

WELWYN HATFIELD BOROUGH COUNCIL  
CABINET – 5 DECEMBER 2023  
REPORT OF THE SERVICE DIRECTOR (RESIDENT AND NEIGHBOURHOOD)

**BIODIVERSITY DUTY - FIRST CONSIDERATIONS**

**1 Executive Summary**

- 1.1 Local authorities that operate in England must consider what they can do to conserve and enhance biodiversity. This is the strengthened 'biodiversity duty' introduced by the Environment Act 2021.
- 1.2 Local authorities must complete their first consideration of what action to take for biodiversity by 1 January 2024 and agree policies and objectives as soon as possible after that.

**2 Recommendation(s)**

- 2.1 Cabinet is asked to acknowledge the Council's responsibility to comply with the biodiversity duty as set out in the Natural Environment and Rural Communities (NERC) Act 2006 (as amended by the Environment Act 2021).
- 2.2 Cabinet is asked to note the contents of the first consideration as set out in the covering statement in Appendix A, and the WHBC Biodiversity Duty Action template in Appendix B.

**3 Explanation**

- 3.1 Public authorities who operate in England must consider what they can do to conserve and enhance biodiversity. This is the strengthened 'biodiversity duty' that the Environment Act 2021 introduces.
- 3.2 A key effect of the Environment Act was to amend, (from 1 January 2023), S40 of the NERC Act from a duty to "conserve" to a requirement to both 'conserve' and 'enhance'.
- 3.3 As a public authority the council must:
  1. Consider what actions it can properly take to further, what is specifically referred to in the NERC Act as "the general biodiversity objective", to conserve and enhance biodiversity.
  2. Complete its first consideration by 1 January 2024.
  3. As soon as possible after this, agree such policies and specific objectives it considers appropriate for taking action based on its consideration.
  4. Act to deliver its policies and specific objectives to further the general biodiversity objective.

5. Complete subsequent considerations within 5 years of the completion of the previous consideration (or more frequently if desired).
- 3.4 Local Authorities must publish a Biodiversity Report to inform progress on actions taken. The end date of the first reporting period should be no later than 1 January 2026. The end date of subsequent reporting periods should be no later than 5 years after the end of the previous reporting period. Reports must be published within 12 weeks of the end of each reporting period. Local Authorities should factor in this deadline around their meeting calendars to align with Member approval. The Department for Environment Food & Rural Affairs (Defra) has not clearly indicated how it intends to extract report content following publication by Local Authorities, and so further guidance may be forthcoming in due course.
- 3.5 The guidance requires that the first consideration be completed by 1 January 2024. It is not required that policies, specific objectives or strategies be published by this date.

#### **4 Legal Implication(s)**

- 4.1 Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended by the Environment Act 2021) requires the council, in exercising its functions, to have regard to conserving and enhancing biodiversity.
- 4.2 Local Authorities are obliged to complete their consideration of what action to take for biodiversity by 1 January 2024.
- 4.3 Subsequently, Local authorities must re-consider the actions which they can take within 5 years of when they completed their previous consideration.
- 4.4 Local Authorities are obliged to publish their first Biodiversity Report by 1 January 2026 and, for every 5 year reporting period thereafter (or sooner if so decided). Each subsequent report must be published within the period of 12 weeks following the last day of the relevant 5-year reporting period.
- 4.5 Section 40A of the Natural Environment and Rural Communities Act 2006 (as amended) sets out what must be contained in a local authority's report and additional matters which must be included if the local authority concerned is also a local planning authority. The Department for Environment, Food and Rural Affairs has published guidance on reporting biodiversity actions.

#### **5 Financial Implication(s)**

- 5.1 At this initial stage it is considered that there are no financial implications. The report sets out existing policies and objectives and a direction of travel for enhancing and conserving biodiversity.

#### **6 Risk Management Implications**

- 6.1 There are no key risks at this stage. The policies and objectives that follow the report should be sufficient to ensure that the Council is meeting its duty for conserving and enhancing biodiversity across the Borough.

#### **7 Security & Terrorism Implication(s)**

- 7.1 There are no security and terrorism implications.

## **8 Procurement Implication(s)**

8.1 There are no procurement implications arising from this first consideration for the biodiversity duty.

## **9 Climate Change Implication(s)**

9.1 The conservation and enhancement of biodiversity across the Borough is likely to positively contribute to climate change mitigation.

9.2 The Climate Change Members Subgroup were consulted on the report.

## **10 Human Resources**

10.1 There are no Human Resource implications. Any policies and objectives that follow on from the first considerations will take in account existing resources.

## **11 Health & Wellbeing Implications**

11.1 There is growing evidence to suggest that being in nature has positive effects on people's mental health. Studies have shown that green spaces can lower levels of stress and reduce rates of depression and anxiety, reduce cortisol levels and improve general well-being.

11.2 Conserving and enhancing biodiversity is likely to benefit and increase green spaces and nature within the borough. This will in turn increase access to natural spaces.

## **11 Communication and Engagement Implications**

11.1 The biodiversity duty report and subsequent policies and objectives will be published so that they are publicly available, to inform those wishing to understand process and what actions are to be undertaken.

## **12 Link to Corporate Priorities**

13.1 The subject of this report is linked to the Council's corporate priorities of a commitment towards Action on Climate Change.

## **14 Equality and Diversity**

14.1 An Equality Impact Assessment (EqIA) was not completed because this report does not propose changes to existing service-related policies or the development of new service-related policies.

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### Appendices

Appendix A – First considerations covering statement.

Appendix B - WHBC Biodiversity Duty Action template