

Draft Nature Conservation and Development SPD: Statement of Representations to public consultation, August 2009

Respondent	Summary of Main Comments	Response to Main Comments
Badger Trust - Sussex	Update contact details for the Badger Trust in Annex 4	Annex 4 updated as requested.
Bricycles Brighton, Hove and District Cycling Group	Omit the 'first impressions survey' stage from the SPD process – all applications should be assessed by a qualified ecologist.	Requiring every planning application to be assessed for its ecological impact would place a significant additional burden on applicants and would almost certainly attract significant resistance from developers. Only a small proportion of development proposals have a significant ecological impact so this would not be an efficient use of resources. No change.
	The reasons for when “damage to nature conservation features cannot be avoided entirely” are not made clear. As SE England is under enormous pressure for further development, this appears to permit damage.	The SPD should be read in conjunction with Local Plan (and subsequently LDF) policies. These policies closely follow national and regional planning policy and make clear under what circumstances damage to biodiversity is permitted. The SPD explains what compensatory steps must be taken when damage occurs. No change.
	Evidence for “The majority of developments in Brighton and Hove have no significant effect on existing nature conservation features” should be cited if it exists.	No numerical data has been collected on the nature conservation impact of development proposals in Brighton and Hove and this statement is based on the experience of relevant officers. The majority of planning applications affect very small areas of land, or are for a change of use, new shop front, change of window, or similar small scale

		change which very rarely has an ecological impact. No change.
	not convinced by the mitigation described in the section "A proposal to develop a former private garden of 0.1 hectares for 9 terraced houses appeared to offer few opportunities for urban biodiversity, but biodiversity loss was successfully minimised and new opportunities for wildlife created." The number of reptile casualties during so-called translocation is not specified. The likelihood of the success of 'new habitats' under these circumstances is not assessed, nor the cumulative effect on wildlife of these kind of assaults, which will be more serious than on an individual basis.	The proposal described is intended as an illustration of the application of the SPD only. All the mitigation and compensation measures proposed follow nationally established good practice, recognised and advocated by the relevant specialist wildlife groups. No change.
	We have yet to see a successful "green wall" in Brighton and Hove. What protection is there against the owners of buildings removing the "green wall" at a future date for maintenance or other purposes? Laying store in green walls as a solution to loss of land for development appears very optimistic.	There are several well established green walls around the city, perhaps the oldest being along the retaining walls of Madeira Drive. The respondent 's concerns over subsequent removal of the feature could equally apply to a wide range of other mitigation measures secured through planning but in any case can be addressed by planning agreements. No change.
	The document is short and could be seen as superficial.	The SPD has been kept as concise as possible to aid everyday use and contains references to more

		detailed material wherever relevant. As an adopted SPD the document will carry equal weight to all other SPDs in planning decisions, irrespective of its length. No change.
	would like far more robust measures to prevent loss of biodiversity and green space in Brighton.	The SPD closely follows and often exceeds national and regional policy and good practice. Measures to protect biodiversity need to be reasonable and balanced with other policy issues. No change.
Development Control Consultation Event	Take account of any potential implications of the Marine Bill	Contents of Marine Bill assessed for implications but no significant changes to the SPD were found to be required. No change.
	Text of Annex 3 (Biodiversity Checklist) needs to be simplified to aid use by non-ecologists. Thresholds for when a Checklist is never required should be included to reduce administrative burden. The implications of not completing a Checklist when required should be clearly explained.	Accepted. Text of Annex 3 simplified and introductory text revised to target application of the SPD more tightly to relevant applications only. Sentence added about the implications of non completion.
	Text of Annex 6 needs to be simplified. Include a clear step by step procedure for its application. Thresholds for when a Checklist is never required should be included.	Accepted. Text of Annex 6 simplified and step-by-step procedure introduced. Thresholds introduced.
Environment Agency	Fully support. No other comments	Comment welcomed.
John Patmore, Ecologically	This SPD appears based upon using an engineering approach to addressing ecological issues; for example by	SPD must apply to the development context and be applicable by engineers, developers and planners. Green roofs are widely accepted as offering

