North Somerset Council

Biodiversity SPD

September 2023

Draft for consultation

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1.0 EXECUTIVE SUMMARY

The world has seen dramatic population declines and accelerating extinction rates in biodiversity in recent years, with the UK being one of the most nature depleted countries in the world. In response to this, the Government set out it's 25 Year Environment Plan (2018) to outline the long-term approach to protecting and enhancing wildlife and the natural environment. The plan looks at embedding an 'environmental net gain' principle for developments to deliver both national and local environmental improvements.

The Environment Act (2021) places the 25 Year Plan on a statutory footing, and tackles biodiversity loss and nature recovery though biodiversity net gain and nature recovery networks with the aim for more habitats, which are in a better condition, and more closely connected. The Act mandates developments to achieve at least a 10% biodiversity net gain from November 2023 pending secondary legislation.

North Somerset has a landscape of huge nature conservation value, with a significant number of designated sites, many of international importance, including: 4 Special Areas of Conservation, 56 Sites of Special Scientific Interest, 2 National Nature Reserves, 13 Local Nature Reserves, the Mendip Hills Area of Outstanding Natural Beauty and 204 Local Wildlife Sites. These sites, together with biodiversity more widely across North Somerset are under pressure for a variety of reasons including climate change, development, pollution and land management practices. This update of this document is one of a number of measures we are taking to help reduce the impacts of our society on our natural environment.

This supplementary planning document (SPD) sets out guidance in relation to planning applications to help ensure that biodiversity is protected and enhanced and that developments achieve a measurable net gain. It sets out the legislation and standards that applicants must comply with at both a national and local level, as well as providing a guide on what needs to be submitted as part of a planning application.

There is further detail about biodiversity net gain (BNG) in sections 6 – 8, and how the Council expects applicants to approach BNG within the planning process. This is interim guidance from the Council as the government is still to finalise its BNG proposals through secondary legislation.

This SPD is intended to supersede the North Somerset Biodiversity and Trees SPD (adopted 2005). It will also in time be updated to support the Council's new Local Plan when adopted and when secondary legislation and further guidance relating to the Environment Act 2021 has been agreed.

2.0 INTRODUCTION

2.1 Purpose of the Document

2.1.1 The purpose of this Supplementary Planning Document (SPD) is to guide developers, planners, and consultants on how biodiversity will be integrated into the development process to ensure that legislation, policy, and best practice standards are met. It identifies how biodiversity needs to be protected by the planning system including when, what, and how to conduct surveys; use of the biodiversity mitigation hierarchy and how a measurable net gain to North Somerset's biodiversity will be achieved.

2.1.2 The objectives of this SPD are to provide advice and guidance to support the understanding of:

- Existing policies on biodiversity and the natural environment within the North Somerset;
- The legislative framework including the new Environment Act (2021) and how this governs biodiversity considerations that must be considered;
- Where and when biodiversity needs protecting in North Somerset;
- What biodiversity net gain is and the nature recovery network;
- What information on biodiversity must be included and addressed in a planning application;
- How to build biodiversity into development.

2.1.3 Certain information is highlighted throughout the document as 'key points', these are key pieces of information for the reader, but it is important to read the SPD as a whole. The SPD includes a summary of biodiversity in North Somerset, relevant policy and legislation and sets out the information that is required in relation to biodiversity as part of planning applications.

2.1.4 This SPD has been produced at a time when the Government's proposals to implement BNG are not wholly finalised. Therefore, this document reflects the data sources which were available at the time of writing (September 2023).

2.2 The Importance of Biodiversity

2.2.1 Biodiversity is a term used to describe the variety of plant and animal life which is found on the planet which has been used since the Convention on Biological Diversity was signed at the Earth Summit in 1992. This includes the whole range of mammals, birds, reptiles, amphibians, fish, insects and other invertebrates, plants, fungi, and micro-organisms. Biodiversity is essential for sustainable development and human health and wellbeing.

2.2.2 The State of Nature (2019) report highlighted the dramatic population declines and accelerating extinction rates that have been recorded. On average since 1970, it found that the UK has experienced a decline in species abundance of 13%, whilst 15% of species within the UK are threatened with extinction[1]. During the 20th century approximately 2% of UK

[1] UK State of Nature Report (2019). Accessed online https://nbn.org.uk/stateofnature2019/

species have become extinct, with common species such as hedgehogs, house sparrows and common toads seeing losses of more than 50% in the last 25 years[2].

[2] JNCC UK Biodiversity Indicators 2021. Accessed online https://jncc.gov.uk/our-work/uk-biodiversity-indicators-2021/

3.0 PLANNING POLICY, LEGISLATION AND STANDARDS

3.1 Introduction

3.1.1 There is a range of legislation and policy guidance derived from international, national, and local policy which protects and enhances biodiversity. Both national and local planning policy identifies the need to protect existing biodiversity, deliver enhancements and achieve a measurable net gain in biodiversity through the planning process. The legislative framework protects species and sites that are important for wildlife.

3.1.2 The following sections provide a summary of the key policy and legislation that must be considered in relation to biodiversity when submitting a planning application in North Somerset.

3.2 National Policy

3.2.1 Planning applications must consider the most up to date and relevant requirements for biodiversity set out within national policy including the following:

The **National Planning Policy Framework (NPPF)** sets out the Government's planning policies for England and how they should be applied. The NPPF provides the overall national policy context for the preparation of local and neighbourhood plans and is a material consideration in planning decisions;

National Planning Practice Guidance provides additional detail and guidance on biodiversity, geodiversity, and ecosystems. The PPG sets out the role of the local authority in relation to Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC Act) and indicates how ecology should be considered as part of planning, sets out the mitigation hierarchy and provides further detail on net gain and how this can be achieved;

Biodiversity and Geological Conservation: Circular 06/2005 provides guidance on the application of the law relating to planning and nature conservation. It covers internationally and nationally designated sites; the conservation of habitats and species outside those sites; the species protected by law; and other duties such as Environmental Impact Assessment (EIA);

Natural England has produced **Standing Advice** on a range of Protected Species, ancient woodland, and ancient and veteran trees for local planning authorities in England. The Standing Advice is a material consideration in the determination of planning applications. Further information can be found on the protected species and development: advice for local planning authorities webpages.

3.3 Local Planning Policy

3.3.1 Planning applications must consider the most up to date and relevant requirements for biodiversity set out within local policy. The current and relevant local policies related to biodiversity are provided within the following documents:

The **North Somerset Core Strategy (2017)** sets out the broad long-term vision, objectives, and strategic planning policies for North Somerset up to 2026. The following policies contain provision pertaining to biodiversity:

- Policy CS1: Addressing climate change and carbon reduction;
- Policy CS4: Nature conservation;
- Policy CS9: Green Infrastructure.

The **North Somerset Development Management Policies – Sites and Policies Plan 1 (2016)** outlines the detailed development plan policies which complement the strategic context set out in the Core Strategy included within:

- Policy DM8: Nature Conservation;
- Policy DM9: Trees and Woodlands;
- Policy DM19: Green Infrastructure.

A new **emerging local plan** is currently being prepared to cover the period 2024 – 2039. It will replace the existing Core Strategy (2017), Development Plan (2016), Sites and Policies Plan Part 1 Development Management Policies and Site Allocations Plan (2018).

Parts of North Somerset fall within the **Mendip Hills AONB**, the management plan for the AONB sets out objectives for Biodiversity and Geodiversity (BG1 – BG6), and where relevant, these must be considered within planning applications. Objectives within the Mendip Hills AONB Nature Recovery Plan should also be referenced within applications where applicable.

Several areas within North Somerset have adopted **Neighbourhood Plans**, a number of which set out policies for biodiversity. Where a site falls within an area that has an adopted Neighbourhood Plan, relevant polices related to biodiversity must be considered.

