



Biodiversity Report - First Consideration

1st January 2024 – 1st January 2026

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1. The Biodiversity Duty

Introduction

- 1.1. This report sets out the considerations the Council must undertake to fulfil their 'biodiversity duty' as set out in the [Environment Act 2021](#). The duty requires local authorities to consider what actions can be taken for the protection and enhancement of biodiversity within their boundaries. The duties identify a requirement for a first report that sets out the Council's **first consideration** of what action to take for biodiversity to be published by **01 January 2024** and to "*agree your policies and objectives as soon as possible after this*".
- 1.2. This report is the Council's **first consideration** and will aim to:
 - Respond to the new legislative Biodiversity Duty imposed on Local Planning Authorities to propose and report on actions for biodiversity within a Biodiversity Report.
 - Support delivery and monitoring of Biodiversity Net Gain (BNG) as a mandatory requirement of most new development which comes into force on the 12th February 2024, and which must form part of the Biodiversity Report.
 - Reflect opportunities to invest in biodiversity/habitat restoration initiatives to create a joined-up approach to improving York's natural environment.

Background

- 1.3. The Government published the 25 Year Environment Plan (25YEP) in 2018 signalling that they would strengthen the Biodiversity Duty and introduce a mandatory system for development of Biodiversity Net Gain (i.e. making sure habitats for wildlife associated with a development are on completion of that development in a better state than before the development took place).
- 1.4. The Environmental Improvement Plan (EIP23), published in January 2023, builds upon the foundation of the 25YEP and sets out government plans for significantly improving the natural environment by working with landowners, communities and businesses towards the joined vision.
- 1.5. The Environment Act 2021 received Royal Assent on 9 November 2021 and amended section 40 of the Natural Environment and Rural Communities Act 2006 (duty to conserve biodiversity) so that there is now a general biodiversity objective which is the "conservation and enhancement of biodiversity". To comply with the duty Planning Authorities must consider what action the authority can take "to further the general biodiversity objective".

- 1.6. The Planning authorities' considerations, actions and reporting on those actions are required by the Environment Act to be set out in a Biodiversity Report and the legislation and accompanying guidance sets out the timescale and required content of the report which includes reporting on Biodiversity Net Gain.
- 1.7. The Government advised that minimum 10% Biodiversity Net Gain (BNG) would become mandatory for most development in November 2023. The November date was then pushed back to the 12th February 2024 and applies to the majority of development. BNG for small¹ site development came into force in April 2024.
- 1.8. The Local Plan defines the Councils land use and planning expectations and the contributions to the development; Policy GI2 'Biodiversity and Access to Nature' sets the requirement locally to meet the statutory requirements of the Environment Act. The latest update to the National Planning Policy Framework (NPPF, Dec 2023) also secures the provision for BNG (Paras 180(d) and 185(b)).
- 1.9. As a member of the North Yorkshire SINC² Partnership, the Council identifies and designates a wide and extensive range of sites to be protected for their wildlife interest. Through its work with the SINC Partnership, the Council seeks to ensure its continued monitoring, protection and enhancement through policies and actions including community involvement in conservation activities.
- 1.10. Working in collaboration with North Yorkshire Council and the Mayoral Combined Authority, the council has funding to invest in biodiversity through two key programmes – Local Investment in Natural Capital and Local Nature Recovery Strategy (LNRS).

2. The Requirements for a Biodiversity Report

- 2.1. The Environment Act 2021 amends section 40 of the Natural Environment and Rural Communities Act 2006 (NERC Act). The original duty "*so far as is consistent with the proper exercise of [the public authority's] functions, to the purpose of conserving biodiversity*", has been replaced by a more proactive duty (new section 40(1)) to "*from time to time consider what action the authority*

¹ A small site means:

- residential development where the number of dwellings is between 1 and 9, or if this is unknown, the site area is less than 0.5 hectares
- commercial development where floor space created is less than 1,000 square metres or total site area is less than 1 hectare
- development that is not the winning and working of minerals or the use of land for mineral-working deposits
- development that is not waste development

² Site of Interest for Nature Conservation (SINC) - non-statutory designated local wildlife site

can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective”.

