

Environment Scrutiny Committee	
Report Title:	Biodiversity
Meeting Date:	8 March 2023
Chair:	Cllr Vernon Smith
Presenting Officer:	Gary Kennison – Principal Ecologist
Purpose of Report:	To note and comment on changing and expanding biodiversity work areas.
Planned Dates:	<p>Early 2023 – Strengthened biodiversity duty comes into force (Environment Act). Publication of the Government consultation response on Local Nature Recovery Strategies (LNRSs) from 2021.</p> <p>March 2023 - GCC to be formally appointed as the Responsible Authority for a Gloucestershire LNRS.</p> <p>March/April 2023 - Secondary legislation and Government guidance on LNRSs and Biodiversity Net Gain (BNG) in planning (Environment Act). Gloucestershire to adopt an interim approach on priority areas to reference in the BNG metric.</p> <p>November 2023 – BNG in planning begins.</p>
Background Documents:	<p>Defra “Environment Act 2021: Frequently Asked Questions (Local Authorities)”</p> <p>LGA (PAS) “Nature Recovery for Local Authorities” and “Biodiversity Net Gain for Local Authorities”</p>
Appendices:	Gloucestershire’s Nature Recovery Strategy – Draft Process and Content
Recommendations:	To note this report and suggested mix of approaches to be taken to cover and

	resource existing and new biodiversity work areas.
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1. Background

1.1 Biodiversity [considerations](#) are relevant to many Council services and functions, such as planning, highways and land/property management. Factoring in biodiversity into thinking can help identify opportunities to improve our natural environment which provides us with good health, well-being and supports our economy. If biodiversity is not appropriately addressed then poor decisions may be made leading to delays and added costs to key plans, projects and works. There can also be challenges to the Council from people and communities leading to unfavourable publicity and reputational damage.

1.2 The Council takes account of biodiversity through incorporation into appropriate policies and measures taken as we deliver certain services. Much has been achieved but more can be identified by working with other councils and partners. Much of the collaboration happens through Gloucestershire's [Local Nature Partnership](#) which GCC is a funding and Board member of.

1.3 Conserving and enhancing biodiversity is important given that Gloucestershire County Council (GCC) has a general biodiversity duty (Natural Environment & Rural Communities [NERC] Act) and that there is an ecological emergency. In addition to this, there is a whole raft of current and emerging environmental legislation related to the natural world such as the new Environment Act 2021.

1.4 There are some big changes on what we will be expected to do for biodiversity in the future arising out of the [Environment Act](#) (2021) which received Royal Assent on 9th November 2021. Important secondary legislation (regulations) and associated guidance are running late but are expected in April 2023.

1.5 The Environment Act requires the Secretary of State to set new, long-term, and legally binding *environmental targets* covering biodiversity, air quality, water, resource efficiency and waste reduction. The new legislation includes a commitment to halt species decline by 2030 and has measures to recover nature.

1.6 Public bodies such as GCC will have a *strengthened biodiversity duty* and must co-operate, where appropriate, with Natural England in the establishment and operation of new *Species Conservation Strategies* and/or *Protected Sites Strategies*. This may or may not affect Gloucestershire. Other tools introduced by the Environment Act include establishing a national *Nature Recovery Network* and related to this new LNRs for counties and regions across England with no overlaps. There is a new legal tool 'Conservation Covenants' that can be set up on land by agreement. These covenants will be an important feature of BNG, which is being introduced for most planning applications from November 2023. The adoption of LNRs, the introduction of BNG, and potentially due to Brexit changes to species' licencing and designated site protection will have implications for planning

application determination, review of Local Plans and certain Council promoted projects. Across the board there will be different processes for assessing ecological implications and furthering biodiversity protection and enhancement.

2 New Requirements for the County Council

2.1 A strengthened *biodiversity duty* comes into force very soon. All Council policies and operations must be reviewed to see how they can 'further biodiversity.' Any proposed new or changed policies and operations must also see if reasonable changes should be made to them to further biodiversity. The Council will need to prepare a *Biodiversity Report* within 3 years describing what actions have been taken to further biodiversity. This would include a summary of BNG secured through planning and progress made towards implementing the LNRS. After this, Biodiversity Reports are required every 5 years.

