

Biodiversity Supplementary Planning Document consultation report



December 2023

Overview

North Somerset Council produced a Biodiversity Supplementary Planning Document (SPD) and consulted on a draft document on eConsult from October 2023 for six weeks. The consultation was open between October-27 November. Hard copies were also made available in Libraries.

Responses

45 responses were received via eConsult. Of these, 18 were from organisations, and 27 were from individuals. Further feedback and comments were emailed to the biodiversity@n-somerset.gov.uk account and also provided via 2 engagement sessions.

| <i>EConsult Summary</i> | <i>Number of responses</i> |
|---|-----------------------------------|
| Organisations | 18 |
| Individuals | 27 |
| Total | 45 |
| | |
| Theme | Number of responses |
| Greater clarity/detail | 11 |
| Enforcement | 10 |
| Holding developers to account | 9 |
| Monitoring | 6 |
| Does not go far enough | 5 |
| Misunderstanding of SPD purpose | 5 |
| Support for SPD | 4 |
| No comment | 4 |
| Conflict with land for agricultural use | 3 |
| Other | 19 |

For the 'Other' category the theme of the comments included:

- Concern about the impact of BNG requirements on NSC staff resource

- Concerns about existing NSC land management
- Concerns about an existing development's impacts
- Offsite BNG locations for developments within NS should be located within NS only
- Concerns about the financial impact of managing BNG in planning on NSC
- Shortcomings of the planning system
- Loss of biodiversity from gardens.
- The cumulative effects of development not being addressed by BNG
- Suggesting there should be a mechanism for monitoring existing biodiversity
- Querying the effectiveness of BNG
- Requesting the specific addition of info

Some comments relating to the most commonly referenced themes above include:

Greater clarity /detail:

Many of the comments for this section relate to providing detail that the SPD has specifically aimed to keep to a minimum. The document is designed to be read by those who are proposing a development and in reality in most cases this will be a trained ecologist who will not require the level of signposting that the general public may require. As such we have aimed to provide links to the relevant information sources rather than to repeat it within the document itself, in order to keep the SPD as succinct as possible.

Enforcement and Monitoring

"A good idea but must be measured, followed up and sanctions applied if you want it to be effective."

"How effective it is will depend on resources for checking that requirements are met and enforcement measures if they are not."

"I cannot emphasise enough how essential enforcement of the requirements will be. In recent years I have observed building beginning before planning had been approved and no checking or enforcement ensuing"

"... What are the penalties ,or punishment for these actions? They have to be strong enough to stop this type of behaviour"

"Biological gain will need an initial plan, but the results are mainly going to be dependent on the on-going management of the site over years, and that there is an effective mechanism in place for enforcement. In practice most developers will jump through these planning hoops initially, and subsequently it becomes a box ticking process which they go thorough with the minimum cost and effort"

"Enforcement and Monitoring -There need to be an explanation of how the sites are monitored for some years and how effective enforcement is carried out. The results to be made easily accessible to the public."

Holding developers to account:

“Developers are like a barrel of eels - if things aren't clearly defined they'll wriggle out.”

“There needs to be a greater proactive onus on developers to confirm in planning applications how they will implement the provisions of the relevant policies/legislation if their application is successful. Instead of "consider", planning applications should "demonstrate" how they will meet the most up to date and relevant requirements etc.”

“There is a danger that developers will exploits all the loopholes. The threshold for Environmental Impact Assessment (EIA) is too high. The mitigation hierarchy and the means of achieving Biodiversity Net Gain give relatively easy ways of inflicting real environmental damage and claiming mitigation and BNG by simply paying for schemes such as tree planting off site on a location where such projects should be happening anyway.”

“There is a lot of good intention here, but some loopholes, which will become evident as applicants try to apply rules in their favour. The need to demonstrate 30 year post development monitoring in particular.”

“I feel that developers are always looking out for ways out of commitments to do things after they have done their building work. There are so many instances of this and the promises never seem to be enforced. They know that the Council may not have enough funds to rigorously enforce or monitor these requirements. There is still a problem of monitoring what they are doing if they are asked to do things to increase biodiversity during the work they are carrying out. Developers are, as we know, driven by profits not by interest in the environment or communities. I think if there cannot be proper monitoring and control of any requirements to improve biodiversity then development should not go ahead.”

Does not go far enough:

“Is the document ambitious enough to achieve biodiversity net gain which is what's needed? No net loss isn't good enough.”