The **North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development SPD (2018)** contains guidance on development regarding impacts on that SAC (Bats Special Area of Conservation for short). The SAC is designated for its importance for Greater and Lesser Horseshoe Bats. The SPD sets out strong requirements for consultation, survey information and appropriate mitigation, to demonstrate that development proposals will not adversely impact on the designated bat populations. The guidance also identifies a "Bat Consultation Zone" based on varying densities of horseshoe bats, within which development proposals may also have the potential to affect features important to bats.

The emerging **West of England Local Nature Recovery Strategy** (LNRS) will identify where action to achieve net gain will have the most impact and encourage action in these locations through the way net gain is calculated. North Somerset Council will also have to have regard to the LNRS under the mandated Biodiversity Duty.

3.4 Legislation

3.4.1 Biodiversity is protected through a variety of pieces of primary and secondary legislation, with which national and local policy documents and the planning process must be consistent. Together they provide different levels of protection to a variety of plants and animals and sites recognised as being important for nature conservation. The legislation runs in parallel to the planning process and informs the protection afforded to wildlife in policy and through development control. The presence of protected habitats and species is therefore a material consideration which must be addressed by the Council and developers alike. The primary pieces of legislation relating to biodiversity and nature conservation in England are:

The Environment Act 2021 provides a comprehensive legal framework for environmental improvement within the UK. The Act received royal ascent in November 2021 with pending secondary legislation planned for 2023. It includes a mandatory requirement for biodiversity net gain in the planning system, requiring development to deliver a 10% improvement in biodiversity value from 2023. The Act introduces a statutory requirement for Local Nature Recovery Strategies (LNRS) to be produced by a responsible authority appointed by the Government. LNRS will support the Nature Recovery Network as a spatial plan to protect and restore wildlife. It also makes provision for strengthening the Biodiversity Duty for Local Authorities.

The Conservation (Natural Habitats etc.) Regulations 2017 (as amended) is often referred to as the'Habitat Regulations'. These are the mechanism by which the European Directive 92/43/EEC on theConservation of Natural Habitats and Wild Fauna and Flora (otherwise known as 'the Habitats Directive 1992'), is implemented in the UK.

The Wildlife and Countryside Act 1981 (as amended) is the principal Act relating to the protectionof wildlife in Great Britain, with the lists of Protected Species of flora and fauna comprising Schedules 1, 5 and 8.

The **Protection of Badgers Act 1992** brings together all legislation that is specific to badgers, except for their inclusion in Schedule 6 of the Wildlife and Countryside Act 1981.

The **Hedgerow Regulations (1997)** protects all hedgerows meeting the criteria for 'importance' from removal with certain exemptions.

Natural Environment and Rural Communities Act (NERC) 2006 places a statutory duty on local planning authorities under the Natural Environment and Rural Communities Act 2006 to have regard to conserving biodiversity in so far as it is consistent with the discharging of their normal duties. This is often referred to as the Biodiversity Duty. The Act also identifies Habitat and Species of Principle Importance. The Environment Act will amend Section 40 of NERC to conserve and enhance biodiversity once the relevant provisions have come into force.

The Countryside and Rights of Way (CROW) Act 2000 covers a review of public footpaths, the so-called 'right to roam' on certain upland or uncultivated areas in England and Wales; and extended offences relating to the disturbance of certain birds and animals to include 'reckless' (as well as 'intentional') acts.

National Parks and Access to the Countryside Act 1949 is the legislation by which Local Nature Reserves are declared.

3.5 Other relevant policy and standards

Permitted Development

3.5.1 Permitted Development relates to types of development which do not require a specific grant of planning permission, including new agricultural buildings, larger household extensions and telecommunications. The system has been expanded to cover other changes of use including,

shops or offices to residential use, and the conversion of agricultural buildings for commercial or residential use.

3.5.2 Permitted Development is granted subject to the requirements of regulations 75 - 78 of The Conservation of Habitats and Species Regulations 2017' ('The Habitat Regulations'), which seeks to ensure that it will not adversely affect European designated sites and European Protected Species. Furthermore, when exercising any functions relating to permitted development, such as the grant of prior approval, the Council must have regard to the requirements of the Habitats Directive (per Regulation 9(3) of the Habitats Regulations).

Listed Buildings Consent

3.5.3 As above, under Regulation 9 of 'The Habitats Regulations', when exercising any of its functions, the Council must "have regard" to the requirements of the Habitats Directive and accordingly, the impact on Protected Species must be fully assessed prior to permission being granted.

British Standards

3.5.4 The following British Standards must be considered as part of the information provided on biodiversity for a planning application:

- **British Standard on Biodiversity (BS 42020:2013) – A Code of Practice for Planning and Development** relates to how biodiversity and Protected Species and Habitats are considered in a planning context. It provides clear guidance and recommendations to ecological consultants, planning applicants and local planning authorities, which ensure that ecological considerations are given the appropriate weight at each stage of the planning process and are sufficiently informed by high quality ecological survey and assessments.

- **British Standard on Biodiversity Net Gain (BS 8683) - A process for designing and implementing biodiversity net gain** was published in 2021, this is a new British Standard in development and provides linear, progressive, good practice requirements, from design to 'spade in the ground' delivery. The standard is applicable for large or small development projects, e.g., from major highways schemes through to small residential buildings. The standard is also applicable for landowners or estate managers aiming to manage land to achieve BNG for themselves or on behalf of third parties.

Other Relevant North Somerset Strategies and Plans

3.5.5 The **North Somerset Council Green Infrastructure Strategy** sets out the strategic Green Infrastructure network within North Somerset until 2030. It provides a framework for improving the connectivity, quality, and overall provision of GI, in order to maximise environmental, social, and economic benefits and address diverse policy requirements including health and wellbeing, biodiversity and climate change. The GI Strategy also refers to a strategic approach to provide mitigation for development; North Somerset Nature Parks.

Whilst these sites are specifically managed to support North Somerset's rare greater horseshoe bats population, by definition they will also support biodiversity more generally.

3.5.6 North Somerset Council declared a climate emergency in 2019 and was followed by declaring a nature emergency in 2020. In 2022, a revised **Climate Emergency Action Plan** was produced to set out how North Somerset will address the cause and consequences set out through eight Key Principles.

Building with Nature

3.5.7 North Somerset Council welcomes applications, in particular for larger developments, that have demonstrated they can meet the 'Building with Nature'[3] standards. The BwN Standards support cross-disciplinary decision making about green infrastructure design and delivery, from both a planner's point of view (e.g., for use in both policy making and development management), and a developer's point of view in their application to the master-planning and detailed design, implementation and construction, or management and maintenance of green infrastructure in development.

[3] https://www.buildingwithnature.org.uk/standards-form

4.0 BIODIVERSITY IN NORTH SOMERSET

4.1 Introduction

4.1.1 North Somerset supports a diverse array of habitats and wildlife including internationally important populations of greater and lesser horseshoe bats and dormice and grassland, wetland, and coastal habitats. This section brings together legislation and planning policy, alongside the biodiversity of North Somerset, to help identify when and where it is likely to need protecting through the planning system.

4.2 Protected sites for biodiversity

4.2.1 **European Sites (Natura 2000)** comprise a network of protected sites of international importance for wildlife and consist of Special Areas of Conservation (SACs), Special Protection Areas (SPA) and Ramsar Sites for wetland habitats. In North Somerset there are 4 European designated sites:

Severn Estuary Ramsar, SAC and SPA – the estuary has the second highest tidal range in the world and consists of a large intertidal zone comprising of intertidal mudflats, sand banks, saltmarsh, shingle, and rocky platforms. The site also supports nationally important waterbirds, migratory fish and flora and fauna.

Avon Gorge Woodlands SAC – a lime maple ravine woodland which is one of the best examples of its kind in the UK. The Gorge also has herb-rich limestone supporting a number of nationally rare and scarce species.

North Somerset & Mendip Bats SAC – one of the largest areas of ancient woodland across the former Avon area supporting populations of greater horseshoe bats and lesser horseshoe bats. It also contains internationally important ravine woodland and calcareous grassland which support bat populations.

Mendip Limestone Grasslands SAC – coastal headland and inland hills supporting important grassland including sub types that can be found in no other site across the UK. The site supports a number of rare and scarce vascular plants.

