

CABINET

Meeting the Enhanced Biodiversity Duty Obligations 4 June 2024

Report of Chief Officer – Planning and Climate Change

PURPOSE OF REPORT				
To formally set out the City Council's enhanced statutory responsibilities for biodiversity introduced as part of the Environment Act 2021. The Environment Act introduced a new Biodiversity Duty for all public authorities. The new Duty requires all public authorities who operate in England to consider what they can do to strengthen and enhance biodiversity and report on the delivery of these actions.				
Key Decision	N	Non-Key Decision	Referral from Cabinet Member	
Date of notice of forthcoming key decision	N/A			
This report is public				

RECOMMENDATION OF COUNCILLOR JEAN PARR AND COUNCILLOR JOANNE AINSCOUGH

That Cabinet;

- (1) Approves the actions set out in 'Meeting the Biodiversity Duty – First Considerations' report to ensure that the City Council can demonstrate that it intends to take appropriate actions to address the enhanced Biodiversity Duty obligations introduced by Environment Act 2021.

1.0 Introduction

- 1.1 The Government has set out its commitment to help the environment in a series of plans and legislation to improve and protect nature. Central to this is the 25 Year Environment Plan (25YEP) published in 2018. The Plan establishes the Government's goal for improving the natural environment within a generation, leaving it in a better state that it currently is.
- 1.2 The legislative driver to deliver these ambitions is provided by the Environment Act 2021. This gained Royal Assent in November 2021 and provides the legal framework for environmental protection in the UK following the UK's withdrawal from the European Union. Importantly the Act sets clear statutory targets for the recovery of the natural world in four priority areas: air quality, biodiversity, water, and waste, and includes an important new target to reverse the decline in species abundance by the end of 2030. It sets in law new tools that Natural England and others can use to help meet those targets.

- 1.3 Central to this is a new legal duty for all public authorities (including Councils) to further the 'general biodiversity objective' – that is, to conserve and enhance biodiversity – the Biodiversity Duty.
- 1.4 The original Biodiversity Duty on local authorities is included in the Natural Environment and Rural Communities (NERC) Act (2006). Section 40 of the original NERC Act placed a duty on public authorities to have regard:
- “so far as is consistent with the proper exercise of [the public authority’s] functions, to the purpose of conserving biodiversity”.*
- 1.5 An extended 'biodiversity duty' was introduced by the Environment Act 2021. The new extended duty for public authorities (including local authorities) came into force on 1 January 2023. Government guidance on complying with the extended biodiversity duty was published on 17th May 2023.
- 1.6 The amended text included under the Environment Act strengthens the biodiversity duty requirement and now requires all public authorities who operate in England to consider what they can do to strengthen and enhance biodiversity, extending the duty of public authorities beyond the original NERC Act which only required local authorities to preserve the natural environment, to a requirement to improve the natural environment.
- 1.7 Under the amended duty the Council as a public body is required to:
- Consider what it can do to conserve and enhance biodiversity;
 - Agree policies and specific objectives; and
 - Act to deliver the identified policies and objectives.
- 1.8 The amended duty also includes additional accountability with the Act requiring public authorities to complete their first consideration of what action to take for biodiversity by the 1st January 2024, agreeing policies and objectives shortly after this date. A consideration of other relevant strategies should form part of this work, this includes work on Local Nature Recovery Strategies (LNRS). In considering these wider strategies the Council will be required to understand if they are relevant to the organisation, be aware how the strategies affect land that it owns or manages and consider where appropriate how it could contribute to the strategy.
- 1.9 The Act requires public authorities to complete their “*first considerations*” of what actions they intend to take for biodiversity by 1st January 2024, agreeing policies and objectives shortly after this date. A consideration of other relevant strategies should form part of this work, this includes work on Local Nature Recovery Strategies (LNRS).
- 1.10 Authorities are then required to report progress on the delivery of their biodiversity duty and the actions identified as part of their first consideration no later than 12 weeks after the conclusion of the first report period, the first reporting period concludes on the **1st January 2026**. After this date the end of each reporting period must be within 5 years of the end of the previous reporting period. This is a statutory requirement.
- 1.11 This report presents the City Council’s first consideration of what it can do to better conserve and enhance habitats and wildlife in the district. It takes account of existing information and strategies and identifies objectives and actions that the City Council could deliver to ensure that it plays its role in reversing the decline of biodiversity. This is a cross-service report with actions identified for several Council services.

