

CABINET - THURSDAY, 4 APRIL 2024

Report of the Head of Planning and Growth Lead Member: Executive Member for Planning

Part A

TOWARDS A CORPORATE BIODIVERSITY STRATEGY

Purpose of Report

To bring the First Considerations Report to Cabinet for approval. The First Considerations Report is required under the Environment Act 2021 and will form the basis for a Corporate Biodiversity Strategy.

Recommendation

That the 'Complying with the Biodiversity Duty - First Considerations Report' be approved.

Reason

To demonstrate that the Council has fulfilled this part of the biodiversity duty set out in the Environment Act 2021.

Policy Justification and Previous Decisions

The Council has a clear commitment in its Corporate Strategy 2024-2028 to Environment and Climate Change.

The Government have introduced legislation, guidance, and new duties to help drive the recovery of nature. Section 40 of the Natural Environment and Rural Communities Act (NERC) introduced a legal duty for Councils to conserve and enhance nature. The Environment Act 2021 has since strengthened that responsibility so that Councils must now identify the objectives and actions, they will take to meet that duty, and prepare regular reports on how they are meeting those actions. The 'First Considerations Report' sets out the Council's actions to meet the general biodiversity duty, required by the Environment Act 2021.

Implementation Timetable including Future Decisions

Subject to call-in, the first considerations report will be published on the council's website.

Report Implications

Financial Implications

The approval and publication of the Complying with the Biodiversity – First Considerations Report will not have any financial implications.

However, there may be additional financial implications in the preparation of the Biodiversity Strategy for the borough and where relevant these will be set out in future reports to Cabinet.

Risk Management

The risks associated with the decision Cabinet is asked to make and proposed actions to mitigate those risks are set out in the table below.

| Risk Identified | Likelihood | Impact | Overall Risk | Risk Management Actions Planned |
|---------------------------------------------------------------------------------------------------|------------|--------|--------------|----------------------------------------------------------------------------------|
| Not approving the First Considerations Report would lead to reputational damage of the authority. | 1 | 6 | Moderate | Cabinet members are briefed on the content of the 'First Considerations Report'. |

Equality and Diversity

None identified.

Climate Change and Carbon Impact

The First Considerations Report sets out how the Council is already engaging with Biodiversity and sets out objectives to enhance biodiversity within the Borough over the next five-year period.

Crime and Disorder

None Identified

Wards Affected

All Wards

Publicity Arrangements

Not applicable.

Consultations

Not applicable

Links to the Corporate Strategy

| | |
|----------------------------|-----|
| Caring for the Environment | Yes |
| Healthy Communities | No |
| A Thriving Economy | No |
| Your Council | No |

Key Decision: Y

If yes

Date included on Forward Plan 06/03/2024

Background Papers: None

Officer(s) to contact: Richard Bennett
Head of Planning and Growth
Tel: 01509 634763,
Richard.Bennett@charnwood.gov.uk

Katie Mills
Group Leader Plans Policy and Place
Tel: 01509634750
Katie.mills@charnwood.gov.uk

Part B

1.0 Introduction

- 1.1 The Government have introduced legislation, guidance, and new duties to help drive the recovery of nature. Section 40 of the Natural Environment and Rural Communities Act (NERC) introduced a legal duty for Councils to conserve and enhance nature. The Environment Act 2021 introduced a strengthened 'biodiversity duty' which requires all public authorities in England to consider what they can do to conserve and enhance biodiversity.
- 1.2 Charnwood Borough Council as a public authority, must:
 1. Consider what it can do to conserve and enhance biodiversity;
 2. Agree policies and specific objectives based on its consideration; and
 3. Act to deliver these policies and achieve their objectives.
- 1.3 There is a requirement to complete the Council's first consideration of what action Charnwood Borough Council intends to take to conserve and enhance biodiversity by 1 January 2024. To meet this requirement the Council has prepared a report called 'Complying with The Biodiversity Duty - First Considerations Report', which is attached at Appendix A. If cabinet is minded to approve the report it will be published on the Council's website.
- 1.4 Following this first consideration, the Borough Council must agree its policies and objectives as soon as possible, take action and prepare the first formal Biodiversity Report no later than 1 January 2026, with the publication of the report 12 weeks later. Thereafter this must be reviewed every five years as a minimum.
- 1.5 Officers have established the Biodiversity Working Group as a sub group of the Climate Action Board to take forward the first considerations and to develop a Biodiversity Strategy for the Council. It's early days but work has commenced on this project and further reports are expected to be brought to Cabinet later this year.