4.2.2 Development activities which are likely to have a significant effect on an SAC, SPA or Ramsar Site (i.e., the qualifying features for which it is designated), both directly and indirectly, on its own or cumulatively with other 'plans or projects', must be fully assessed as part of the planning process through a Habitat Regulations Assessment or 'HRA'. ***See Section 9 for further details.***

4.2.3 **Sites of Special Scientific Interest (SSSI)** are sites of national importance for nature conservation and are notified and protected under the Wildlife and Countryside Act 1981 (as amended). There are 56 SSSI's within North Somerset. Local planning authorities have a statutory duty to protect such sites and enhance their conservation. Where development is

likely to affect a SSSI directly, or within identified 'Impact Zones' https://magic.defra.gov.uk/magicmap.aspx around them, the Council is obliged to consult Natural England. Planning permission is unlikely to be granted for developments that damage SSSIs.

4.2.4 **Ancient Woodland Sites** are any areas of woodland that have persisted since 1600 AD. This includes ancient semi-natural woodland mainly made up of trees and shrubs native to the site, usually arising from natural regeneration and plantations on ancient woodland sites - replanted with conifer or broadleaved trees that retain ancient woodland features, such as undisturbed soil, ground flora and fungi. Ancient woodland is afforded protection through the planning system and carries a high level of protection compared to more recently established woodland. Where development may have an effect on Ancient Woodland, Standing Advice www.gov.uk/guidance/planning-applications-affecting-trees-and-woodland published by Natural England and the Forestry Commission should be consulted.

4.2.5 **Local Sites - Sites of Nature Conservation Interest (SNCI) and Regionally Important Geological Sites (RIGS)** are locally important sites which contribute to the ecological network of North Somerset and contain the best examples of wildlife habitats, rare species, or geological features outside of the network of SSSIs and European Sites. There are currently 194 SNCI's and 75 RIGS designated within North Somerset.

4.2.6 **Local Nature Reserves (LNRs)** are a statutory designation made under Section 21 of the National Parks and Access to the Countryside Act 1949 by the Council. They are places with wildlife or geological features that are of special interest locally for both people and wildlife and are protected from damage and from development. There are 13 LNR's designated in North Somerset.

4.2.7 The location of both statutory and non-statutory sites can be seen in figure 1 below.

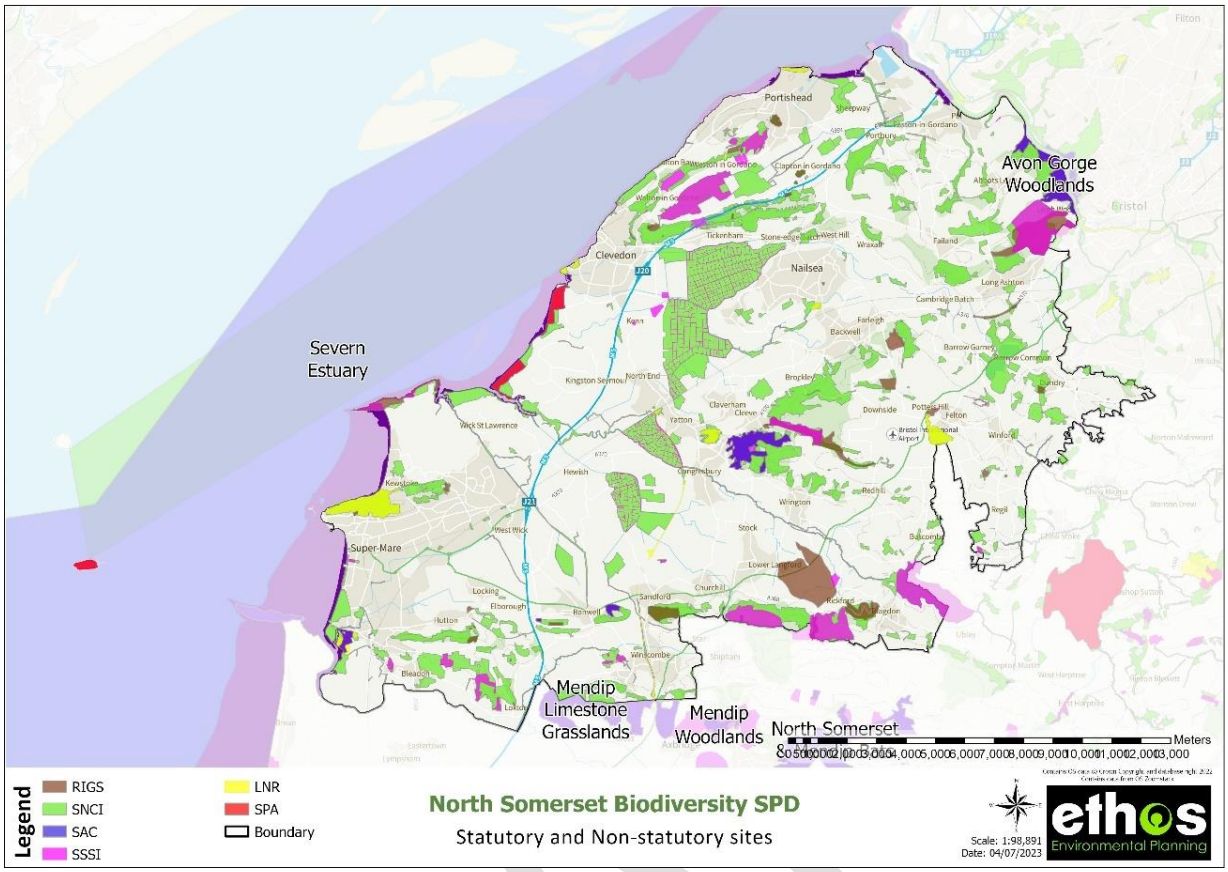


Figure 1 Protected Sites for biodiversity in North Somerset

4.3 North Somerset's Nature Recovery Network

4.3.1 The conservation, restoration and enhancement of ecological networks is outlined in the NPPF para. 179, and the West of England Nature Recovery Network mapping outlined in Section 3.0 helps the Council to comply with the NPPF. The Local Plan policy CS9 on Green Infrastructure also highlights that the existing green infrastructure network will be safeguarded, improved, and enhanced by further provision, linking into existing provision where appropriate, ensuring it is multi-functional and maintaining and improving biodiversity.

4.3.2 The Green Infrastructure Strategy (adopted 2021) sets out the green and blue GI network in North Somerset providing a framework for GI improvements for both people and wildlife. The strategy helps to inform decision making, planning policy and development management and outlines where opportunities are to enhance biodiversity and habitats. It also provides mechanisms for delivering GI through development and best practice guidance. The strategy will form part of emerging Local Plan evidence base.

4.3.3 Figure 2 provides an overview of the Nature Recovery network for woodland, grassland, and wetland from the West of England Local Nature Partnership ((WENP). Once a Local Nature Recovery Strategy has been fully developed, a strategic level BNG assessment will be undertaken by WENP. The current strategic projects in the WENP prospectus identify where

large areas of high-quality habitat would make a significant contribution to increasing the ecological connectivity within the Nature Recovery Network.

4.3.4 Further information on the West of England Nature Recovery Network can be viewed here www.wenp.org.uk/nature-recovery-network/.

