

## Part A

**Report to:** Cabinet

**Date of meeting:** Monday, 27 November 2023

**Report author:** Planning Policy Officer

**Title:** Biodiversity Duty – First Consideration

### 1.0 Summary

- 1.1 Biodiversity refers to the variety of species in a certain area and is important to sustain functional ecosystems. England has lost approximately half of its biodiversity and is one of the most nature-depleted countries due to industrialisation and land use changes. There is a need to reverse this, as stated throughout the Environment Act 2021, which sets out multiple biodiversity requirements including a new biodiversity duty, and separately, the mandatory Biodiversity Net Gain (BNG) requirement for planning development coming into place in January 2024. The BNG requirements include a need for developers and planning permission applicants to increase biodiversity by 10% as a factor of the proposed development.
- 1.2 This report outlines the Biodiversity Duty and focuses on the requirements set by national government for local authorities to implement biodiversity as a main consideration. This is based on the Environment Act 2021 and includes a 'First Consideration' which has to be done before 1 January 2024 and a full report completed before 1 January 2026.
- 1.3 On May 17, 2023, the government released guidance for local authorities to comply with the Biodiversity Duty. While this is new to Watford, the town has existing initiatives and policies related to biodiversity, including an Ecological Emergency Declaration, the Watford Local Plan with a Biodiversity Net Gain Policy, and an Environmental Strategy with nature-based targets. These efforts align with national goals for biodiversity improvement.
- 1.4 Public authorities in England **must** consider actions to conserve and enhance biodiversity, as mandated by the Environment Act 2021. This involves setting policies and objectives and taking action to achieve them. The first consideration of biodiversity actions must be completed by January 1, 2024, with policies and objectives agreed upon afterward. Reconsideration of actions must occur within five years of the previous consideration.
- 1.5 Government guidance on complying with the strengthened Biodiversity Duty was issued on May 17, 2023. It includes statutory sections and suggestions for reporting.

Annexes provide additional information, including activities that demonstrate compliance. The report, due in 2026, must include 3 sections.

- Section 1 requires setting policies, objectives, and reporting actions taken.
- Section 2 involves considering other biodiversity-related strategies, including the Local Nature Recovery Strategy.
- Section 3 necessitates explaining how Watford intends to fulfil the biodiversity duty over the next five years, including reporting on Biodiversity Net Gain through the planning system.

1.6 Watford Borough Council is dedicated to enhancing biodiversity and will incorporate biodiversity considerations into future documents and policies. This is a collaborative effort across various council departments, with an emphasis on member involvement, leadership engagement, and alignment with the Council Plan for the future. Watford is actively preparing for the mandatory 10% Biodiversity Net Gain requirement for new developments, effective January 2024 which has been in place through local policy since October 2022.

## 2.0 Risks

### 2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
That the Biodiversity Duty is not considered	Non- compliance with National Government Requirements	Complete First Consideration for Biodiversity Duty	Treat	1x1=1
Hertfordshire County Council does not complete the necessary Local Nature Recovery Strategy (LNRS)	Inability for Watford to write an effective Biodiversity Duty Report	Work closely with HCC to ensure the LNRS is developed in good time	Treat	2x1=2
There is insufficient resource for Watford to comply with the	Inability to comply with national law	Ensure work starts early and is a joint effort between teams to share resource	Treat	1x1=1

biodiversity duty				
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### 3.0 Recommendations

3.1 To note this report and summary table, which will help ensure Watford is compliant with the Biodiversity Duty, first consideration.

**Further information:**

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**Report approved by: CMB \* PHs on 13 November**

### 4.0 Detailed proposal

#### 4.1 Context

This report sets out the key requirements of the Biodiversity Duty for local authorities as set out in the Environment Act 2021 and the strategies and issues for Watford in complying with this new duty.

#### 4.2 Background

The Government produced guidance on 17<sup>th</sup> May 2023, to help demonstrate what is required by local authorities to comply with this new duty. This is a new area of work for Watford, although we do have several existing initiatives, strategies and policies that show how we are, and will continue to, address biodiversity. These are highlighted throughout this report. Watford does not currently have a Biodiversity Strategy but does have:

- Ecological Emergency Declaration (2021)
- Watford Local Plan (2021-2038) including the Biodiversity Net Gain Policy (NE9.8)
- Environmental Strategy (2023) which includes nature-based targets

The action local authorities take for biodiversity will contribute to the achievement of national goals and targets on biodiversity. The Environmental Improvement Plan (EIP23), published in January 2023, sets out government plans for significantly improving the natural environment.

By 2030, the government has committed to halt the decline in species abundance and protect 30% of UK land.

By 2042, the government has committed to; increase species abundance by at least 10% from 2030, surpassing 2022 levels, restore or create at least 500,000 ha of a range of wildlife rich habitats, reduce the risk of species extinction and restore 75% of our one

million hectares of terrestrial and freshwater protected sites to favourable condition, securing their wildlife value for the long term.

The Watford Borough Council Ecological Emergency Declaration (Annex 2) states that biodiversity is declining at an unprecedented rate, and the pressures driving this decline are intensifying. It recognises that the impacts of the continued decline in biodiversity were so severe that Governments at all levels must work together and make this a top priority.