2.0 First Considerations Report

- 2.1 The First Considerations report details current policies, objectives and actions reflecting the Council's current approach, and the work that it is already undertaking, in relation to biodiversity. It also sets out future potential actions that the authority may take, although these are not binding.
- 2.2 As set out above, the Council is required to publish the first formal review of the Biodiversity Report by 1 January 2026 and publish it by March 2026. This work will be led by the Biodiversity Officer through the Biodiversity Working Group and they will oversee the preparation of the review document that is required to be published at the latest on the 1 March 2026.
- 2.3 On an initial review, the services where work streams are most likely to be influenced by the biodiversity agenda are the Planning and Growth Service,

Sustainable Development Team, Communities and Partnerships Team and the Open Spaces and Leisure Teams. However, it is very likely to cross over into other areas, such as work with Communities, Property and Assets and Procurement.

- 2.4 It is anticipated that through consultation across the Council, as part of the production of the Biodiversity Strategy identified as one of the actions within the First Considerations Report, additional opportunities to shape and set strategic objectives will emerge.

3.0. Towards a Corporate Biodiversity Strategy

- 3.1 The first considerations report identifies that the Council will prepare a Corporate Biodiversity Strategy to set future direction on conserving and enhancing biodiversity in Charnwood. It presents an assessment of current policies, objectives and actions and therefore provides the basis for the scoping of the Biodiversity Strategy. This Biodiversity Strategy is also detailed in the Corporate Delivery Plan for 2024/25.
- 3.2 The Biodiversity Working Group has begun scoping the proposed content of the strategy and has identified where further areas of expertise are required to support officers in their understanding of the implementation of the Environment Act 2021. A study has been commissioned to explore the opportunities that the Environment Act 2021 can bring to local authorities in delivering biodiversity net gain (BNG). Following a review of this report it is likely that further advice will be required in the form of a feasibility study into the pros and cons and options around establishing a Habitat Bank.
- 3.3 The Biodiversity Strategy will also need to sit alongside the Biodiversity Supplementary Planning Document (SPD) that has been identified in the Local Development Scheme 2024-2027. The SPD will replace the current Biodiversity Planning Guidance (June 2022) and will give further guidance to applicants on the implementation of policies within the emerging Local Plan, including the requirements for 10% BNG.
- 3.4 The preparation of the Strategy will also need to be informed by the Local Nature Recovery Strategy (LNRS) that is being prepared by Leicestershire County Council. LNRS are a new system of spatial strategies that will establish priorities and map proposals for specific actions to drive nature recovery and provide wider environmental benefits. The Borough Council are an active partner in the preparation of the LNRS and once in place will have regard to the LNRS in future Local Plans and decision making.
- 3.5 Further updates will be provided to Cabinet once the strategic BNG delivery options have been explored and a programme is in place for the preparation of the Biodiversity Strategy.

4.0. Biodiversity Offsetting

- 4.1 The First Considerations Report identifies the effectiveness of the implementation of Core Strategy Policy CS13. This policy requires no net biodiversity loss for development as further explained in the Council's

Biodiversity Planning Guidance (June 2022). The approach set out in the guidance has been used to manage the ecological impact of development since November 2015 and prior to 12 February 2024 when mandatory 10% BNG was introduced.

- 4.2 The Council has received in the region of £875,000 in offsetting payments secured under Section 106 legal agreements and which are in the process of being disbursed for biodiversity projects in the Borough. A significantly larger sum has been recorded in other S106 legal agreements which have not yet reached their trigger point for payment to be made.
- 4.3 The offsetting payments currently held by the Council have been made under S106 legal agreements made with developers in the context of Core Strategy Policy CS13 and the National Planning Policy Framework (NPPF). As such they are legal obligations requiring the payments to be used to provide measurable biodiversity enhancements, habitat creation and enhancement expressed as 'Habitat Units'. All payments are associated with a specific minimum number of habitat units required to be provided. However, these payments are not constrained by the regulatory environment that accompanies mandatory BNG, as they predate them. This affords some freedom in the way that they can be used. However, there will still be some constraints in relation to the quantum and type of habitat that needs to be delivered and there may be some restrictions around its location within the Borough.
- 4.4 A key objective for the Biodiversity Working Group is to allocate this fund in the most effective way to ensure the delivery of robust biodiversity offsetting projects which both provide lasting and effective ecological compensation, and which help to meet other complementary strategy objectives such as improved flood management, carbon sequestration and improved community access to nature.

Appendices

Appendix A: Complying with the Biodiversity Duty - First Considerations Report