

Brighton & Hove City Council

Tourism, Equalities, Communities and Culture Committee

Agenda Item 10

Subject: Adoption of Biodiversity and Nature Conservation
Supplementary Planning Document

Date of meeting: Tourism, Equalities, Communities and Culture Committee

Report of: Executive Director Economy, Environment, & Culture

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Ward(s) affected: All

For general release

1. Purpose of the report and policy context

1.1 This report provides feedback from the consultation undertaken for the draft Biodiversity and Nature Conservation Supplementary Planning Document (SPD) approved for consultation purposes by this committee January 2022 and seeks Committee approval for the adoption of the final version of the SPD.

2. Recommendations

That the Tourism, Equalities, Communities and Culture Committee:

2.1 Notes the consultation that took place on the Draft Biodiversity and Nature Conservation SPD (Appendix 2) and the changes made to the Draft SPD as a result of consultation responses (Appendix 3); and

2.2 Agrees to adopt the Biodiversity and Nature Conservation SPD and Annexes (Appendix 1a and 1b) as part of the city's suite of planning documents, subject to any necessary minor grammatical and non-material text and illustrative amendments agreed by the Head of Planning in consultation with the Chair of TECC Committee.

3. Context and background information

3.1 Supplementary Planning Documents are formal documents used by the council to provide planning policy guidance and information to assist planning applicants in delivering 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 policy guidance and can demonstrate best practice, they cannot make new or change existing planning policy.

- 3.2 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 independent examination with public hearing sessions undertaken November 2021 and recent consultation on proposed Main Modifications. 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 statutory Development Plan for the city.
- 3.3 Local priorities have also changed significantly since the 2010 SPD was adopted, with the need to address the climate crisis and reverse the decline in species and habitats recognised through the Climate and Biodiversity emergencies declared by the council in 2018. Government priorities (including the 25 year Environment Plan and recently enacted Environment Act) and national planning policy also give clearer and stronger guidance to achieving improvement for nature conservation and biodiversity.
- 3.4 An updated SPD is therefore considered timely and necessary to ensure it reflects recent legislation, national and local planning policies, and local priorities. An updated draft SPD was prepared in 2021 by ecological consultants working closely with officers in the Planning Policy and Sustainability teams as well as the County Ecologist. Following this Committee's approval on 13 January 2022, the draft was subject to a 6-week period of public consultation between February and March 2022.
- 3.5 The main purpose of the updated Biodiversity and Nature Conservation SPD is to assist planning applicants understand the importance of biodiversity, to meet legislative and policy requirements 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 supports 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.
- 3.6 The 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.
 - Identifies key legislation of relevance to biodiversity and sets out the national and local planning policy context and requirements.
 - 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
- Provides guidance and best practice 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.
 - 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.
 - Includes several annexes which provide further 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.

4. Analysis and consideration of 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 formally adopted. The alternative option of not adopting an updated SPD has been considered and dismissed for the above reasons.

5. Community engagement and consultation

- 5.1 A city-wide public consultation to obtain feedback on the draft version of the SPD was carried out between 7 February to 21 March 2022 in accordance with the Planning Service's Statement of Community Involvement (SCI). The general public as well as around 800 individuals and stakeholders registered in the Planning Policy consultation database, which includes developers, landowners, planning agents and environmental and amenity groups, were invited to comment.
- 5.2 The consultation included:
- 4 dedicated online events for stakeholders;
 - A survey posted on the council's online Consultation Portal;
 - Hard copies of the SPD placed in all city libraries and in Bartholomew's House Customer Service Centre; and

- Communication of consultation details including a press release posted on the council’s website and alerts posted on the council’s social media outlets.
- 5.3 The council received 19 responses in total. The detailed findings and summary of all responses received are set out in Appendix 2. A table demonstrating how comments informed the changes made to the final SPD is provided in Appendix 3.
- 5.4 Overall, there was broad support for most aspects of the guidance. In particular, the biodiversity resource and biodiversity matters sections were considered accurate, the good practice examples were considered helpful, and the step-by-step guide for applicants was considered clear. There was also support for the Biodiversity Checklist to be a validation requirement for relevant applications.
- 5.5 Some minor changes to the wording and images have been made to various sections in response to suggestions put forward by respondents. Some of the more major changes to the final version of the SPD include:
- Introduction amended to include clearer sign-posting to various sections of the SPD
 - Biodiversity Matters amended to encompass a wider range of species
 - Additional text to highlight the importance of maintenance and upkeep
 - New case study added of the butterfly bank at Dorothy Stringer School
 - Clarification that the mandatory 10% biodiversity net gain to be achieved is a minimum in accordance with the Environment Act.

6. Conclusion

- 6.1 The updated SPD reflects national and local planning policy as well as local priorities. It will ensure biodiversity is fully considered and integrated into the planning application and development process, contributing towards improved outcomes for nature conservation and biodiversity and the achievement of sustainable development.

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.

Name of finance officer consulted: John Lack Date consulted 05/05/2022

8. Legal implications

- 8.1 The Town and Country Planning (Local Planning) (England) Regulations 2012 require that a draft SPD is subject to a period of at least four weeks’ public consultation. Section 23 of the Planning and Compulsory Purchase Act 2004 provides that a SPD may be adopted either as originally prepared

or as modified to take account of any representations made in relation to the document or any other matter the LPA considers relevant.

Once adopted an SPD will be a material planning consideration in the determination of those planning applications to which it is relevant

Name of lawyer consulted: Hilary Woodward Date consulted 3/5/2022

9. Equalities implications

- 9.1 Equalities issues relevant to this SPD have been considered as part of 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 were contacted as part of the public consultation on the SPD.

10. Sustainability implications

- 10.1 The SPD is considered to have positive impacts on relevant sustainability themes on the Sustainability Implications Checklist. It should support provision of a healthy environment, supporting health and wellbeing; support sustainable water through encouragement of biodiverse sustainable drainage, and help protect and enhance biodiversity.
- 10.2 No mitigation is required.

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.

Public health implications:

- 11.3 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 health implications.

Supporting Documentation

1. Appendices

1. Biodiversity and Nature Conservation SPD and Annexes
2. Consultation responses and officer responses
3. Summary of changes made to the draft SPD

2. Background Documents

1. City Plan Part 1 (2016)
2. Proposed Submission City Plan Part 2 (2020)
3. The Environment Act 2021