“The SPD appears to list all relevant policies, legislation and standards etc. that are relevant to considering biodiversity, but this stops short of providing guidance as to what is expected of developers e.g. demonstrating how they will meet requirements; requiring them to undertake independent surveys and make provision in their plans for complying with relevant elements of policies, legislation and standards in their planning applications. This is an issue throughout the document, rendering it nebulous and a cursory gesture to protecting biodiversity.”

“A great start but not ambitious enough.”

“Design Guide - aspects on bird and bat provision are quite flimsy. To make a difference NSC needs to copy other authorities and provide specific guidance with a model planning condition that sets clear expectations around the level of provision required.”

The comments above were taken from one of the 5 question areas listed below. For ease of reading if the comments have been included above then they have not been duplicated within the cited responses in the section below.

Answers to the questionnaire:

Question 1:

Section 3 of the Biodiversity Supplementary Planning Document (SPD) sets the context of relevant policy and legislation which the SPD needs to comply with. Do you think that we have omitted any important, relevant policies or legislation?

18 answered yes 20 answered no 2 didn't reply

If yes, please detail what is missing:

Very few respondents suggested missing policies or legislation but instead commented on other areas where they felt there were omissions including:

- Reference to the State of Nature report 2023 (this has now been included)
- Reference to The England Tree Action Plan (May 2021) (this will be included in the Trees SPD)
- We suggest including the Government's international commitment in December 2022 to the internationally agreed '30 by 30' target to protect 30% of our land and seas by 2030 (this is being considered.)
- “How will the Government's 'Plan for Water: our integrated plan for delivering clean and plentiful water' (04 APR 23) affect farmers ability to farm and maintain nature recovery and BNG legal commitments, if they don't have enough water to irrigate, or being financially viable to do so?” (this is not something that the SPD can address but it could be considered as part of the creation of the Rural Strategy.)
- “This proposed Biodiversity SPD doesn't appear to protect food production or food security, which is one of the UK government's Critical National Infrastructure sectors” (this is not something that the Biodiversity SPD can address.)
- “More detail on the variety of legally protected species i.e. otters, grass snakes, hedgehogs, bats etc and what weighting their protection affords them in terms of planning applications for housing developments. I.e species inventory, richness, evenness, diversity and biotic indices at level X means planning is automatically refused.”

The policy/legislation suggestions were:

“The Levelling Up and Regeneration Act 2023 confers a new statutory duty on a relevant authority (i.e. NS) concerning ‘to further the primary purpose to conserve and enhance the natural beauty of the Mendip Hills Area of Outstanding Natural Beauty (recently rebranded Mendip Hills National Landscape).”

The Water Framework Directive. This has not been included however as the UK is replacing this with its own standards.

Question 2

Do you think that the guidance in this SPD is clear?

25 answered yes 12 answered No 3 didn't reply

If not, what is not clear/how could it be made clearer – please include the relevant section reference(s)

“It is not sufficiently clear what action will the council take when it is evident that habitat has been destroyed ahead of a planning application and the environmental assessment being undertaken.”

One respondent suggested that the Biodiversity SPD should cross reference the North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: Supplementary Planning Document. This is being considered.

“On additionality, it would be helpful to be crystal clear here that improvements to protected site condition do not constitute BNG as there are statutory obligations around favourable condition for protected sites already, so any action that improves site condition is not delivering anything over and above what should already be happening anyway.”

Two respondents referenced a number of points within sections 5 and 7 which need clarification which we are responding to.

“Your sequential approach in 8.8.1 says about off-site provision outside of N. Somerset but within the WoE region, but then jumps to credits. Is there a reason why you wouldn't allow off-site units in Somerset? Are we able to improve alignment across boundaries?” The government has assigned regions to develop local nature recovery strategies and North Somerset falls within the West of England area which does not include Somerset. It is for this reason that the off-site provision is suggested as being limited to the west of England area if it cannot be delivered within North Somerset.

Question 3

Do you think that this SPD will help us achieve the positive outcomes for biodiversity required by national legislation and our adopted Local Plans?

6 answered yes 24 answered somewhat 7 answered no

Please explain your answer if required:

Many of the the answers to this question also fell into the theme of 'holding developers to account' covered earlier in this document, with respondents emphasising that the success of BNG will be determined by local planning authorities being able to set firm conditions, enforce monitoring and ensure the effective management of the land for the minimum 30-year periods.

Other comments included:

"It will only be achieved if the BNG is in the right place. It may happen that no new sites of BNG are created but sites of woodland, AONBs and Nature Conservation Areas are just improved.