2.2 GCC has already been identified as the likely *Responsible Authority* (RA) for the production, monitoring and review of a [Nature Recovery Strategy for Gloucestershire](#). This is expected to be confirmed by appointment by DEFRA (Department for Environment, Food and Rural Affairs) in March 2023. Much engagement work with partners, various sectors, communities, and the general public will be needed to start in earnest once the Government releases guidance and secondary legislation in April 2023. In preparation we have already established a LNRS Steering Group with partners and this will meet several times a year to help manage the LNRS process with GCC. Together we will need to compile a set of biodiversity priorities that operate across the county as well as identify priority locations for nature recovery delivery (Habitat Map). A public consultation on a draft LNRS will probably be required and this is estimated for early 2024 with possible adoption of a final LNRS by Autumn 2024.

2.3 As the LNRS is required as a reference for BNG in planning, an interim position will be needed before November 2023. It is currently proposed to use the priorities embedded into the existing [Nature Recovery Network](#) mapping plus relevant Local Plan allocations. This interim approach needs to be signed off by all LPAs in Gloucestershire and is expected to also be endorsed by the Local Nature Partnership.

2.4 There are already non-statutory Nature Recovery Plans (NRPs) available that have been recently adopted for parts of [Gloucestershire](#). These are for the [Cotswolds](#), [Cotswold Water Park](#), [Malvern Hills](#) and one for the Wye Valley is expected. The local NRPs cover nature recovery opportunities and approaches across some well-known landscapes. Areas not yet covered by the NRPs are the Severn Vale, Severn Estuary, Forest of Dean and the urban areas of Gloucester and Cheltenham. These gaps in coverage can be filled in by the LNRS in addition to referencing the already existing NRPs. However it is worth noting that there are other plans and strategies to note covering some of these areas such as Forestry England's '[Our Shared Forest](#)' and the Severn Estuary Partnership's [strategy](#) .

2.5 We can expect that large landscape-scale projects currently underway will feature in the LNRS in some way, e.g., Severn Treescapes and Big Chalk. Obviously from a GCC perspective (and in line with Natural England's recently launched [Green](#)

[Infrastructure Framework](#)) we need to see measures supporting nature-based solutions that help us to adapt to climate change, mitigate for the increased risks of flooding, and react to a rising population seeking outdoor space, e.g. by creation of new woodlands, wetlands and greenspace near to existing and new communities. There will need to be some connection made between the LNRS and Local Development and Transport Plans, Green Infrastructure and Climate Change Strategies of the future.

2.6 An ongoing task for the County Council will be the subsequent monitoring of the new LNRS for Gloucestershire with partners. The GLNP has already agreed that it will assist the County Council in this. In the following 3 to 5 years the Government will expect a review of the LNRS to be completed by GCC. Therefore, the Council should take steps soon to record its good actions for biodiversity and map them where this is appropriate.

2.7 A priority area of activity in the short term will be the introduction of BNG for most planning applications. It is conjecture that BNG might be phased in by the Government for only a limited range of development types or sizes to start with. BNG will be set at a minimum level of 10% which is to be calculated using a new national metric (calculating tool). The metric output will give a result that can still be scrutinised as it will only be as good as the quality of data entered into the special spreadsheet provided by Natural England / DEFRA. It is also important to realise that matters connected with protected or priority species and designated sites are not fully covered and need additional consideration. So clearly the input of a professional ecological advice to planning officers and councillors is just as important as ever.

2.8 Where BNG cannot be achieved on-site or on other land in a developer's control, biodiversity credits can be purchased. These can be derived in several ways including, we understand, through a default Government scheme. Through the GLNP, GCC has assisted in setting up a fledgling [Gloucestershire Nature and Climate Change Fund](#) (GNCF) which the Council has a Memorandum of Understanding with. The GNCF, which has a project manager, will be able to offer biodiversity credits to developers to achieve overall gains on land identified with landowners for this purpose. The fund is also exploring an offer of BNG auditing and later carbon credits for organisations who are seeking them.

2.9 Of course achieving net gains for biodiversity through planning is not entirely new. There has been a good measure of success through planning applications submitted to GCC over the last couple of decades, such as for new highway, school and quarry projects. From late 2023 the expectation has risen across the board for planning applications and also for formulating biodiversity policy in Local Plans and this all links across to the new LNRS.

2.10 The District Councils have many more planning applications to determine and so mandatory BNG will have the greatest resource impact upon them. The County Council has fewer planning applications which are of a different type, e.g. minerals, waste, schools, highways, etc. Nevertheless, the intention is for all Gloucestershire's Local Planning Authorities to work together to agree a common Gloucestershire approach to BNG. This, of course, must be compliant with the awaited secondary legislation and in line with Government guidance. This is likely to include an option to

explore where more than 10% BNG could be justified through policy (e.g. within the AONBs perhaps). New Burdens Funding for BNG received by all the local councils is to be used initially to provide specific county-based training or workshops for officers/councillors, etc.