- 1.12 The First Considerations Report also provides a means for reporting on the Council’s progress on addressing its own declared ecological emergency. This was declared in December 2022. The declaration recognised that the ecological crisis should be tackled in partnership with the climate crisis and that actions should be developed at a local level in partnership with the Council’s Climate Action Plan. It is proposed that actions to address the ecological Emergency are included in the first consideration Report.

Environment Act duty takes effect	1 January 2023
First consideration	1 January 2024
Biodiversity Report 1	1 January 2026
Biodiversity Report 2	1 January 2031
Subsequent Biodiversity Reports	Every 5 years from 2031

- 1.13 A draft [Fulfilling the Biodiversity Duty First Considerations](#) website “hub” has been prepared, this is a digital format approach for the Council’s First Considerations “report”. The hub includes a draft Action Plan. For ease of reference the actions in the Action Plan are also presented in Table 1 at the end of this report. The attached report describes the City Council’s first considerations around what it can do to conserve and enhance habitats and wildlife. It takes account of existing information and strategies and identifies objectives and actions that to ensure that the Council plays its role in reversing the decline of biodiversity. It is a cross-service report with actions identified across several Council services.

Resourcing the Implementation of the Biodiversity Duty

- 1.14 The Government has acknowledged that the enhance obligations will place further burdens on public bodies. This includes officer time and potential additional costs to support actions. The Government’s suggestion that local authorities ‘may need to get expert advice’ in order to fulfil their Biodiversity Duty obligations appears to be understated.
- 1.15 The new Duty brings resource demands including the need to undertake additional tasks and importantly the need for specialist professional expertise on ecology and biodiversity to be more consistently available to the authority (currently this is externally procured only when required). Like many local authorities, the City Council has acknowledged the need for more consistently available professional expertise and accordingly an additional post of Biodiversity Officer has been established for financial year 2024/25 onwards. Recruitment for this new post is underway. Should a Biodiversity Officer be successfully recruited, based in the Planning and Climate Change Service, the officer will have an important role to deliver in;
- Developing a strategic approach to meeting the Biodiversity Duty,
 - Developing policy on enhancing biodiversity;
 - Leading on actions to enhance biodiversity;
 - Supporting and advising colleagues on projects and actions on biodiversity; and,
 - Coordinating, recording, and monitoring activity.

2.0 Proposal Details

- 2.1 Actions and responsibilities for meeting the Biodiversity Duty will need to be taken by most Council Services, including; Planning & Climate Change, Housing & Property, Environment & Place, Resources and Governance. Operational practices and policies may need to be reviewed to explore if action is needed to ensure that the Council can demonstrate compliance with the Duty.
- 2.2 The 'First Considerations' hub is intended to present the first attempt at a framework for the Council to meet its enhanced responsibilities. Progress on implementing the actions described would mean the Council could likely successfully demonstrate how it was meeting the obligations arising from the 2021 Environment Act and also how it was taking action in support of its own declaration of an Ecological Emergency in January 2023.
- 2.3 Local authorities must first prepare a 'First Considerations' Report and then they have two years before they must report on progress on the actions to which they committed. The Council will need to report on how it is working to fulfilling its legal obligations around January 2026.
- 2.4 The Fulfilling the Biodiversity Duty First Considerations "report" [Web hub] identifies over 60 separate actions to address a series of six broad themes or objectives:
- Objective 1: Improve biodiversity evidence base.
 - Objective 2: Work with key partners to support biodiversity delivery across the district.
 - Objective 3: Deliver measurable increase in biodiversity across the district.
 - Objective 4: Embed Biodiversity in Leadership and Decision Making.
 - Objective 5: Promote Education and Awareness.
 - Objective 6: Promote and support projects that deliver enhancements in Biodiversity.
- 2.5 The Report identifies which Service or team within a service would lead on addressing each of the specific actions. The services with specific identified actions are Planning & Climate Change; Environment & Place (Public Realm); Governance (Procurement and Democratic Services). Initially, officers within the Planning and Climate Change Service will be available to advise other Services of their responsibilities under the Duty.