The purchase of offsets outside of the area of the development or the boundary of the Local Authority to me is not a good idea. We will have areas which will have biodiversity and other areas which are devoid of it.

It could occur that sites of BNG may be used more than once...

BNG targets will only be achievable if enforcement takes place by the Local Authority."

"Comments are based on the experience of delivering on site mitigation and making planning objections based on the Bats SAC SPD.

Satisfactory delivery of biodiversity objectives depends on a number factors. The Bats SAC SPD for example, is a fine document. However in itself it is toothless without unequivocal implementation and without challenge of its basic principles. The planning decision process would be best more fully spelt out with a need for strict adherence and the consequences of not doing so. This starts at the pre planning stage. This appears to be a very imprecise event and lacks scrutiny. Discussions about biodiversity must be part of this process and a significant factor. This should feature as part of the Sites Allocation process. Potential sites should be screened against policy at this initial stage. Perhaps a simple scoring system of sites against targets and objectives e.g. emerging National and Regional Action Plans. Also locally the Green Infrastructure Policy and the Local Nature Recovery Strategy will be very important."

"Although this SPD has an ambition that is sadly lacking in some other local authorities, it might not go as far as it could, although we recognise that is mostly the results of constraints imposed by national policy, shortcomings in the wider planning system that arise from pressure/financial inducements from developers and investment companies on the three mainstream political parties."

Question 4

Can you tell us of any case studies (from an English Local Planning Authority) which demonstrate good examples of how Biodiversity Net Gain is being used, or other best practice that we could incorporate into this SPD to add value?

"We've been told that BANES Biodiversity Supplementary Planning Document (January 2023 is the gold standard in our local area. And the website is very clear and easy to use."

*“Several Local Authorities have developed special guidance and model planning conditions for Swifts which North Somerset could copy or adapt. For example:
<https://www.brighton-hove.gov.uk/sites/default/files/2021-05/OD13%20Special%20Guidance%20A%20Swift%20Boxes%20and%20Bricks.pdf>
<https://resources.leicestershire.gov.uk/sites/resource/files/field/pdf/2020/6/29/FS10-Swift-advice-for-planners.pdf>”*

Question 5

Do you have any other comments about the SPD?

“This looks like another process that will add time and therefore cost to getting any project done. The environment is important, but so is actually delivering new infrastructure projects quickly and efficiently.”

“I have concerns about 'offsetting'. I know that some companies are buying up areas of woodland to 'offset' their carbon emissions. How can this be considered when the woodland is already carrying out this function? Just by purchasing it the company isn't making any difference to the amount of carbon dioxide in the atmosphere.”

“My concern is that the paper is reactive and only really addresses well known ecological issues. The ecology locally is changing... These emerging populations most particularly need to be identified and taken into considerations for future policy and planning. To do this would require NSC to set up a mechanism to keep their fingers on the pulse of the positive and negative ecological changes occurring in our area. This would mean maintaining regular and consistent communication with the local Ecological NGOs”

“North Somerset Council must hold a register of all BNG sites which is accessible to the public to ensure transparency. The reports on the BNG sites must be qualitative and quantify in order that people can see whether or not BNG is being delivered. Copies of these reports should be sent to parishes on annual basis where development happens,”

“I would like to see much more clarity and ideas linked to the NRN (Nature Recovery Network). The document clearly supports the requirements within the 2021 Act and produces large scale maps to promote the notion of area-wide biodiversity planning. It also highlights the important species that must (by law) be preserved. All well and good. However, there is little detail on linking habitats other than the rare mention of hedgerow corridors.”

The organisations who responded via the online consultation or attended the engagement sessions included:

West of England Combined Authority
Mendip Hills AONB
Avon Wildlife Trust
West of England Nature Partnership
Forest of Avon
Geckoella Ecology and Geology
Octavia Group
Vistry Group
Pegasus Group

Hallam Land Management
Civic Society
Yatton and Congresbury Wildlife Action Group
The Woodland Trust
Somerset Council
LANCE Trust
Historic England
Environment Agency
Bleadon Parish Council
Brockley Parish Council
Wrington Parish Council
Tickenham Parish Council
Cleeve Parish Council
Graham Moir Associates Ltd
Shu Architects
BPB Architect
First Ecology
Oneleven Property
Dexter Building Design Ltd.
Ethos Environmental Planning
Erle
Stridetreglown
SWD Architecture
Planning Developments
Belmont Estate
Clarkson & Woods

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