biodiversity and climate emergencies.</p> <p>A further review of the City Plan Part One will also take place and will take into account any further changes to national policy, local priorities and other</p>

	<p>circumstances. The timetable for the review is set out in the Local Development Scheme.</p>
<p>Concerned by the identification of LWS and LNRFs as areas suitable for development. CPP2 failed to protect these sites.</p> <p>Criticism of the use Urban Fringe Assessments to base decision making upon and a lack of internal expertise to impartially assess sites.</p> <p>The review of urban fringe assessments, utilising local expertise to properly assess value of remaining sites ahead of further City Plans and review of development strategy and process in light of the biodiversity emergency suggested.</p> <p>No evidence of any changes in BHCC policy which will lead to anything other than a continuation of degradation and loss. City's natural resources being undervalued in current decision making.</p>	<p>These are matters which have been addressed and scrutinised through the preparation and examination of the City Plan Part Two.</p> <p>Policies in the City Plan Part Two e.g. DM37 clearly set out requirements for any development likely to impact on designated sites.</p> <p>The role of this SPD is to provide guidance on how policy requirements can be implemented.</p>
<p>Recent developments such as Circus Street/AMEX areas have not been scrutinised: they are not environmentally friendly and contain no green infrastructure.</p>	<p>Comments noted. These developments will have been scrutinised through the planning application determination process.</p>
<p>Sufficiently large workforce required to ensure rules are monitored.</p>	<p>BHCC is aware that the requirements relating to BNG will have resource implications and is working with East Sussex authorities on how best to resource this work, including any requirements relating to monitoring and enforcement.</p>