- 2.2. Public authorities must also under section 40A of the NERC Act evidence the action it takes by the publication of a Biodiversity Report, which must also report on the outcomes of mandatory Biodiversity Net Gain.
- 2.3. This is a corporate responsibility that goes across all Council departments, actions and decision making and places a significant duty on monitoring progress. The Government guidance regarding reporting your biodiversity duty actions³ specifically requires Local Authorities to publish biodiversity reports which contain:
- “a summary of action which the authority has taken over the period of the report.
 - a summary of the Authorities plans for the 5 years following the report.
 - quantitative data and any other information the authority considers is appropriate is include in the report”.
- 2.4. The Environmental Act 2021, section 102 to 103 and its associated guidance³ stipulates publication dates and frequency as follows:
- the first report must cover no longer than 3 years, subsequent reports must cover no longer than 5 years and run consecutively.
 - the report must be published within 12 weeks of the last day of the report.
- 2.5. The Government guidance regarding complying with the biodiversity duty⁴ summarises what, under the legislation, public authorities must do to satisfy the duty. This includes:
- “Consider what you can do to conserve and enhance biodiversity.
 - Agree policies and specific objectives based on your consideration.
 - Act to deliver your policies and achieve your objectives”.
- 2.6. The report has three compulsory sections which are described in the Government guidance as follows:

“Section 1: Your policies, objectives and actions You must include this information in your report. Explain:

- *the policies and objectives you have set to meet your biodiversity duty;*
- *the actions you’ve completed, either alone or in partnership with others, that benefit biodiversity.*

Section 2: How you have considered other strategies You must include this information in your report. Explain how you’ve taken into account:

³ <https://www.gov.uk/guidance/reporting-your-biodiversity-duty-actions>

⁴ <https://www.gov.uk/guidance/complying-with-the-biodiversity-duty>

- *local nature recovery strategies*
- *protected site strategies*
- *species conservation strategies*

For example, include information about how:

- *you've advised or worked in a Local Nature Recovery Strategy (LNRS) partnership in your area*
- *these strategies influenced your policies, objectives or actions.*

Section 3: Your future actions You must include this information in your report.

- *Explain how your organisation plans to fulfil your biodiversity duty over the 5 years following the end of this reporting period. You can report your plans for future actions in each section of your report alongside the ones you've achieved".*

- 2.7. In addition, the guidance also refers to the following optional content:
- Section 4: Information about your authority
 - Section 5: Your top achievements
 - Section 6: How your policies and actions have helped
 - Section 7: How you've raised awareness and educated the community
 - Section 8: Monitoring and evaluating your actions.
 - Section 9: Biodiversity highlights and challenges
- 2.8. The first Biodiversity Report must be reviewed within three years and subsequent reports every five years. Guidance on [Reporting your biodiversity duty actions](#)³ stipulates that the end date of the **first reporting period should be no later than 01 January 2026**. The first review/ reporting period will therefore be far less than the 3 years maximum allowable.

3. First consideration strategy

- 3.1. There is no guidance on what should be in a **first consideration** report. However, we take this opportunity to set out how it will:
- Review what the Council already does for biodiversity;
 - Undertake internal discussions across all departments and a limited stakeholder consultation to develop actions that will improve outcomes for biodiversity; and

- Set out how we will monitor progress and effectiveness on agreed policies and actions.
- Consider the internal governance arrangements we will establish to support a joined up and holistic approach to biodiversity net gain to ensure developer investor contributes to our overall vision for a natural environment in a better state than when we found it.

Current policies and actions

- 3.2. In 2019, the Council declared a Climate emergency and in line with the declaration, continues to engage in projects and initiatives to protect our most important sites, inclusive of but not limited to parks, woodlands, nature reserves, which improve all habitats for wildlife across the City, build in resilience to climate change and identify and develop sites to remove carbon emissions. Examples include:
- York and North Yorkshire Local Investment in Nature Capital (LINC): a DEFRA funded project to develop our capability to secure private finance for delivery of local priorities for nature.
 - York and North Yorkshire Local Nature Recovery Strategy, funded by DEFRA
 - Green Streets Project: work to increase the tree canopy cover across York.
 - Development of two new mico woods following receipt of a grant as part of the "coronation living fund" by DEFRA and the Forestry Commission.
 - Development of the Community Woodland to the north of the city, which is now handed to Forestry England to run as a going concern, whilst improving natural habitat.
- 3.3. The Council has a series of policies in Section 9 'Green Infrastructure' of the emerging Local Plan for biodiversity, habitats and ecological management, as set out below, which will be used to inform decision-making:
- Policy GI1: Green Infrastructure
 - Policy GI2: Biodiversity and Access to Nature
 - Policy GI2a: Strensall Common Special Area of Conservation
 - Policy GI3: Green Infrastructure Network
 - Policy GI4: Trees and Hedgerows
 - Policy GI5: Protection of Open Space and Playing Fields
 - Policy GI6: New Open Space Provision
- 3.4. The Council's planning work is supported by a number of documents which have a role in biodiversity which include:
- [Open Space and Green Infrastructure Update \(2017\)](#)
 - [City of York Biodiversity Audit \(2011\)](#)
 - [Local Biodiversity Action Plan \(2017\)](#)
 - [Sites of Importance for Nature Conservation \(SINC\) Review 2017](#)