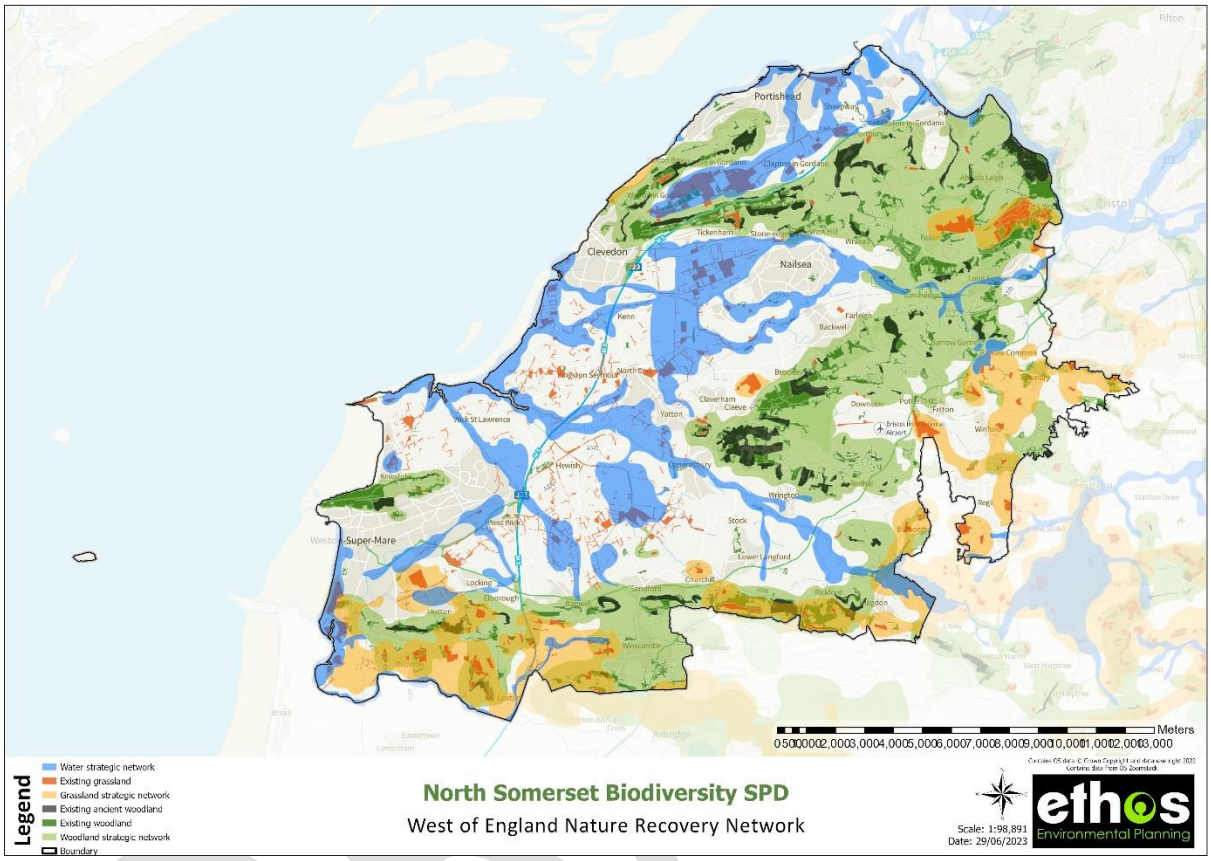


Figure 2 West of England Nature Recovery Network

4.4 Protected species

4.4.1 A range of species are protected in law nationally. Some of these are also referred to as European Protected Species (EPS) as they are also subject to stringent protection under the Habitats Directive (implemented through the Habitats Regulations). Others are referred to as Nationally Protected Species, being protected through domestic legislation (even though this may also originate from European conventions).

4.4.2 **European Protected Species (EPS)** are species listed in Annex IV of the Habitats Directive. North Somerset species include bats, dormice, otters, and great crested newts. In determining planning applications, the Council will need to consider whether a proposed development is likely to trigger one or more of the offences against EPS as directed by the Habitats Regulations:

- Deliberately capture, injure, or kill an EPS;
- Intentionally or recklessly disturb an EPS in its place of rest/breeding site;

- Intentionally or recklessly damage, destroy or obstruct access to an EPS place of rest/breeding site (even if the EPS is not occupying the resting/breeding place at the time);
- Possess, sell, or exchange on EPS (dead or alive) or part of an EPS.

Where development will impact upon an EPS, a licence or derogation is required to be lawful. In considering the application, the Council will need to be satisfied that the scheme will meet the three licensing 'tests' under Regulations 53 and 56. The three 'tests' are:

- The activity must be for a certain purpose such a preserving public health or public safety or scientific research;
- There must be no satisfactory alternative that will cause less harm to the species;
- The activity must not harm the long-term conservation status of the species.

4.4.3 For most other **Protected Species**, the key piece of domestic legislation is the Wildlife and Countryside Act 1981 (as amended), these are as follows:

- For the purpose of preserving public health or public safety of other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequences of primary importance for the environment;
- There is no satisfactory alternative to work specification;
- The action authorised will not be detrimental to the maintenance of the population of the species at a favorable status in their natural range.

Plants - nationally rare, species of plant are listed on Schedule 8 of the Act, being protected from picking,uprooting, destruction, or sale.

Birds – it is an offence to take, damage or destroy the nest of any wild bird while that nest is being built or in use or take or destroy an egg of any wild bird (with exceptions to birds on Schedule 2). Offences relating to birds listed on Schedule 1, such as the barn owl and kingfisher, carry special penalties.

Animals - species of fauna listed in Schedule 5 of the Act have full or partial protection. Those species fully protected include water vole, lesser silver water beetle, marsh fritillary and Southern damselfly and it is an offence to:

- Intentionally kill, injure, or take such a species;
- Possess or control any live or dead specimen, or anything derived from such a species;
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection;
- Intentionally or recklessly disturb such a species while it is occupying any structure or place used for shelter or protection;
- Trade in such a species.

Some species only have partial protection from intentional killing or injury or from selling. However, many of these species require material consideration over and above their legal protection – for example, any birds listed as a Species of Conservation Concern.

4.4.4 **Badgers** and their setts are protected under the Protection of Badgers Act (1992), which makes it an offence to disturb a badger while it is within a sett or to damage or destroy a sett.

4.4.5 Protected Species are a material consideration in the planning process and so the effect of development on protected species is considered by the Council when determining planning applications. The Council will apply the approach set out in the ODPM Circular 06/2005; *"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted".*

4.5 Protected species licensing

4.5.1 Natural England administer licences to permit activities that would otherwise be illegal for most Protected Species, including European Protected Species and badgers. Further information on wildlife licences is available from Natural England www.gov.uk/guidance/wildlife-licences.

4.5.2 **Great Crested Newts District Level Licensing (DLL)** is a strategic or landscape-scale approach to the conservation of great crested newts (GCN) and was launched by Natural England in North Somerset in March 2020 as an alternativeto site-based mitigation and licensing for the species.

4.5.3 Under DLL, Natural England collects data on GCN occurrence and uses modelling to predict the distribution of GCN across North Somerset to produce a GCN Licensing Strategy. The modelled distribution is used to map risk zones, assess the likely impact of proposed development and to predict suitable habitat in which compensation can be targeted (Strategic Opportunity Areas, SOAs). It therefore removes the requirement for applicants to carry out pre-development surveys for GCN (although developers may still choose to survey and survey results will inform the impact assessment). There are three risk zone categories, which are outlined below and can be seen in figure 3:

1. **Red zones –** these zones contain key populations of GCN, which are important on a regional, national, or international scale. District level licensing is not available as a licensing option in these areas;
2. **Amber zones** – these contain main population centers, habitats, and dispersal routes for GCN. Development with a significant land take in these zones would be expected to have a high impact on GCN;
3. **Green zones** – GCNs are sparsely distributed in this zone and development would be expected to have a low impact in this zone, though may still pose a risk to GCN.