3.0 Details of Consultation

- 3.1 The First Considerations Report and Actions were prepared with the benefit of cross-service discussion. Officers advise that it would be appropriate to publish the First Consideration Report on the City Council's website to demonstrate to the community and other stakeholders what action the City Council is committing to in order to meet its obligations.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: Cabinet approves the actions set out in 'Meeting the Biodiversity Duty – First Considerations' (Appendix 1 to this report) to ensure that it can demonstrate that it has taken appropriate action to address new Biodiversity Duty obligations introduced by Environment Act 2021.	Option 2: Cabinet does not approve the actions set out in 'Meeting the Biodiversity Duty – First Considerations' (Appendix 1 to this report) to ensure that it can demonstrate that it has taken appropriate action to address new Biodiversity Duty obligations introduced by Environment Act 2021.
Advantages	The Council sets itself a clear set of actions that should enable it to demonstrate that it has acted responsibly and appropriately to address the new Biodiversity Duty introduced by the Environment Act whilst also demonstrating actions to address its own declaration of an Ecological Emergency.	None apparent.
Disadvantages	None apparent.	The Council will not have committed to achieving a clear set of actions that should enable it to demonstrate that it has acted responsibly and appropriately to address the new Biodiversity Duty introduced by the Environment Act whilst also demonstrating actions to address its own declaration of an Ecological Emergency.
Risks	In describing its intentions to address the new obligations and publishing its First Considerations Report the Council will be committing itself to actions that it will need to resource.	The Council may be criticised or censured by government for not preparing a First Consideration Report when the need to do so is clearly set out by the Environment Act 2021.

5.0 Officer Preferred Option and Conclusion

- 5.1 The preferred option is Option 1: Cabinet approves the actions set out in 'Meeting the Biodiversity Duty – First Considerations' (Appendix 1 to this report) to ensure that it can demonstrate that it has taken appropriate action to address new Biodiversity Duty obligations introduced by Environment Act 2021.
- 5.2 In doing so the Council will have sets itself a clear set of actions that should enable it to demonstrate that it has acted responsibly and appropriately to address the new Biodiversity Duty introduced by the Environment Act whilst also demonstrating actions

to address its own declaration of an Ecological Emergency.

RELATIONSHIP TO POLICY FRAMEWORK

Council Plan

The objectives of the report support and complement The Council Plan's Ambition 1.4 "Respecting Nature" on Ecology & Biodiversity to "increase biodiversity, protect our district's unique ecology and ensure the habitat provided for wildlife is maintained".

Planning & Climate Change Service Business Plan 2024-2025

The objectives of the report support and complement the Service Business Plan objective 1.4 on Respecting Nature. This sets Service priorities aligned with the Council Plan that aim to integrate the new Biodiversity Officer role into service to help deliver net gains across the district.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)

None directly identifiable as a consequence of this report, however the purpose of the report is to advance processes intended to protect and enhance the natural environment for all.

LEGAL IMPLICATIONS

Whilst there are no legal implications directly arising from this report its purpose is to ensure that the Council takes appropriate action to comply with the extended 'biodiversity duty' introduced by the Environment Act 2021. Whilst the Government has not described sanctions for public bodies that do not satisfactorily demonstrate how they intend to meet the extended obligations, a failure to evidence its intentions to discharge the duty would likely be a reputational matter for the authority.

FINANCIAL IMPLICATIONS

There are no direct financial implications arising from the report. The City Council has already made a budget decision to resource an additional officer post of Biodiversity Officer to support actions to help deliver the obligations of the enhanced Biodiversity Duty.

OTHER RESOURCE IMPLICATIONS

Human Resources / Information Services / Property / Open Spaces

None directly arising.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments to add.

BACKGROUND PAPERS

Weblink to:

[Fulfilling the Biodiversity Duty First Considerations](#)

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Table 1: Actions: *Fulfilling the Biodiversity Duty First Considerations*

OBJECTIVE 1: Improve biodiversity evidence base			
Action No.	Action required	Lead Service Area (Team)	Timescale
Action 1.1	Work with relevant partners to establish a more robust database of the biodiversity of the district.	Planning and Climate Change (Planning and Housing Strategy)	June 2024
Action 1.2	Develop, launch, and maintain interactive mapping to display biodiversity data for the district	Planning and Climate Change (Planning and Housing Strategy)	June 2024
Action 1.3	Develop internal monitoring system to support the delivery of BNG across the district, ensuring its delivery and condition can be monitored over 30 years. Identify mechanism for enforcement where delivery and maintenance are not occurring as agreed.	Planning and Climate Change (Development Management)	January 2024
Action 1.4	Develop Council wide programme to monitor the delivery of actions agreed within this first consideration of the Council's Biodiversity Duty.	All Services	March 2024
Action 6.6	Identify monitoring and enforcement protocol to ensure the delivery of BNG in the planning system.	Planning and Climate Change (Development Management)	March 2024
Action 10.2	Utilise Natural England Functionally Linked Land mapping to identify where land outside designated sites is used for protected species.	Planning and Climate Change (Planning and Housing Strategy)	June 2024
Action 11.1	Monitor delivery of the Grassland Management Strategy assessing biodiversity value of the site against baseline studies.	Environment & Place (Public Realm)	On-going
Action 12.2	Review Tree Protection Orders within the District.	Planning and Climate Change (Planning and Housing Strategy)	

