



# Northumberland County Council

Cabinet

Tuesday, 7 November 2023

## **Strengthened Biodiversity Duty and Reporting Obligations**

**Report of Councillor(s)** Glen Sanderson, Leader of the Council

**Responsible Officer(s):** Simon Neilson, Executive Director - Place and Regeneration

### **1. Link to Key Priorities of the Corporate Plan**

2. This report is relevant to the thriving places and culture and diverse and resilient economy strands of the Corporate Plan 2023-26. At the cabinet meeting on 10 October 2023, an overarching environment policy statement was adopted that aims to strengthen the Council's commitment to maintain, protect and enhance the environment for the benefit of all. The policy statement commits the Council to take a lead role on work to protect and enhance the natural environment and support improved biodiversity across the county and to use the biodiversity planning and reporting requirements introduced through the Environment Act 2021 to develop a biodiversity plan. Further, it supports the resolutions of cabinet at its 11 July 2023 meeting when it considered the report titled 'Northumberland Stewardship and Rural Growth Investment Programme – Nature Recovery Response'. Purpose of report

To set out the Council's new obligations to take action to conserve and enhance biodiversity and to report on such actions, and to propose a 'first consideration' of such actions as required under S.40 of the Natural Environment and Rural Communities Act 2006 as amended.

### **3. Recommendations**

- 3.1 To accept the document attached to this report as a record of the Council's first consideration of actions the Council can take to conserve and enhance biodiversity in accordance with S.40 (1C) of the Natural Environment and Rural Communities Act 2006 as amended, which will then be used by Officers to develop an implementation plan.

### **4. Forward plan date and reason for urgency if applicable**

01/08/23

## **5. Background**

5.1 S.40 of the Natural Environment and Rural Communities Act 2006 established a general biodiversity duty; a requirement that public bodies ‘had regard to the purpose of’ conserving biodiversity. As a ‘have regard’ duty this was widely considered to be too weak to effect any real change, and so S.40 was considerably amended by S.102-103 of the Environment Act 2021. The duty is now to conserve and enhance biodiversity, and has a number of parts to it as follows:

- To consider what action the authority can take to conserve and enhance biodiversity
- To determine the policies and objectives appropriate for taking such action
- To take such action.

An authority’s first consideration must be completed by 1 January 2024 and policies and objectives established as soon as practicable thereafter. This process then must be completed at least once every five years.

5.2 S.40(3) states that the action which may be taken by an authority includes in particular, action take for the purpose of conserving, restoring or otherwise enhancing the population of a particular species and conserving, restoring or otherwise enhancing a particular type of habitat. S.41 requires the Secretary of State to publish a list of habitats and species which are of principal importance for the purpose of conserving and enhancing biodiversity in England. These lists currently comprise 56 habitat types and 943 species.

5.3 S.40A requires local authorities other than parish councils to publish biodiversity reports containing:

- A summary of the action which the authority has taken to comply with its biodiversity duty over the reporting period.
- A summary of the authority’s plans for complying with those duties over the following five years.
- Any quantitative data required by the SoS.
- Any other information the authority considers appropriate.

If the authority is a local planning authority the report must also contain:

- A summary of the action taken by the LPA to fulfil its biodiversity net gain obligations under Schedule 7A to the Town and Country Planning Act 1990 over the period of the report.
- Information about the biodiversity gains resulting or expected to result from biodiversity gain plans approved by the authority over the reporting period.
- A summary of the LPA’s plans for carrying out those functions over the subsequent five years.

An authority’s first Biodiversity Report must cover the period up to 31 December 2026 or sooner and be published within 12 weeks of the end of that period. Reports must be published at least once every five years thereafter.

5.4 A draft document setting out the Council’s first consideration of action it could take to conserve and enhance biodiversity is attached. This covers the period 1 January 2024 to 31 December 2026 and if approved by Cabinet, will be used to guide the creation of a Council-wide biodiversity plan for that period. This biodiversity plan will have strong links with the Council’s work on the Local Nature Recovery Strategy and biodiversity net gain, and will also be valuable in highlighting the steps the Council is taking following its declaration of an ecological emergency in July 2023.

**6. Options open to the Council and reasons for the recommendations**

6.1 Under S.40 (1C) of the Natural Environment and Rural Communities Act 2006 as amended the Council must complete its first consideration of actions it can take to conserve and enhance biodiversity by 1 January 2024.

6.2 However, no guidance has been published as to what form this consideration should take. A document is attached broadly identifying the work areas where the Council already takes such action and identifying other areas that should be reviewed to see if additional work should be undertaken. It is recommended that Cabinet adopts this document as its first consideration; this will then be used to guide the creation of a Council-wide biodiversity plan in early 2024. This will ensure clarity and transparency in fulfilling the ‘first consideration’ duty.

6.3 In the absence of guidance, the first consideration could take a range of other forms, potentially without Member involvement; however, given that this is a legal obligation and will lead to the development of a Council-wide plan, it is recommended that the Cabinet considers and accepts the attached document as a record of the Council’s first consideration of actions it could take to conserve and enhance biodiversity.

**7. Implications**

<b>Policy</b>	A wide-ranging review of policy will be required to identify opportunities to take further action to conserve and enhance biodiversity, but this will naturally focus primarily on Planning and on Neighbourhood Services
<b>Finance and value for money</b>	No new burdens funding will be provided to support this new duty, so any proposed changes will need to be subject to the normal budget-setting processes. There may be opportunities to secure budget savings through changes in land management, although invest-to-save initiatives may be required to implement these
<b>Legal</b>	This new duty has been introduced through an amendment to S.40 of the Natural Environment and Rural Communities Act 2006, made in S.102-103 of the Environment Act 2021
<b>Procurement</b>	n/a
<b>Human resources</b>	n/a

<b>Property</b>	A review of the management of the Council's land and property will be an important part of this process.
<b>The Equalities Act: is a full impact assessment required and attached?</b>	No - no equalities issues identified Accepting the consideration of actions that could be undertaken to conserve and enhance biodiversity does not present barriers to participation by or discriminate against any protected groups
<b>Risk assessment</b>	n/a
<b>Crime and disorder</b>	n/a
<b>Customer considerations</b>	Public interest in the extent to which the Council works to conserve and enhance the natural environment has increased in recent years
<b>Carbon reduction</b>	Changes in land management to conserve and enhance biodiversity can also increase carbon sequestration
<b>Health and wellbeing</b>	The health and wellbeing benefits of access to wildlife-rich green spaces are increasingly well evidenced
<b>Wards</b>	(All Wards);

**8. Background papers**

Appendix One - Consideration of action that Northumberland County Council could undertake to conserve and enhance biodiversity during 2024-2029

Government guidance concerning the biodiversity duty can be found at <https://www.gov.uk/guidance/complying-with-the-biodiversity-duty>

**9. Links to other key reports already published**

Not applicable

**10. Author and Contact Details**

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