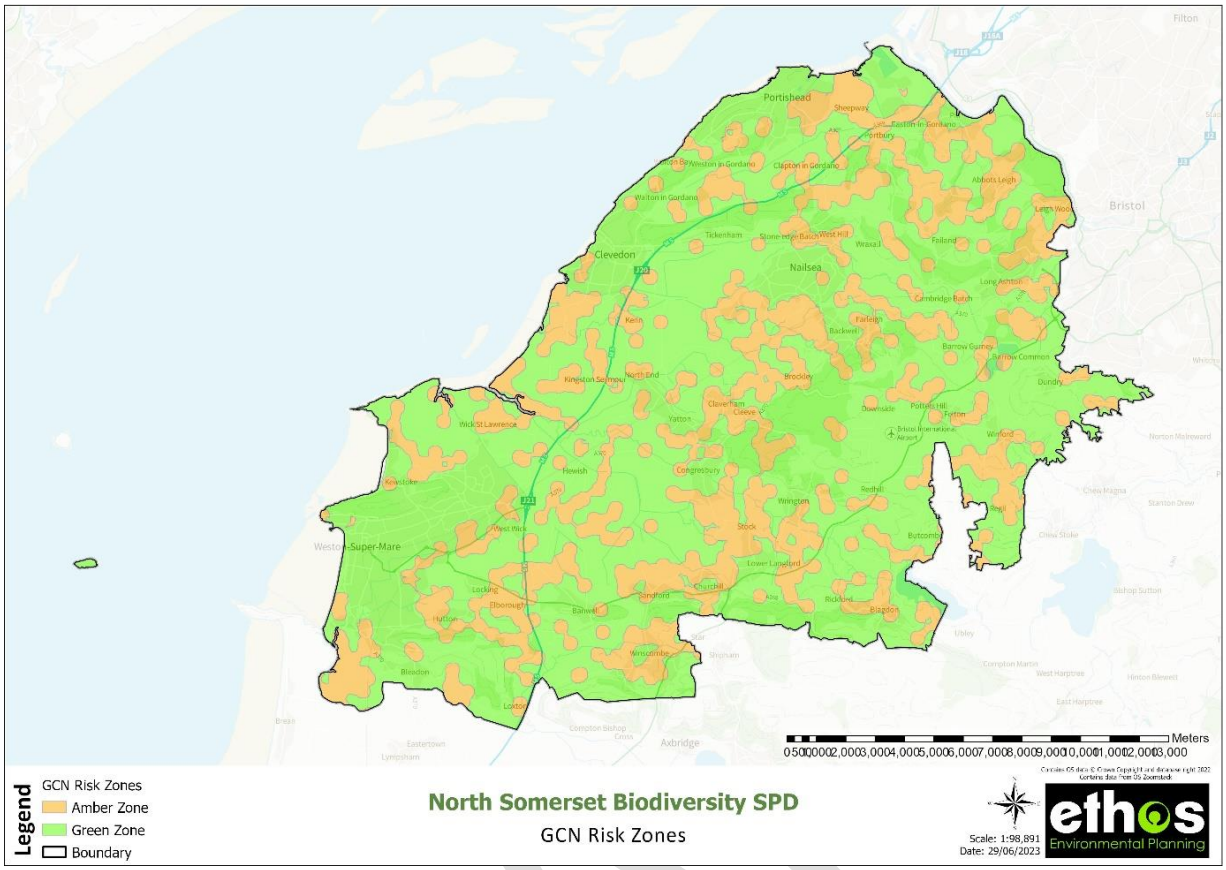


Figure 3 Great Crested Newts District Licencing Zones

4.5.4 Instead of carrying out site-specific mitigation and compensation, developers choosing DLL will make a 'Conservation Payment' which will be used to fund a net increase in habitat (ponds) for GCN across the landscape. The level of payment required will depend on:

- The number of ponds impacted;
- The GCN risk zone in which the site is located;
- Whether GCN presence has already been determined through site specific survey.

4.5.5 The tariff also includes sums for the future monitoring and management, at set intervals over 25 years, as well as various administrative fees. This means that on-site mitigation and compensation for GCN is not required for developments authorised under DLL.

4.5.6 Before applying for planning permission, the applicant can obtain an indication from Natural England https://www.gov.uk/government/collections/great-crested-newt-licences whether their development proposal is eligible to use DLL.

4.6 Habitats and Species of Principal Importance (Priority Habitats and Species)

4.6.1 The list of habitats and species of principal importance in England includes 56 habitats and 943 species first identified as priority habitats and species in the UK Biodiversity Action Plan (UK BAP). The list is for:

- Public bodies – to help them meet their 'biodiversity duty' to be aware of biodiversity conservation in their policy or decision making;
- Landowners – to inform their nature recovery planning, action and funding applications;
- Funding bodies – to support suitable nature recovery.

4.6.2 Planning applications must identify any habitats or species of principal importance that may be impacted by their development proposals and set out appropriate mitigation measures to make the proposal acceptable, including agreeing an approach for bespoke mitigation with the local planning authority if applicable

4.7 Irreplaceable Habitats

4.7.1 The NPPF identifies that where development would result in the *"loss or deterioration of irreplaceable habitats such as ancient woodland and ancient or veteran trees",* planning permission should be refused. The NPPF describes irreplaceable habitats as *"Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, considering their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees, blanketbog, limestone pavement, sand dunes, salt marsh and lowland fen."* This list is confirmed as being exemplary (i.e., containing examples only) and is therefore not inclusive/definitive.

4.7.2 There is currently no nationally agreed list of habitats which would be regarded as 'irreplaceable' but the following habitats (listed below) in North Somerset would fall into that category as they cannot be recreated once lost.

- Ancient woodland;
- Ancient and veteran trees (which are often outside of ancient woodlands can be individual trees or groups of trees within wood pastures, historic parkland, hedgerows, orchards, parks, or other areas);
- Ancient hedgerows;
- Saltmarsh.

4.7.3 At the time of writing this SPD (September 2023), Natural England is currently developing new guidance which will set out the definition and a definitive list of irreplaceable habitats in England. An initial list has been developed, to support the launch of mandatory BNG, ahead of a public consultation on a broader definition of irreplaceable habitat which will take place in 2024.This will then in turn form part of the forthcoming reform of national planning policy.

4.8 Non-native species

4.8.1 Invasive non-native species can impact negatively upon biodiversity by out-competing native flora and fauna. It is an offence to spread, or cause to grow, certain plant species listed on Schedule 9 of the Wildlife and Countryside Act, 1981 as amended. Where proposals at development sites are likely to result in the spread of non-native invasive plant species the development may not be permitted until suitable measures have been agreed and / or undertaken to control the invasive species. Further information is available from GB Non-native Species Secretariat.

5.0 THE PLANNING PROCESS AND BIODIVERSITY

5.1 Integrating biodiversity in the planning process

5.1.1 The following sections set out how biodiversity can be integrated into the planning process, regardless of whether the application is for an existing property (e.g., householder), or a major strategic scheme. Biodiversity can be proactively planned into new development of all kinds and all scales, and building biodiversity into your development should be seen as an opportunity not a constraint. The 6 key planning stages are:

5.2 Stage 1 – Feasibility, scoping and pre-application advice

5.2.1 It is essential that the potential impacts on biodiversity are considered from the outset of any proposal[4]. This includes considering the Local Plan policies outlined in section 3. This should be undertaken before the scheme is designed and a planning application is submitted. The North Somerset List of Planning Applications Requirements sets out what supporting information will be required to submit with an application including ecological assessments and reports.

5.2.2 Undertaking an assessment of the ecological impacts of a development can be complicated, therefore it is recommended that professional ecological expertise is commissioned to ensure that the necessary surveys and assessments have been carried out and that the mitigation hierarchy (see section 5.4) has been followed before an application is submitted. The Chartered Institute of Ecology and Environmental Management (CIEEM) provides a professional directory of qualified, regulated ecologists which can be found at https://cieem.net/i- need/about-our-members/members-directory/

5.2.3 It is also advisable that Natural England is contacted at an early stage if the development has potential to impact upon European protected species or a nationally or internationally designated site. This can be arranged through their Discretionary Advisory Service (DAS).

[4] It is recommended that a BNG risk assessment be undertaken before land is bought for development.

5.2.4 The development may require the process of 'Appropriate Assessment' under the Habitats Regulations to ensure that issues and legislative constraints are considered before an application is submitted. Further information on this process can be found in Section 9.1.

5.2.5 Applicants are also required to consider the **North Somerset and Mendip Bats SAC Guidance on Development SPD** if the proposed application falls within bat consultation zones. Within bands A or B where proposals have the potential to affect features important to bats, the applicant must discuss this with the Council and/or Natural England at the pre-application stage. Figure 4 below shows the consultation zones for greater horseshoe bats in the adopted SPD.