#### 4.3 Biodiversity Duty and timescale for compliance

Public authorities who operate in England must consider what they can do to conserve and enhance biodiversity in England. This is the strengthened 'biodiversity duty' that the Environment Act 2021 introduces.

This means that, as a public authority, we must:

- Consider what we can do to conserve and enhance biodiversity.
- Agree policies and specific objectives based on our consideration.
- Act to deliver policies and achieve objectives.

We must complete first consideration of what action to take for biodiversity by 1 January 2024. We must agree our policies and objectives as soon as possible after this. It is anticipated that there may be further clarification about exactly what is required.

We must reconsider the actions we can take within 5 years of when we complete our previous consideration. We can decide to do this more often, for example, we could reconsider our actions quarterly, annually, or every 5 years.

*Note the Biodiversity Duty was originally contained in the Natural Environment and Rural Communities Act 2006 but that referred to having to 'have regard to' biodiversity in carrying out our functions. The Environment Act 2021 has strengthened that to a consideration of what we can do to 'conserve and enhance' biodiversity. Watford has not specifically reported against the original Biodiversity Duty, which is probably typical of most local authorities, but this is included as part of the Environmental Strategy and Watford Local Plan.*

#### 4.4 Government guidance on complying with the strengthened Biodiversity Duty:

The Government produced guidance on compliance with the strengthened Biodiversity Duty on 17<sup>th</sup> May 2023. This includes a suggested format for reporting on compliance – a link to the full guidance is included in Annex 1.

The first three sections of the government guidance – shown in Annex 1- are statutory and we must complete those. The remainder of the guidance outlines the range of activity which could be included in our report on how we are meeting the Biodiversity Duty.

Section 4.6 contains a table setting the activity which could be included to demonstrate compliance with the Biodiversity Duty first consideration and a summary of current activity within Watford Borough Council.

#### 4.5 Complying with the statutory parts of the guidance:

Section 1 requires us to set out our policies and objectives for meeting the duty and the actions we have already completed, either alone or in partnership.

Section 2 requires us to show how we have considered other biodiversity related strategies.

This includes the Local Nature Recovery Strategy – itself another new requirement introduced by the Environment Act 2021. The first LNRS will be produced by Hertfordshire County Council with a timetable that has yet to be established. Hertfordshire County Council has been fully engaged with Watford and the other districts, Natural England and other partners in the developing LNRS process.

In Section 3 we must explain how we intend to fulfil the biodiversity duty over the next five year reporting period. This must include reporting on how we are delivering against another new duty introduced by the Environment Act 2021 – delivering Biodiversity Net Gain through the planning system.

Again we have been working closely with County Council, other districts and partners to prepare for the new BNG duty – the requirement for all new developments to deliver a 10% Net Gain in Biodiversity will become mandatory in January 2024. The Watford Local Plan, adopted in 2022, contains a policy which includes the 10% Biodiversity Net Gain requirement, implementing this ahead of the January 2024 mandatory deadline.

The Council is delivering a number of key initiatives such as the Rediscovering the River Colne Programme, Cassiobury Wetland Project, Tree Planting Programme, Management of Whippendell Wood SSSI, Cassiobury LNR, Commissioning a new greenspace strategy, planning areas for improving biodiversity in our parks and open spaces and conserving biodiversity is integral to our Green Flag Management Plans to meet the biodiversity duty but it is important to consider what else can be done.

#### 4.6 Summary Table.

This is the table setting out the activities which evidences how the Council is complying with the Biodiversity Duty and future considerations.

<b>Activity</b>	<b>Current</b>	<b>Considered/Future</b>
<b>Policy and objectives</b>	<p>Watford Borough Council Delivery Plan 2024-2026</p> <p>Watford Local Plan (2021-2038) Policy NE9.8</p> <p>Environmental Strategy Targets</p> <p>Climate and Ecological Emergency Declaration (2021)</p> <p>Procurement Strategy</p> <p>Hertfordshire Climate Change and Sustainability Partnership Action Plan</p> <p>A Tree and Woodland Management Strategy for Watford 2020-2030</p> <p>Watford Allotments Strategy 2020-2025</p> <p>Parks and Open Spaces Strategy</p>	<p>Hertfordshire Local Nature Recovery Strategy</p> <p>Biodiversity Strategy</p> <p>Biodiversity Emergency Declaration</p> <p>Local Plan Review (2027)</p> <p>Watford Green Spaces Strategy</p>
<b>Background and baseline for Watford</b>	Biodiversity Baseline (HCC)	<p>Hertfordshire Local Nature Recovery Strategy (LNRS)</p> <p>Habitat Surveys for County Wildlife sites and Ecosites</p>
<b>Management of our own estate and important sites</b>	<p>Rediscovering the River Colne – river restoration project including Lairage Land Local Nature Reserve</p> <p>Cassiobury Wetland project</p> <p>Biodiversity Audits for Parks and Open Spaces and development of action plans</p> <p>Parks improvements projects- Meriden Park, Leavesden Green Recreation Ground</p> <p>Whippendell Woods SSSI Management Plan</p> <p>Tree Planting Programme 2022-2026</p> <p>Green Flag Management Plan reviews including action plans (17 sites including some Local Nature Reserves/areas e.g Garston Park)</p> <p>Maintenance regimes are in place across many green spaces for the benefit of biodiversity including increasing the area of no mow/conservation cutting</p>	<p>Council owned property for Biodiversity Net Gain Offsetting</p> <p>Watford Greenspaces Strategy</p> <p>Species Conservation and Protected Site Strategies</p>
<b>Assessment of impact of current policies and activities on Biodiversity</b>	<p>Maintaining current 18% tree canopy cover</p> <p>Increase in Wetland habitat</p> <p>Improving Ecological status for the River Colne</p> <p>17 Green Flag Award sites with Management Plans including action plans</p>	<p>Watford Greenspaces Strategy Authority Monitoring Report</p> <p>BNG Monitoring Systems</p> <p>Increase in Tree Canopy Cover to 21%</p> <p>Council land managed for Biodiversity to increase to 30%</p> <p>River Colne to Good Ecological status</p>
<b>Projects and Partnerships</b>	<p>Hertfordshire Climate Change and Sustainability Partnership</p> <p>HMWT</p> <p>Rediscovering the River Colne Water Quality Forum</p> <p>ParksHerts</p>	<p>Continued joint working with neighbouring authorities</p> <p>HCCSP Biodiversity Action Plan</p>