Action 17.1	Monitor and Report on Delivery of the One Millions Tree project.	Public Realm	
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OBJECTIVE 2: Work with key partners to support biodiversity delivery across the district			
Action No.	Action required	Lead Service Area (Team)	Area Timescale
Action 2.1	Support the County Council in the preparation of the Local Nature Recovery strategy ensuring that local priorities are identified.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 2.2	Actively engage with Lancashire County Council to identify areas of strategic significance in the district for inclusion within the LNRS	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 3.1	Continue to monitor the announcement of any future Protected Site or Species Conservation Strategies that are relevant to Lancaster City Council, or the LNRS.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Actions 4.1 & 10.8	Continue membership on the District Licensing Steering Group representing the City Council and implementing actions emerging from the Steering Group.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 10.9	Explore with Natural England and the Northwest Wildlife Trusts Living Seas Team opportunities for marine net gain.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 10.10	Work closely with Lancashire LNP moving forward.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 10.11	Explore establishing a Lancaster District LNP Steering Group moving forward that includes LNP and other key stakeholders.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 10.12	Help support and facilitate the delivery of the Local Nature Recovery Network.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 5.1	Work with the County Council to prepare the Lancashire 2050 strategy ensuring that	Planning and Climate Change	On-going

	biodiversity considerations are prioritised.	(Planning and Housing Strategy)	
Action 12.3	Support Lancashire County Council in their review of ancient tree cover through the preparation of the LNRS	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 12.4	Engage with the county council's treescapes team, to encourage more tree planting in the district.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 16.1	Support National Landscape teams in production of reviewed Management Plans	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 16.2	Consider how the Council can help implement Management Plans taking account of the Levelling Up and Regeneration Act.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 16.3	Support National Landscape teams in meeting targets set out in the Environment Act.	Planning and Climate Change (Planning and Housing Strategy)	On-going

OBJECTIVE 3: Deliver measurable increase in biodiversity across the district			
Action No.	Action required	Lead Service Area (Team)	Area Timescale
Actions 6.1 & 9.4	Explore the preparation of a local off-site BNG register at either a local or county level	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 6.2	Investigate opportunities for BNG delivery on Council owned land.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Actions 6.3 & 9.2	Explore the potential to deliver BNG above mandatory 10% in the next Local Plan.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 9.1	Prepare and adopt a new Local Plan which includes policies relating to BNG, habitat and species protection and enhancement.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 9.3	Explore the need for the preparation of additional BNG guidance.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 9.5	Implement measures emerging from the Habitat	Planning and Climate Change	On-going

	Regulation Assessment of the Local Plan.	(Planning and Housing Strategy)	
Actions 9.6 & 10.3	Explore the preparation of additional guidance on recreational pressure. This will be prepared in partnership with Natural England and other Morecambe Bay authorities. The potential work programme for this is currently under investigation.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 10.1	Utilise Natural England Habitat Network Mapping data to highlight 'network enhancement zones' and 'network expansion zones' which is based upon the Priority Habitat Index, to extend and enhance the existing GBI network from an ecological perspective.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 10.4	Better consider the ecological value that all green spaces could potentially provide (not just those that are formally designated) – all have an important role to play in providing stepping stones and corridors between these core areas and so this should be a key consideration when designing the layout of development proposals.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 10.5	Map how development allocations fit in with the wider GBI network to demonstrate how development could contribute towards facilitating wildlife corridors or stepping stones for habitat.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 10.6	Quantify losses and gains in biodiversity so that it is possible to monitor any changes effectively.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 10.7	Where appropriate seek opportunities for rewilding to restore habitats and facilitate nature recovery.	Public Realm	On-going
Action 11.2	Identify opportunities for new wildflower meadows across the District	Public Realm	On-going