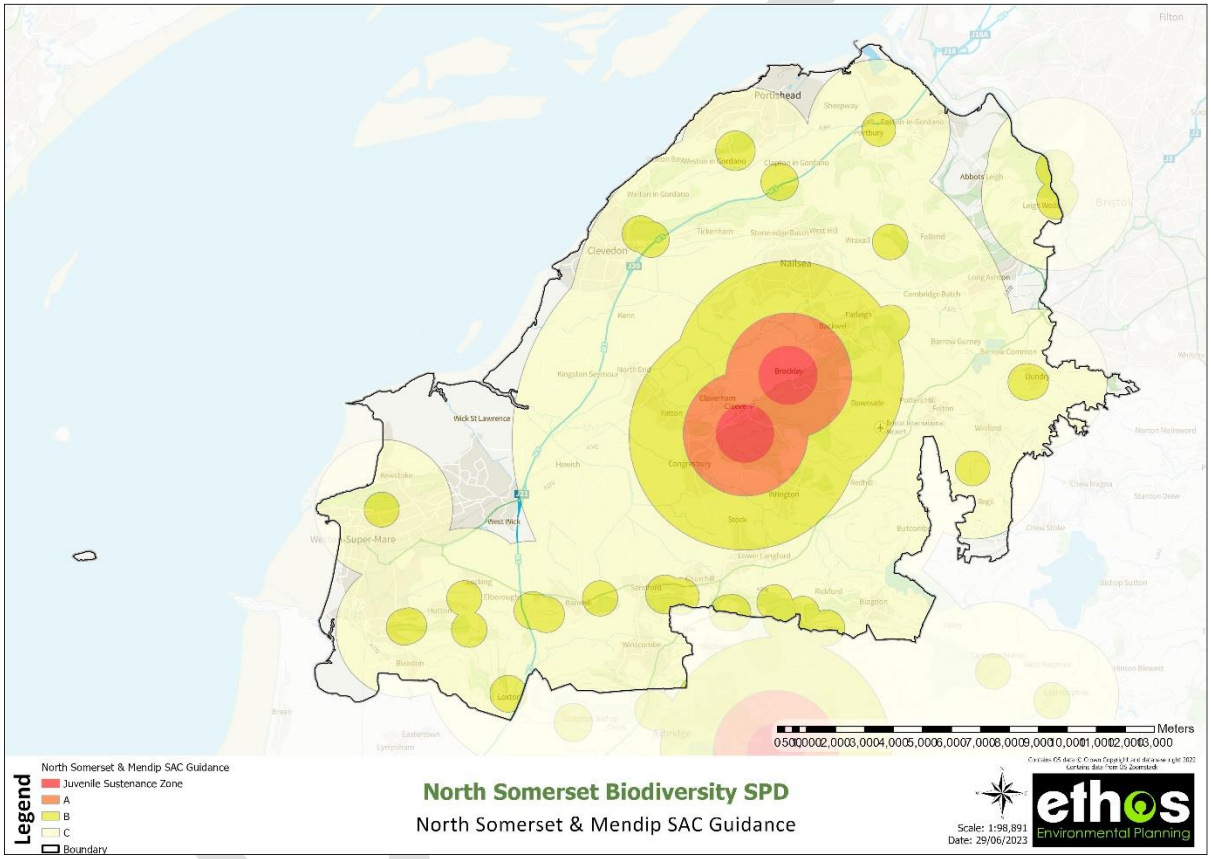


Figure 4 North Somerset and Mendip Bats SAC Consultation Zones

5.2.6 It can be very helpful to get advice about your planning proposals before submitting your application. Help can range from meeting with the Council to simply requesting comments on your proposal over email. This can help to overcome any potential difficulties and increase your chances of your application being approved.

5.2.7 North Somerset offer a number of options at the pre-application stage, all of which have different timescales and fees[5]. Applicants should consider what options best meets their requirements and clearly set out any specific advice required in relation to biodiversity.

5.3 Stage 2 – Ecological Impact Assessment

5.3.1 If a proposed application has identified that it has the potential to cause harm to internationally, nationally, or locally designed sites, protected or priority species or habitats, the applicants appointed ecological consultant will need to carry out appropriate ecological surveys and impact assessments, including a BNG assessment, before any design work commences or a planning application is submitted.

5.3.2 A data search for biodiversity and geodiversity records and sites by Bristol Regional Environmental Records Centre (BRERC) will also be required to inform the impact assessment process, this must follow guidance provided by CIEEM[6].

5.3.3 Some species and habitats have seasonal constraints and can only be surveyed at certain times and months of the year, in suitable weather conditions and using nationally recognised standards and methodologies. It is important that seasonal constraints are considered when commissioning surveys/ecological assessments in line with the wider timetable for submitting a planning application.

5.3.4 If ecological surveys are required, these must be undertaken by a suitably qualified ecologist in accordance with relevant guidance. Where surveys involve disturbance, capture or handling of a Protected Species, they must only be undertaken by a suitably licensed and experienced person (as administered by Natural England).

5.3.5 If surveys are more than two years old, an updated survey must be provided unless appropriate justification can be provided by the applicant's ecologist.

5.3.6 Planning applications which require further surveys will not be considered until the required surveys have been undertaken and submitted to the Council.

5.3.7 An **Ecological Impact Assessment (EcIA)** in line with CIEEM guidelines[7] is required prior to validation and determination for most applications, especially if there are features of biodiversity importance on or adjacent to the proposed site. For smaller householder applications or barn conversions (if the development has a small footprint), the applicant's ecologist must adapt the EcIA methodology, so the assessment and reporting are proportional to the size of the project.

[5] https://n-somerset.gov.uk/my-services/planning-building-control/planning-services/pre-application-advice/service-options

[6] https://cieem.net/resource/guidelines_for_accessing_and_using_biodiversity_data/

[7] https://cieem.net/resource/guidelines-for-ecological-impact-assessment-ecia/

5.3.8 **Preliminary Ecological Appraisal Reports (PEAR)** are not sufficient to validate a planning application, as in line with CIEEM guidelines [8] *"Under normal circumstances it is not appropriate to submit a PEAR in support of a planning application because the scope of a PEAR is unlikely to fully meet planning authority requirements in respect of biodiversity policy and implications for protected species".*

5.3.9 A **shadow Habitat Regulations Assessment (sHRA)** may be required as part of your application to enable the Council to complete an HRA as the competent authority. Advice in relation to the requirement for this should be sought from a consultant ecologist and can be confirmed with the Council and/or Natural England. The applicant is required to submit sufficient scientific evidence to enable the authority to complete the HRA and this evidence is submitted in the form of a 'report to inform' or 'shadow' HRA.

5.3.10 There are a range of **European Protected Species (EPS)** within North Somerset. The Council is required to determine whether an offence is considered likely under the Habitat Regulations 2017 and if an EPS licence is required. When submitting an application, applicants must provide a sufficient level of information to enable the Council to determine where the proposed application meets the 'three tests' under the Habitats Regulations 2017 (see section 9.1). If the Council is satisfied that that 'three tests' have been met, planning permission may be granted, and the applicant can then apply to Natural England for an EPS Licence. If EPS are present, but it is considered that an offence in law is unlikely or can be avoided an EPS Licence is not required, the applicant must ensure that a non-licence method statement or mitigation strategy (Reasonable Avoidance Measures or RAMs) is included within the submission, detailing any measures to ensure development is undertaken in a lawful manner.

5.3.11 **Great Crested Newt District Level Licencing** within North Somerset (see ***Section 4.4***) offers an alternative licensing route for developers to site-specific EPS licensing and mitigation. If applicable to the proposed application, applicants will need to demonstrate that the development proposal has been accepted within the DLL scheme by including an Impact Assessment and Conservation Payment Certificate. Participation in the District Level Licensing scheme does not negate the need for proposals tofollow the mitigation hierarchy or deliver measurable net gain.