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	importing plants from Asia to grow on an industrial scale trellis, or by destroying valuable natural habitat at ground level with a false justification to provide a real habitat instead at roof level.	biodiversity benefits in the urban context. Habitat loss is not justified by the document, but green roofs are offered as one of a menu of legitimate options for introducing biodiversity into development. No change.
	Scant reference to opportunities for Brighton & Hove to deliver on objectives for progressing the UK Biodiversity Action Plan	The national and local BAPs are integrated into Annex 1 and into the list of habitats proposed for including in new development in Annex 6. BAP targets are to be integrated into the monitoring programme for the SPD. No change.
	Only passing mention is made of the Natural Environment and Rural Communities Act 2006 with the formal duty relegated to "...have regard,...,to the purpose of conserving biodiversity."	The NERC Act biodiversity duty is clearly set out in the first paragraph of the SPD, again in paragraph 3.1 (legal and policy base) and in Annex 2. The objective of the duty is integrated throughout the document. No change.
	not a single reference to the 'Guidance for Local Authorities on Implementing the Biodiversity Duty' (DEFRA, 2007) nor the specific guidance on 'Integrating Biodiversity Into Local Development Frameworks' (ALGE, 2005).	Neither of the documents referred to go into detail about the content of SPDs on nature conservation. The DEFRA document provides an overview to integrating biodiversity across all council functions and the ALGE document to integrating biodiversity across the LDF. It is considered that specific reference to them is not necessary within the SPD and that their recommendations, where applicable, have been integrated into the SPD in any case. No change.
	This SPD is scrappily written, we will be amazed if the council tolerates the publication of such a document with its	This view is not supported by examples. The SPD establishes a logical, staged process for assessing the ecological impact of planning applications and then

	currently written structure.	follows through the implementation of the process. No change.
	Brighton and Hove has not engaged with any Regional BAP objectives and certainly ignored any of the UKBAP objectives	The council ecologist sits on the executive group of the regional forum responsible for developing the regional BAP objectives and chairs the urban sub-group of that forum. Regional and national BAP objectives are integrated into the document (see above). No change.
	a major criticism of earlier drafts have been virtually ignored. For some reason the council is recommending planting shrubs and flowers which have no natural links with Brighton, Sussex or even England. An ecologically aware and mature council would refer to the UKBAP objectives before inventing a planting list more suited to a glorified gardening centre.	<p>Previous representations by Mr Patmore's on using only native species in planting schemes have been fully considered in a previous draft. The introduction to table 7.2.1. states: 'In the urban area of Brighton and Hove a wide range of horticultural plant varieties are valuable sources of food for wildlife including nectar, seeds, berries and sap. Others provide nesting or roosting opportunities. In urban areas these may be more appropriate to use in landscaping schemes for aesthetic or horticultural reasons than native species. Alternatively native and ornamental plants can be combined to create colourful, 'near-natural' plantings.'</p> <p>Other tables in Annex 7 advocate using native species and include lists of appropriate native species. It is not considered realistic or ecologically justified to require native species planting in all urban development scenarios. The purpose of Annex 7.2.1. is to guide developers towards using plants of wildlife value in ornamental plantings. No change.</p>
	Good to see 'corporate social	'corporate social responsibility' is not a central

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	responsibility' mentioned. This potentially important opportunity needs far more elaboration	theme of planning and therefore it is not considered inappropriate to elaborate on it further in the SPD. No change.
	Regional BAP policies and objectives are totally absent.	Regional BAP habitats are included in Annex 1. The main regional Biodiversity objective at present is the development of Biodiversity Opportunity Areas which are integrated into the councils Green Network, referred to in this SPD, which will also be the subject of a separate SPD. No change.
	Local BAP will be fully integrated into local planning. But this is meaningless as one has never been produced.	Brighton & Hove is a partner on the Sussex BAP group which has produced a Local BAP for Sussex (to which the SPD refers). No change.
	Why is an aim to 'minimise' costs to developers? Surely this SPD should optimize nature benefit gains in relation to costs!	The aims of this SPD are also described as including to ensure local planning decisions maintain, enhance, restore or add to biodiversity in Brighton and Hove; to ensure the Local Biodiversity Action Plan is fully integrated into the local planning process and to ensure best practice is followed. It is therefore considered the proposal is already addressed. No change.
	City Council commitments to sustainable development should be holistic and 'mainstream'. Surely this SPD only contributes to the '...Development Planning aspects' of the council's commitment? This is excessively lazy language in such a formal DPD.	The wording referred to states: 'To contribute to the City Council's commitment to sustainable development.' It is considered the statement is clear and easily understood in context. No change.