2.11 Finally, the *Habitats Regulations* that protect internationally designated sites and European Protected Species are to be reviewed by the Government. The Environment Act already stipulates that the level of protection for these sites (and species) must not be reduced from that provided when the UK was an EU member. We are also expecting other reviews such as to the Environmental Impact Assessment processes for projects that includes planning applications.

3. Finance and Resources

3.1 Clearly due to the new Environment Act and planned reviews of other legislation there is much to react to and a need for GCC to increase its ecological capacity. In terms of the Environment Act alone Natural England and DEFRA are aware of significant resourcing concerns for Local Authorities (LAs). The Government has said it will help to fully finance the work involved in rolling out the new Environment Act responsibilities. So far GCC has received seed funding for BNG of just over £10K and for LNRS just under £49K by the end of this financial year to assist GCC and its partners with the new responsibilities. We will need a continuing dialogue with our partners (especially other LPAs, the LNP and GNCF) as to the best way to use this supporting funding to the best effect.

3.2 Currently GCC employs one full-time Principal Ecologist in the Heritage Team, and since January this year a new full-time (but temporary) Climate Action Officer [Biodiversity] in the Sustainability Team has been appointed. The latter team also employs a Tree Project Officer but this is exclusively focused on tree and woodland planting and so only has a partial contribution to make towards county biodiversity. In terms of joint working to common goals there are some biodiversity/ecology officers at some of the Districts although these are mostly tied down to existing work areas. A new Nature Recovery lead has recently started at Stroud District Council and there is a new Director for Nature Recovery at the Gloucestershire Wildlife Trust. One of the priorities for the Local Nature Partnership Manager is assisting GCC with compiling a LNRS. All of this is welcomed, although external partners will obviously be able to assist in some matters and New Burdens Funding received by GCC may be used to facilitate this where appropriate. However, the majority of the initial 'seed' funding from DEFRA is likely to be used to engage our consultants Atkins to provide ecological and facilitation services to support the LNRS process at least. Failing this outside specialist consultants would probably be needed.

3.3 GCC has a Service Level Agreement with the Gloucestershire Centre for Environmental Records (GCER) and this will certainly need augmenting to support the production and monitoring of the LNRS and possibly BNG in planning too.

3.4 Our planning officers will need to get up to speed with BNG over the coming months. Although national training will be available, some focus on local biodiversity

priorities and a Gloucestershire approach is required. This is likely to be via workshops led by the GNCF which GCC has a Memorandum of Understanding with. The new BNG requirement for planning applications will require additional processes of validation, sign off and long-term monitoring of up to 30 years for each planning consent. Although the GNCF can assist with the latter this strongly suggests an additional part-time or full-time planning officer could be required at GCC to deal with BNG matters. Initially at least it should be possible to increase planning officer capacity through New Burdens Funding, subject to the usual authorisation procedures.

4. Next Steps

4.1 More should emerge soon from the Government on the requirements of the strengthened biodiversity duty and the Government's response to a consultation on LNRs from 2021. Next, we are expecting GCC to be appointed by DEFRA as the Responsible Authority for a county LNRs. Hopefully before the end of April 2023 secondary legislation and Government guidance for LNRs and BNG in planning will be released. It is at this point that, together with our partners, we will need to confirm a workplan and related expenditure for the next 12 to 18 months.

4.2 The County Council will need to continue working with the District Councils, the GNCF and the LNP to successfully introduce BNG in planning by the end of the year. This will involve using existing LPA resources augmented by the use of New Burdens Funding which has only just started to come through from DEFRA. BNG will have an increasing link with the LNRs for Gloucestershire as it emerges. A series of meetings, workshops and training is envisaged over an intensive 6-month period on BNG before it goes live in planning from November 2023. Some awareness raising is expected to be provided nationally at no cost but events will also have to be arranged locally between the LPAs and its partners using the New Burdens Funding.

4.3 GCC should make a start in 2023 on recording, across our different services and functions, what the County Council is doing for biodiversity. The Government will be providing deadlines for reporting back to them on the strengthened biodiversity duty in due course.

5. Summary and Conclusions

5.1 Until there is confirmation of the legal regulations and associated guidance from Government, the full implications of the new Environment Act cannot be confirmed. Council officers, our consultants, contractors and partners will have to engage with new processes and routinely consider furthering biodiversity when working on projects and plans. It is clear that additional resources will be required which may be significant. The Government has said that the implications for Local Authorities will be fully covered by New Burdens Funding which has started to be rolled out.