5.3.12 **Natural England's Standing Advice** explains how the Council should deal with applications that involve Protected Species which may also be helpful to applicants. Further information can be found at: www.gov.uk/guidance/protected-species-how-to- review-planning-applications

5.3.13 Applicants must also follow the survey specification guidance set out in the **North Somerset and Mendip Bats SAC Guidance on Development SPD** if the proposed application falls within consultation zones A and B. The guidance can be found here.

5.3.14 **Sharing data** - Survey data submitted with planning applications should also be provided to the Bristol Regional Environmental Records Centre (BRERC). All species records should be

[8] https://cieem.net/resource/guidance-on-preliminary-ecological-appraisal-gpea/

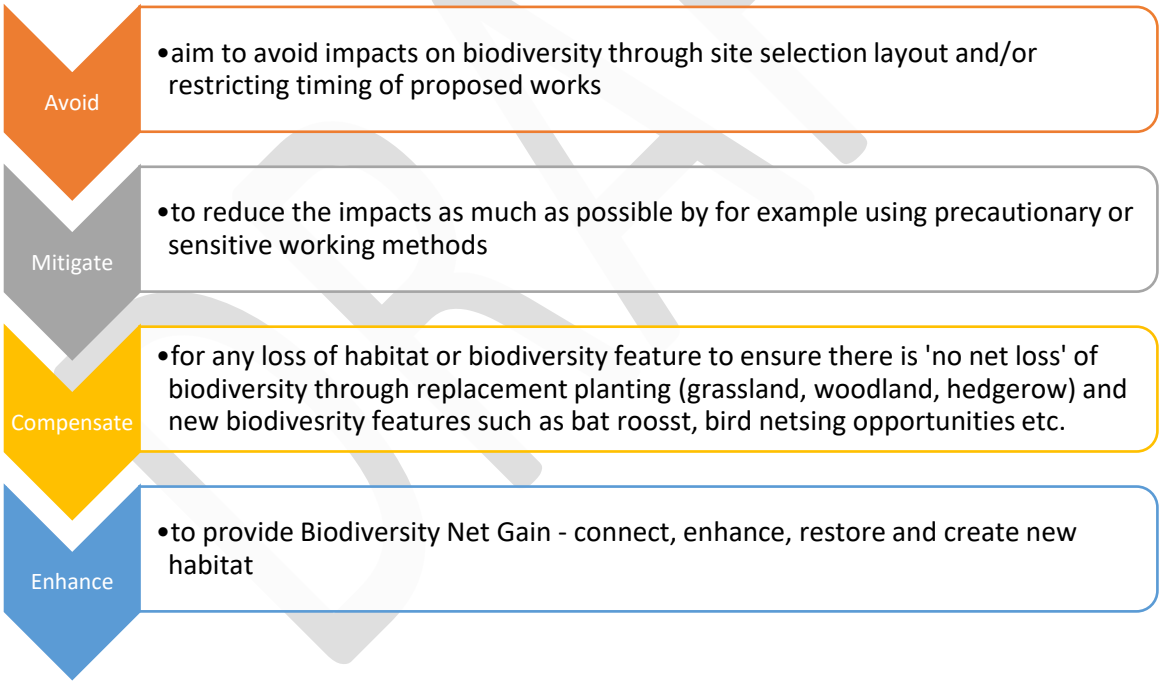
summarised and included as an appendix to the ecological survey report. This should be in standard data format for biological recording.

5.4 Stage 3 – Scheme Design

5.4.1 Schemes should be designed based on the findings of the ecological surveys, HEP (see para. 5.4.2), Biodiversity Net Gain (see sections 6 – 8), and other relevant assessment. The applicant alongside their ecological consultant must ensure that they follow the biodiversity mitigation hierarchy and ensure that HEP and BNG requirements are identified and included from the outset of the scheme design.

5.4.2 Applicants must take into account the guidance provided within the North Somerset and Mendip Bats SAC Guidance on Development SPD. There may be significant requirements on scheme layout as a result of the Habitat Evaluation Procedure (HEP) for bats, and the impacts of HEP on Biodiversity Net Gain (see section 7.3).

5.4.3 The Council expects all proposals to follow to the biodiversity mitigation hierarchy to assess if there will be an adverse effect on biodiversity and whether it can be appropriately protected, as set out below:



5.4.3 **AVOID**: Firstly, **avoid** harm to habitats and species including:

- Locate the proposed development on another site with less harmful impact;
- Reduce the scale of the development proposal to 'make space' for biodiversity;
- Design the development so to avoid areas of biodiversity value;
- Provide a robust buffer to any sensitive habitats and species present;
- Ensure that development is designed so that important biodiversity features and ecological connectivity both on and off-site is maintained.

5.4.4 **MITIGATE:** After avoiding harm to biodiversity, the design process should be used to **Mitigate (minimise)** any impacts. This might include:

- Timing the development of sites to avoid breeding seasons;
- Minimising the extent of habitats which will be lost, either temporarily during construction (e.g., haulage routes, compounds, spoil heaps etc.) or permanently (e.g., design configuration of buildings and infrastructure).

5.4.5 **COMPENSATE:** Any residual impacts on biodiversity not mitigated by avoidance or mitigation (minimisation) measures should then be **Compensated** for.

5.4.6 Applicants will need to demonstrate why they could not avoid or mitigate harm, and why on-site or off-site compensation habitats and features of the same or comparable ecological function has instead been utilised within the scheme.

5.4.7 **ENHANCEMENT:** providing net gain by improving or creating additional habitats either on-site, off-site through owned land or purchasing biodiversity units elsewhere.

5.4.8 Where significant harm resulting from development cannot be avoided, adequately mitigated or as a last resort, compensated, then planning permission will be refused.

5.5 Stage 4 – Submission of the planning application

5.5.1 The applicant and the applicant's ecological consultant will need to ensure that all required information is submitted as part of the planning application. The Council will assess the information submitted and if information is insufficient or unclear, there may be a requirement to provide further information prior to determination. Once the requisite surveys impact assessments and design have been completed (**Stages 1 and 2**), the application can be presented to the Council.

5.5.2 A planning application will not be registered/validated unless all appropriate ecological information is submitted with the application, including all surveys for protected species.

5.6 Stage 5 – Determination

5.6.1 If planning permission is granted, this will be subject to condition(s) and/or a planning obligation such as aSection 106 which secure all necessary ecological requirements including any mitigation and compensation to make the scheme acceptable for biodiversity.

5.7 Stage 6 – Implementation, monitoring, and enforcement

5.7.1 To ensure that the mitigation and compensation are undertaken in accordance with the planning permission granted, a monitoring scheme may be required. The monitoring scheme may include habitat and species monitoring or simple measures such as the provision of bat and bird boxes. If an EPS licence is required for the development to be lawful, monitoring will be a key component and condition of the licence to be undertaken by an ecological consultant. The Council may set planning conditions requiring the submission of a compliance or

monitoring report where appropriate. Further monitoring will also be required in relation to BNG (see section 8.6).

6.0 BIODIVERSITY NET GAIN: AN OVERVIEW

6.1 What is biodiversity net gain?

6.1.1 Biodiversity net gain is an approach to development that aims to leave biodiversity in a measurably better state than it was beforehand. Where developments impact biodiversity, developers need to provide an increase in appropriate habitat and ecological features over and above that being affected. Developments will need to be designed in such a way that they leave the environment in a better state than they found it and create more habitats for wildlife.

6.1.2 BNG is calculated by deducting the predicted post-development biodiversity value (in biodiversity units) of land affected from the pre-development (baseline) biodiversity value. In the interim, before 10% BNG becomes mandatory, this SPD encourages all developments to aim to provide a minimum 10% increase (in biodiversity units) to be delivered on the development site, off-site or through a combination of both on-site and off-site measures. At the very least, all development must deliver a net gain in line with Policy CS4 of the Core Strategy.

6.1.3 The relevant Biodiversity Metric toolkit must be used to evidence measurable BNG for development using the Government's latest published version of the metric. It uses a habitat-based approach using habitat as a proxy for wider biodiversity. Species-based features such as bird and bat boxes are not included within the metric.