	1.7 Add the 'Intrinsic Value of nature' to this section.	Section 1.7 does not exist. Intrinsic value is not mentioned in PPS 9 and there is only one passing reference to it in the England Biodiversity Strategy. No change.
	2.3 Add Regionally Important Geological Sites (RIGS)	RIGs in Brighton & Hove are incorporated into Brighton to Newhaven Cliffs SSSI. Nevertheless, for completeness, RIGS now included.
	2.6 Amend to 'Many important nature conservation features...'. The sentence currently drafted underplays the real value of such 'features'.	Following sentence reads: 'To be sustainable, it is important that development identifies, conserves and enhances such features.' Considered the importance of such features is already clearly described. No change.
	3.1 We welcome the intention to finally produce a Local Biodiversity Action Plan - Why have local residents been excluded from producing a LBAP?	This requirement is already met through the council's involvement in the Sussex BAP. Local residents will be fully included in any future proposals which may come forward for producing a BAP specific to Brighton & Hove. No change.
	Table A: A1 uses the term 'First Impressions' – this is truly awful and a wholly unprofessional way of assessing a site for its environmental features and opportunities! A good wildlife site in winter will look very sparse. The fundamental basis of any assessment should review existing knowledge about the biodiversity value of the site.	The first impressions survey is not intended to be carried out by professional ecologists and to require this would place a substantial additional financial burden on developments in Brighton & Hove. No change.
	Table A: A5 Conservation should also include enhancements.	'enhancement' added to A5 as requested.

	<p>5.3 Undertaking an ecological survey without expertise is pointless. The most basic guide on ecological assessment always emphasizes the importance of including an ecologist at the earliest preparatory stage (for example, see Institute of Biology, Institute of Environmental Management and Assessment, and IEEM advice which consistently emphasizes this point).</p>	<p>The Biodiversity Checklist (Annex 3) provides a clear set of indicators for developers and planners to carry out a first impressions survey. This has been extensively tested and is considered appropriate for use by non-professionals. Currently the vast majority of applications are submitted without any ecological assessment at all and requiring a full survey to IEEM guidelines would exceed national guidance and place very substantial additional costs on developers and on the council. The IEEM guidance is intended only for use with the very small proportion of developments which are defined as 'EIA developments' under the EIA Regulations. No change.</p>
	<p>5.4 This refers to Annex 3. There is absolutely no mention of BAP habitats or Species here. A stunning omission which should be corrected.</p>	<p>Annex 3 includes a large number of references to BAP habitats and species. It also describes some other BAP habitats and species in layman's terms for ease of use by non-ecologists. No change.</p>
	<p>5.11 If an established survey methodology is being used this should explicitly state which BAP feature is being recorded.</p>	<p>Agree. No change.</p>
	<p>Amend to 'Achieve sustainable development objectives...'. Another example of lazy drafting in this SPD.</p>	<p>The text aims to achieve sustainable development, not the objectives of it. No change.</p>
	<p>5.29 Add consider the impact upon populations of other species which may</p>	<p>Reference to other species of conservation importance included.</p>

	be affected. Why only look at the same species? This does not make ecological sense.	
	5.31 Providing 'nest boxes' in an example of the engineering-approach. It is more important to firstly ensure that adequate habitat is created which links to nearby habitat.	Provision of adequate habitat is already stated in the same paragraph, and the principle of linking habitats is made elsewhere in the SPD (see 5.38.6) . No change
	5.34 Add 'Vegetated Shingle' to this list of important habitats that are difficult to create.	Vegetated shingle of the type found in Brighton & Hove can occur relatively quickly along the coast with minimal intervention (e.g. Black Rock SNCI) and should not therefore be included in the list. No change.
	5.36 does not mention that reducing a site's environmental value conflicts with the council's biodiversity objectives. Again this SPD fails to include identifying improvements or enhancements for nature as part of the initial survey objectives.	Comments bear little apparent relation to the context or meaning of the paragraph. No change.
	5.38 Item 1: Unclear what this means. Where are the new benefits included? Are these newly created ones, not designed to replace lost ones? Or are they to 'compensate' for features that were lost from the development? This needs to be written far more clearly.	Agreed. The word 'new' has been added to paragraph 5.38 improve clarity as follows: In providing <u>new</u> nature conservation features, all developments should adhere to the following principles: Clearly distinguish between the <u>new</u> nature