Action 11.3	Explore opportunities for enhancements to be part of a Council habitat bank for BNG.	Planning and Climate Change (Planning and Housing Strategy)	On-going
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OBJECTIVE 4: Embed Biodiversity in Leadership and Decision Making			
Action No.	Action required	Lead Service Area (Team)	Timescale
Action 6.8	Promote projects delivered by the Council relating to biodiversity protection and enhancement.	Public Realm	On-going
Action 6.10	Utilise opportunities to link into promotional work being undertaken by the Climate Change Hub to raise awareness of the ecological emergency	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 12.1	The Council to update its Tree Policy in due course.	Public Realm	On-going
Action 13.1	Update the Procurement Strategy to include reference to the Ecological Emergency.	Governance (Procurement)	On-going
Action 13.2	Include actions within the Procurement Strategy which ensure opportunities to enhance the biodiversity of the district are considered. This could be through procuring goods, works and services that are sustainably sourced; and selecting suppliers that use environmentally friendly production methods and materials that are not harmful to the environment or biodiversity.	Governance (Procurement)	On-going
Action 14.1	Include a requirement to consider the impacts of a decision on biodiversity within the reporting structure of the Council.	Governance (Democratic Services)	On-going
Action 15.1	Ensure that opportunities to protect and enhance biodiversity are also identified through the future Climate Change Action Plan.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Action 15.2	Officers with biodiversity interests also to attend Climate Change Hub, and officers with climate interests also to attend biodiversity	Planning and Climate Change (Planning and Housing Strategy)	On-going

	hub.		
Action 15.3	Ensure that climate resilience is considered when implementing any planting schemes or nature enhancements.	Public Realm	On-going
OBJECTIVE 5: Promote Education and Awareness			
Action No.	Action required	Lead Service Area (Team)	Timescale
Action 6.4	Develop internal guidance to support BNG delivery in planning decisions.	Planning and Climate Change	On-going
Action 6.5	Develop external guidance to support applicants in delivering BNG when submitting a planning application.	Planning and Housing Strategy	On-going
Actions 7.1 & 8.3	Identify a biodiversity champion in each service	All	On-going
Actions 7.2 & 8.4	Establish a biodiversity hub to exchange ideas and promote best practice across all services of the Council.	All	On-going
Actions 7.3 & 8.2	Ensure Biodiversity continues to be specifically referenced in a Member Portfolio.	Governance (Democratic Services)	On-going
Action 8.1	Increase awareness of the declared Ecological Emergency both internally and externally.	All	On-going
Action 8.2	Ensure Biodiversity continues to be specifically referenced in a Member Portfolio	Governance (Democratic Services)	On-going
Action 8.6	Develop Officer and Member training on the Ecological Emergency	Planning and Climate Change	On-going
Action 8.7	Utilise opportunities to link into promotional work being undertaken by the Climate Change Hub to raise awareness of the ecological emergency	Planning and Climate Change	On-going
Action 15.4	Increase awareness of the biodiversity emergency declaration both internally and externally to the same level of awareness achieved for the climate emergency.	All	On-going
Action 15.5	Increase awareness internally of the predicted impacts of the climate emergency on the environment	Planning and Climate Change	On-going
Actions 8.5	Develop a Biodiversity Story	Planning and	On-going

& 15.6	Board similar to the Climate Change Story Board to enhance awareness of the biodiversity emergency declaration and ensure that future actions and strategies are easily accessible to the public to participate in and monitor	Climate Change	
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OBJECTIVE 6: Promote and support projects that deliver enhancements in Biodiversity			
Action No.	Action required	Lead Service Area (Team)	Timescale
Action 8.8	Promote projects delivered by the Council relating to biodiversity protection and enhancement.	Public Realm	On-going
Action 17.2	Undertake another publicity drive to identify opportunities for further planting as part of the Council's Million Trees project	Public Realm	On-going
Action 17.3	Identify opportunities to work with local schools to identify opportunities for further tree planting as part of the Million Trees project	Public Realm	On-going
Action 17.4	Promote the dual benefits of the Million Trees project in relation to both the climate emergency declaration and the ecological emergency declaration.	Planning and Climate Change (Planning and Housing Strategy)	On-going
Actions 18.2 & 19.2	Investigate BNG opportunities to sell units from new habitat creation.	Public Realm	On-going
Action: 19.1	Investigate opportunities to work with the local community in creating and managing new habitats.	Public Realm	On-going
Action 18.1	Investigate opportunities for further Life for Life projects across the District.	Public Realm	On-going
Action 19.3	Investigate the designation of Hermitage Field as a Local Nature Reserve.	Public Realm	On-going
Action 20.1	Promote the enhancement of biodiversity across the District's allotments through the promotion of wildlife friendly planting, the creation of wildlife corners and exploring approaches to	Public Realm	On-going

	restricting the use of pesticides.		
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