- [City of York Local Development Framework Technical Paper: Green Corridors \(2011\)](#)
- [City of York Pollinator Strategy 2020 -2025](#)
- [Habitats Regulations Assessment October 2020](#)

3.5. Additionally, protecting and enhancing York's natural environment is a key influence and delivery mechanism in the [Council's 10 year strategies](#) and [York 2032: 10 year plan](#). York's [natural environment](#) is also a key component for meeting the city's requirements for [climate change](#), particularly relating to our Climate Emergency which set an ambition for York to be a net-zero carbon city by 2030. The [Council Plan](#) 2023-2027 'One City for All' also prioritises sustainability through cutting carbon and enhancing the environment for our future. Specifically this aim to improve the physical environment by making *the most of our green and blue infrastructure, to increase biodiversity, improve health and wellbeing and support nature recovery, understanding the impact and the difference we make.*

3.6. The Council has been involving a number of key longstanding partnerships that support biodiversity and will continue to work with them as necessary:

- North Yorkshire Nature Partnership
- North Yorkshire SINC Partnership
- Yorkshire Wildlife Trust
- Natural England (SSSI protection & management and policy support)
- Yorkshire Water
- Environment Agency (flood alleviations schemes and policy support)
- Strensall Common SAC Conservation Panel
- Clifton Backies Nature Reserve Management Board
- The University of York (research and conservation support)
- St John's University
- Forestry England
- White Rose Forest
- North and East Yorkshire Ecological Data Centre
- Treemendus York
- Trust for Conservation Volunteers
- Wild York
- Froglife
- Wildscapes
- Species Conservation Trust (Tansy Beetle Action Group)
- Buglife
- Askham Bryan College
- Rare British Plants (York Groundsel Recovery Project)
- Yorkshire Dales River Trust
- River Foss Society
- St Nicks (conservation charity)

3.7. We are also acting as a 'supporting authority', in the preparation of the North Yorkshire Local Nature Recovery Strategy (LNRS) for which we are working

with North Yorkshire Council (the ‘Responsible authority’), Yorkshire Dales and North York Moors National Parks. LNRS are a new, England-wide system of spatial strategies that will establish priorities and spatial proposals for specific actions to drive nature’s recovery and provide wider environmental benefits. Opportunities and priorities that emerge from the process of establishing the LNRS, will assist in identifying further actions for biodiversity.

- 3.8. A report was taken to Executive in October 2023 to set out the requirements of the Environment Act for BNG and reporting on the preparation of the LNRS. As part of this report, it was recommended that further investigations for BNG opportunities is undertaken. Consequently, a decision was made to agree *“the one off £30k expenditure from the Government grant detailed in the financial implications to commission a 2-phase approach to enhanced BNG opportunities for York and along with sums negotiated for the delivery of the LNRS expenditure is delegated to the Director of Transport Highways and the Environment in consultation with the Executive Members for Environment and Climate Change Emergency”*.

Work to develop the first Biodiversity Report

- 3.9. Set out below are the actions the Council will take in order to inform the first **Biodiversity Report**:
- The Council will continue to apply national and local environmental policies to planning applications.
 - The Council will continue to review and update guidance and practice to improve outcomes.
 - The Council will consider and review sites for the provision of offsite BNG on council owned and third-party land.
 - The Council will continue to support and work with the relevant partnerships to deliver wildlife conservation activities, environmental education, landowner advice, community engagement and conservation volunteering.
 - Undertake a review of the Council’s Biodiversity Action Plan and Pollinator Strategy; identifying key evidence requirements and actions to deliver.
 - Through internal discussions the Council will establish appropriate internal governance, and review procedures and practices across the Council to ensure that any reasonable opportunities to protect and enhance biodiversity are identified and actioned, taking a city wide approach.
 - The council will take a holistic approach to continue to improve and enhance existing sites, drawing on additional funding and investment where possible.

- The Council will engage with key stakeholders to review current partnership working on biodiversity and look to new opportunities to improve outcomes for biodiversity.

4. Monitoring

- 4.1. As part of the actions noted above the Council will consider how both existing and any new actions will be monitored.
- 4.2. BNG as part of planning has its own monitoring requirements set out in legislation and guidance, which the Council will need to adhere to. In addition, the Council will be publishing an Annual Monitoring Report (AMR) for the Local Plan policies and the relevant content of these reports will form part of the **Biodiversity Report**.
- 4.3. Some partnerships that form part of the Council's commitment to biodiversity already have reporting requirements which can be captured for the **Biodiversity Report**.
- 4.4. In devising monitoring proposals, the Council will have to be mindful of the resources available and will seek to avoid duplicating work done elsewhere so that, where monitoring is already being undertaken, it will be incorporated into the **Biodiversity Report** ahead of publication on the Council's web site.