		conservation benefits offered and any existing features retained or compensated for;
	How will the "integration" be "ensured"?	The SPD now includes a specific planning requirement for new benefits to be integrated and for the first time Annex 6 provides a method for quantifying this. No change.
	mention of connectivity in the wider ecological and landscape welcomed	Comment welcomed
	why does the list of recommended species (Annex 7) include so many inappropriate species? How is the 'urban area' defined? How will the 'Built up area' and 'Urban Fringe' be considered in new planting recommendations?	For a response to comments about the use of ornamental plantings, see above. The built up area and urban fringe are clearly defined in the Core Strategy: 'For the purposes of the Brighton & Hove Local Development Framework the term 'urban fringe' applies to the land between the defined built up area boundary and the boundary of the South Downs National Park.' Policy SA 4 proposed amendments paper June 2009. No change
	Annex 6 barely makes reference to BAP features, objectives or targets.	Both Tables 6.1 and 6.2 include BAP habitats and explicitly encourage their management and creation as part of development schemes. No change
	The Glossary: refusal even here to acknowledge the UKBAP's existence!	The glossary includes generic definitions of BAP and LBAP and the UK BAP is described in Annex 2. The UKBAP is not a planning document and therefore

		further reference to it is not considered appropriate in this context. No change.
	Annex 1: What is the source of this table? A report produced in 2003 (by the Wildlife Advisory Group and Eco-Logically) provided very similar data, yet is not referenced.	The Table was composed from core reference material and not from the table produced by Eco-logically. No change.
	Annex 2 'Legislation, policy and nature conservation' provides a vague list of references yet totally fails to provide dates, author or publisher information	In almost all cases the material referenced is either an Act of Parliament or Government Planning Guidance and web references are supplied. Otherwise full location details are provided No change necessary.
	Reference should also be made to the UN Millennium Development Goals.	It is not considered this reference would usefully add to the material provided in the planning context. No change.
	Why are Biodiversity Action Plans included so late in this list?	BAPs are not statutory documents and are not planning documents. They therefore carry less weight in planning decisions than the documents previously listed in Annex 2, Hence their position in the list. No change.
	Annex 2: ADD: 'The Local Government Association LGA welcomes the "...identification of local authorities...to provide a lead for the Local Biodiversity Action Plan (LBAP) process" (2001 Position Statement).'	It is unclear why the additional reference is proposed or how it would improve the usefulness of the SPD if used. No change.
	Annex 3: ADD: 'BAP Habitats and Species' - these should be explicitly	'BAP Habitats and Species' of relevance in the local context are already explicitly referred to in Column 3.

	<p>mentioned as a feature to include in a 'Biodiversity Checklist'</p>	<p>Adding this generic term would not improve the usefulness of the checklist and potentially add a source of confusion. No change.</p>
	<p>Annex 3: Within the Table ADD: 'Any Habitats, Species or Feature included within existing BAPs.'</p>	<p>'BAP Habitats and Species' of relevance in the local context are already explicitly referred to in Column 3. Adding this generic term would not improve the usefulness of the checklist and potentially add a source of confusion. No change.</p>
	<p>Annex 6: ADD: 'Contribution to progressing BAP objectives.' Amazingly, BAP objectives are not covered by this critical part of the SPD clarifying practical action. Instead it focuses on providing engineering-solutions such as fitting a 'Green Roof' – this does not contribute to any BAP objectives.</p>	<p>On the contrary, 7 of the 8 habitats listed in Table 6.1 are BAP habitats and 6 of the 13 features listed in Table 6.2 are BAP habitats. Implementation of the Annex will therefore almost always contribute to BAP objectives. No change.</p>
	<p>Annex 7: We WELCOME: 'The use of native species of local provenance should be used in all habitat creation schemes...' However this is not consistent with the details that follow 52. Annex 7: We are CONCERNED at 'inner urban areas' being more suitable for 'aesthetically better suited' species. This further isolates local residents from their natural flora. Also emphasizes a 'garden-centre' consumerist style approach to nature conservation. Many</p>	<p>These issues have been addressed previously in this response. Agree that research has shown the importance of domestic gardens for urban wildlife but few are exclusively planted with native species. No change.</p>

	domestic gardens are potentially the last stronghold for local wildlife, we need to retain our local flora. How is the area 'inner urban' identified in this LDF?	
	OBJECT to the planting lists (detailed changes offered in a table)	This issue is dealt with above. The table supplied is provided without explanation and many of the recommendations contradict the respondent's own views. For example Devil's Bit Scabious and Yellow Archangel are locally native species occurring widely on the downs around the city and yet they are described as 'totally inappropriate' for planting schemes. No change.
	Annex 7: Table 7.2: Again the term 'urban area of Brighton' is used without clarifying if this means within the 'Built Up Area Boundary'	Agreed. The term 'built up area boundary' is inserted into the preamble of Table 7.2 to ensure clarity.
	Juniper <i>Juniperus communis</i> D Small leaved lime <i>Tilia cordata</i> should be deleted from the list of recommended trees	Both species are not proposed for use on the open downland or urban fringe. Both already occur in urban Brighton & Hove. No reason has been given to explain why the respondent considers these to be 'inappropriate'. No change.
	7.8 Green roofs may indeed provide aesthetic benefits and increase thermal efficiency of the building below. They do not provide an important contribution to progress UK	The text does not make any claims about the contribution of green roofs to UK Biodiversity objectives. No change.