<b>Communities and volunteers</b>	Friends groups Green Gym Community Connections CIC Ltd- Watford on the Water River Colne Volunteer and Citizen Science programme	Ongoing
<b>Education and awareness raising</b>	Rediscovering the River Colne restoration programme HMWT Volunteer Programmes Veolia Outreach Programme and Community Orchard Scheme Outdoor Learning in Cassiobury Park inc school visits, regular preschool explorers, guided walks, community engagement	Ongoing
<b>Actions and reporting</b>	AMR for Watford Local Plan 2021- 2038 Environmental Strategy Delivery Plan (2023-2025) Council Project and Programme Management Protocol Green Flag Assessments Strategy and Management Plan reviews	BNG implementation BNG off set sites monitoring BNG reporting elements Environmental Strategy Delivery Plan (2025-2027) Environmental Strategy Delivery Plan (2027-2029)
<b>Challenges</b>	<ul style="list-style-type: none"> <li>• Development pressures on land</li> <li>• Uncertainty of land availability for offset</li> <li>• No dedicated ecologist in WBC</li> <li>• Lack of dedicated officer resource</li> <li>• Funding</li> <li>• Water pollution</li> <li>• Invasive species</li> </ul>	

#### 4.7 Conclusion

In conclusion, Watford Borough Council is committed to further enhancing biodiversity across the borough and will ensure that new documents and updates to policies and strategies consider the need to improve biodiversity.

This is seen as a joint effort between several departments at the Council, namely, Planning, Environment and Sustainability.

There is a need to ensure member involvement, leadership involvement and cohesion with the Council Plan for future years. This will be achieved through frequent conversations, reporting updates and presenting further information to relevant decision making groups.

## 5 Implications

### 5.1 Financial

5.1.1 Chief Finance Officer comments that the Council has received government funding of £0.042m (£0.027m 2022/23 and £0.015m 2023/24) to make the preparations necessary to apply a minimum 10% increase in biodiversity to planning permissions from November 2023. The remaining costs associated with the activity outlines in this report will be met within existing budgets.

### 5.2 Legal Issues (Monitoring Officer)

5.2.1 The Group Head of Democracy and Governance comments that the legal implications are contained within the body of the report. This is a new legal duty.

### 5.3 Equalities, Human Rights and Data Protection

5.3.1 Having had regard to the council's obligations under the General Data Protection Regulation (GDPR) 2018, it is considered that officers are not required to undertake a Data Processing Impact Assessment (DPIA) for this report.

### 5.4 Staffing

5.4.1 It is considered there could be potential negative implications, due to a lack of resource, and a lack of funding within the council for this work.

### 5.5 Accommodation

5.5.1 There are no implications to accommodations.

### 5.6 Community Safety/Crime and Disorder

5.6.1 It is considered there are no implications on community safety of crime.



## 5.7 Sustainability

### 5.7.1

#### Watford Wheel: a decision-making tool for the climate and ecological emergency

Project Title:

1. Please assign a rating per section of the wheel, using the drop menus

Rating	Meaning
1	- Long lasting negative impact
2	- Short term / limited negative impact
3	- No known impact
4	- Short term / limited positive impact
5	- Long lasting positive impact

Environmental Circle	Rating	Justification
Climate change adaptation	5	
Greenhouse gas emissions	4	
Energy / Renewables	3	
Biodiversity	5	
Land use change	4	
Water usage	3	
Soil and waterway health	4	
Pollution	3	
Responsible resource use	3	

Social Circle	Rating	Justification
Equality	3	
Crime and Safety	3	
Human Rights	3	

## Appendices

- Government Guidance on complying with the Biodiversity Duty
- Declaration of an Ecological Emergency (2021)

## Background papers

No papers were used in the preparation of this report.