5.2 GCC needs to be comfortable that it has the certainty of sufficient ecological capacity to meet all current and new demands connected with biodiversity. GCC's Principal Ecologist is the main lead for all of these matters and is retiring late April

2023. Hopefully he will be replaced by May / June 2023. The recently recruited Climate Action (Biodiversity) Officer assists in biodiversity matters and one option to reduce capacity risks is to ensure that this important post is made permanent. The Council will in any case need to buy in extra assistance for peak work times from Atkins (or alternative specialist consultants/facilitators), or the temporary staff register or from our partners. We already have a variety of long-standing financial arrangements with our key partners such as the Local Nature Partnership and the Gloucestershire Wildlife Trust. There is also a new one with the GNCF. These arrangements could be expanded or altered as and when needed. In addition to the New Burdens Funding, GCC can expect some in-kind support from our partners although this will be limited. Other sources of funding might need to be sought with our partners to fully realise evolving ambitions to tackle the ecological and climate change emergencies over the coming years.

5.3 GCC will need to become alert to all reasonable opportunities to further biodiversity and also to conduct new processes in line with details yet to be released by Natural England and DEFRA. From April 2023, GCC should also be recording its positive actions for furthering biodiversity so it is in an advantageous position to report back to Government on our strengthened duty in a couple of years time. Tight timescales to achieve both the introduction of BNG and the production of a LNRS for Gloucestershire are looking unavoidable. However, we have a good environmental evidence base and strong working relationships with others which provides a firm starting point. The County Council will need to build on its existing resources by increasing its ecological and planning officer capacity (using New Burdens Funding in the short to medium term), continue working with the Local Nature Partnership and reaching out to new partners and contacts as appropriate.

6. Recommendations

6.1 To note the key dates and stages related to the implementation of the Environment Act 2021.

6.2 Director-level sign off is proposed to accept GCC's formal appointment as the Responsible Authority for a Local Nature Recovery Strategy for Gloucestershire.

6.3 Once secondary legislation and Government guidance on the Environment Act is released, GCC with its partners should react swiftly to the requirements (see Appendix). New Burdens Funding can be used to support a mix of approaches as outlined here to expand the resource for the additional biodiversity-related work required.

6.4 GCC should take steps to record its good actions for biodiversity and map them where this is appropriate.

6.5 At the first opportunity add into the GCC's Climate Change Strategy a more explicit reference to the ecological emergency and the production of a Local Nature Recovery Strategy for Gloucestershire.

Appendix

Gloucestershire's Nature Recovery Strategy

Draft Process, Likely Content and Earliest Dates

Defra Step 0: Government provides a map of the Strategy Area (Gloucestershire), including habitats and national conservation sites

Progress – Awaited (due by April 2023)

Defra Step 1: Locally held data is added to the map, including locally identified wildlife sites

Progress – Delay (locally held data is already informed by key national data sets refining work to construct Local Habitat Map [excluding priority locations] to begin from May 2023)

Defra Step 2: Description of the Strategy Area (Gloucestershire) including its key habitats and potential opportunities to create or improve them

(draft awaiting guidance and then refined and confirmed by May 2023)

Defra Step 3: Identification of outcomes, achieved through creation or improvement of habitat, and grouping of these into 'priority' and 'other'

Progress – Start from May 2023 (confirm by September 2023)

Focused survey(s) of target groups/sectors, Steering & Working Groups/Workshops/LNP Nature Recovery group & possible conference

Defra Step 4: Potential measures for creating or improving habitat to achieve the 'priority' and 'other' outcomes [from Step 3]

Progress – Start from May 2023 (confirm by December 2023)

Steering & Working Groups/Workshops/ LNP Nature Recovery group & possible conference

Defra Step 5: Mapping of suitable locations (where possible) for the delivery of the potential measures [from Step 4 where possible] onto [Local Habitat from Step 1] map of existing habitat

Progress – Start from August 2023 (confirm by Dec 2023)

GCER/Steering & Working Groups/Workshops/ LNP Nature Recovery group & possible conference

Additional Step 6: Complete draft LNRS document with illustrations (photos) if possible

Progress – Ongoing (confirm by Jan 2024)

Steering Group/Comms/Illustrator

Additional Step 7: Public Consultation of draft LNRS document

Progress – Start from Feb 2024 for 8 weeks (complete by March 2024)

Advice/assistance from GCC M&W & Comms Teams

Additional Step 8: Review consultation response and agree with partners any review of draft LNRS text

Progress – Start from Feb 2024 (complete by April 2024)

GCER/Steering & Working Groups/Workshops/ LNP Nature Recovery group

Additional Step 9: GCC Adopt Final LNRS (first version)

Progress – Complete by September 2024