	Biodiversity objectives.	
	7.9 Similarly 'green walls' may help to detract from an building's ugliness. However the biodiversity value is minimal, they are not mentioned in any BAP and will only detract developers from progressing meaningful biodiversity improvements.	Where no other options are available due to the scarcity of land, green walls can provide local biodiversity benefits. Their biodiversity potential is recognised by Natural England (formerly English Nature – see English Nature Report no. 498). No change.
Hove Civic Society	Excellent document	Comments welcomed.
	Concerned about green walls due to potential for dampness.	Modern construction methods ensure green walls do not create damp problems. No change
	Should refer to the street tree pattern adjoining any development site – the need for street tree retention and if possible	Separate SPD recently published on trees and development sites (SPD06) which covers these issues. No change.
James Grozier	Need to challenge concept of “greenfield / brownfield”. Brownfield land should not be automatically suitable for development	This is a national policy issue which cannot be addressed through the SPD. No change.
	Where building is allowed on disused land, a portion of the land should always be kept as a green space and not built on.	Core Strategy policy issue which cannot be addressed through the SPD. No change.
	peppered with such woolly, subjective terms such as “suited to developers who ... aim to build quality developments.”	Introductory paragraphs (such as the one referred to) are intended to set the tone and direction of the document. Conversely prescriptions for development proposals are clear and quantified. No

		change.
	“The guidance ... will enable developers to meet Council's aim for high ecology ratings”. Is the Council, then, only concerned about ticking boxes?	The Code for Sustainable Homes is a Government sponsored and widely recognised method of assessing the sustainability of development and is not intended to be about ‘ticking boxes’. No change.
	Opposed to various forms of “compensation”, including translocation, and even an option to “buy off” the council by making a financial payment.	These methods are advocated by national planning guidance and are widely used by planning authorities throughout the UK. The circumstances when financial payments are offered are clearly set out as an option of last resort and are not described or intended to “buy off” the council. No change.
	Opposed to the use of a hierarchy of nature conservation sites and features because it implies other features are less important.	Draft SPD follows national planning guidance (e.g. PPS 9) which clearly advocates a hierarchical approach to the conservation of habitats and species. The draft SPD does nevertheless promote the inclusion of ‘commonplace’ wildlife in development schemes. No change.
Jonathan Puplett, Council Development Control Team	Ensure the list of ecological contractors which have carried out work in Brighton & Hove is prefixed by a disclaimer.	Agreed. Disclaimer now included to make clear that the council takes no responsibility for work carried out by the consultants listed.
Natural England	Commends the council for a clear and concise document. The SPD is user friendly and approachable. We are impressed by the inclusion of guidelines on how to incorporate green infrastructure into development, such as by the creation of „green walls" and the reference to the Council"s green network	Comments welcomed.

	strategy.	
	recommend a referral to Natural England's new standing advice on when to carry out protected species surveys.	Agreed. Reference to Natural England Standing advice included in Section 5.
	The SPD states that designated sites are present within the boundary of Brighton and Hove but does not state their titles. We would advise adding, for clarification, Brighton to Newhaven Cliffs SSSI and Castle Hill SAC/SSSI, to raise awareness of the protection afforded them.	The titles of both sites are in fact described in Annex 2 of the SPD. No change.
Sussex Ornithological Society	Very much welcome inclusion of nest boxes as one way for developers to earn points when submitting a planning application	Comments welcomed.
	reservation about the weighting given to nest boxes, which seems low and therefore unlikely to be particularly attractive to developers as a way to tip the balance in their favour.	The points system used for nature conservation features in Annex 6 relates to the actual cost of creating those features. Because nest boxes are comparatively inexpensive to include in developments, they earn less points. The system is deliberately designed to create a 'level playing field' for all features and so should not favour one feature over another. No change.
	Could be more prescriptive. Is there any reason why you could not insist that developers should install nest boxes, particularly for swifts, in any suitable	Other respondents to earlier consultations on the draft SPD have been concerned that earlier versions have been too prescriptive. The 'menu' of options has been designed as a response to this and to give

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	development you allow?	developers maximum flexibility and at the same time deliver definite biodiversity gains. No change.
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