6.1.4 BNG must be applied to all developments which are subject to the Town and Country Planning Act and Nationally Significant Infrastructure Projects (NSPIS). Permitted development[9], householder applications[10] and marine development (in the marine environment beyond the intertidal zone) are exempt. There is also a simplified version of the metric for smaller developments (Small Sites Metric) if the following criteria is met:

- Residential developments with dwellings between 1 and 9 and with a site area of less than 1 ha;
- Where the number of dwellings is not known, and the site area is less than 0.5ha;
- For other development types where the site area is less than 0.5ha.

6.2 Mitigation Hierarchy

6.2.1 BNG is not an alternative approach to applying the biodiversity mitigation hierarchy and the application of the hierarchy is essential (see section 5.4). Applicants are still expected to avoid or mitigate harm to wildlife and habitats before seeking to compensate. Also, the need to provide BNG does not override any other legislation or policy relating to wildlife as discussed in section 4, therefore it is important to note that the requirement for BNG is in addition to that.

[9] https://www.legislation.gov.uk/uksi/2015/596

[10] https://www.legislation.gov.uk/uksi/2015/595/part/1/made

6.2.2 A way to reduce likelihood of a negative impact on species and habitats and to increase likelihood of achieving gain for biodiversity from a development is to select a site that has low existing ecological value and low strategic potential for habitat creation, buffering or connectivity.

6.3 West of England Nature Recovery Network

6.3.1 These networks (see section 4.3) are important to consider as part of the Biodiversity Metric through the 'Strategic Significance' multiplier where the spatial location of a habitat will affect its value. This works at a landscape level where an uplift in habitat value is given if a development is situated within the Nature Recovery Network. In addition, the Biodiversity Metric incentivises habitat delivery on or close to the development site through a 'Spatial Risk Factor', which reduce the biodiversity value of habitats delivered further away from the development. Further guidance on this can be found in section 8.0.

7.0 HOW TO ASSESS BIODIVERSITY NET GAIN

7.1 Introduction

7.1.1 This section outlines how to undertake a biodiversity net gain assessment using the full metric for larger applications (i.e. those that do not qualify for the small site metric). It provides an overview of the BNG process, the information required to use the biodiversity metric and details what applicants must submit to the Council for their application to be determined.

7.1.2 As with all ecological surveys, BNG must be carried out by a suitably qualified ecologists. BNG should also be carried out at an early stage and in conjunction with any other ecological assessment.

7.1.3 All relevant information from the BNG assessment must be pulled together into a **Biodiversity Net Gain Report** (section 7.5) to enable the planning application to be registered.

7.2 The 5 stages of a BNG Assessment

7.2.1 **Stage 1: Assess the ecological baseline**

An understanding of the habitats present, and the species that are using them is vital to be able to understand development impacts and design schemes that can deliver a net gain for biodiversity.

A habitat survey and condition assessment are required to set the baseline. The habitats must be classified by the UK Habitat Classification System (UKHab) and must be carried out by a suitably qualified ecologist at an appropriate time of the year. Surveys must include a detailed assessment of the land within the development boundary, including a description and mapping of all key features and habitat types.

7.2.2 **Stage 2: Identify irreplaceable habitats and nationally and internationally designated sites and follow the mitigation hierarchy**

If irreplaceable habitats and nationally designated sites (see section 4) are impacted by the development, they must be excluded from the calculations (and dealt with through bespoke compensation), because they are protected by separate legislation. All other habitats within the development boundary (including SNCI's and features associated with Protected Species) are included and require a habitat condition assessment.

7.2.3 **Stage 3: Calculate the baseline biodiversity value**

The baseline value must be calculated using the latest published Biodiversity Metric. The calculation of the baseline biodiversity value of the site requires habitat data, condition assessments, measurements of habitat area and length and an understanding of the strategic context of the habitats on site. The spreadsheet will show the assessment of existing habitat translated into biodiversity units.

7.2.4 **Stage 4: Calculate the post-development biodiversity value**

Detailed scheme plans and designs, including for layout and landscape, are required to enable completion of the post-development calculations. These require similar data as for the baseline, specifically, habitat data, proposed condition assessment, measurements of habitat area and length and an understanding of the strategic context of habitats on site.

7.2.5 **Step 5: Obtain results of the metric**

The value of the biodiversity units from the post-development calculation is deducted from the baseline biodiversity units to quantify the extent of change and whether or not the proposed development delivers a 10% net gain.

The calculations must show a minimum 10% increase in biodiversity units including habitat, linear and riverine habitats, meet the trading rules in the metric and have regard to the policy including the mitigation hierarchy and additionality (see below).

7.3 Additionality

7.3.1 Development proposals must ensure that the delivery of a net gain for biodiversity is additional to other obligations and not just delivering something that would occur anyway. Where a scheme has impacts on a protected site or species, applicants need to make sure that any habitat delivered for BNG is not also being used a mitigation or compensation for those protected assets.

7.3.2 Biodiversity enhancements must not be counted if they are already being used to fulfil a form of statutory obligation. Mitigation and compensation measures for protected species may be counted towards a biodiversity net gain calculation, but only to the level of no net loss. The 10% net gain must be delivered through separate activities which are not required to mitigate and compensate for protected species impacts.

7.3.3 Therefore, the requirements for bat habitat calculated through HEP (see section 5.4) can only be used to deliver no net loss and cannot be included in the net gain. The BNG assessment must clearly set out and differentiate the HEP habitats from the net gain habitat, (or show their differing extents where the habitats are similar), and show this through maps and the metric (see section 7.5).

7.3.4 This principle will apply to mitigation measures on site, or compensation off site; (for example, provision of Suitable Alternative Natural Greenspaces, habitat creation to reduce nutrient pollution, or a line of trees to prevent light pollution into a protected site).

7.4 Assessing strategic significance

7.4.1 Strategic significance relates to the spatial location of a habitat parcel at a landscape scale. It is based on the habitat type and its location, depending on their status in a local plan, strategy,

or policy. It must be assessed as part of both the baseline and post-development calculations. Recognising strategic significance gives extra value to habitats that are located in optimal locations, or are of a type, that meet local biodiversity objectives.

7.4.2 The strategic significance of the habitat must be identified based on the criteria set out in Table 1 below and used in the assessment.

Table 1 Assigning strategic significance of the habitats

Metric Category	Local Interpretation	Multiplier applied
High Strategic Significance – located within a local plan, strategy or policy as being ecologically important	Within an area in the West of England Nature Recovery Network and the North Somerset Strategic Green Infrastructure Network.	See latest biodiversity metric
Medium Strategic Significance – not identified in a local plan, strategy, or policy but ecologically desirable and important for linking other strategic locations	No local strategy in place but best ecological knowledge clearly demonstrates that habitats contribute to the ecological functionality within a landscape e.g. buffering priority habitats, providing connectivity.	See latest biodiversity metric
Low strategic significance – not identified in local plans, strategy or policy and no evidence to suggest habitat is of medium significance	Not in any of the areas listed above.	See latest biodiversity metric

7.4 Spatial Risk Factor

7.4.1 If a project is delivering biodiversity units off-site, then the spatial risk factor must be used when calculating the post-development biodiversity value. This reflects the relationship between the location of on-site biodiversity loss and the location of off-site habitat compensation. This incentivises habitat delivery on or close to the development site and reduces the biodiversity value of habitats delivered further away from the development. Applicants should use table 2 below in their assessment if they are providing off-site biodiversity units:

Table 2 Assigning the spatial risk factor

Metric Category	Local Interpretation	Multiplier applied
Compensation inside Unitary Authority (UA) or National Character Area (NCA), or deemed to be sufficiently local, to site of biodiversity loss	Within the site boundary, North Somerset Council Area, or strategic sites within the West of England Nature Recovery Network[11].	See latest biodiversity metric
Compensation outside UA or NCA of impact site but in neighbouring UA or NCA	Within neighbouring UA or NCA or within another UA in the WoE region.	See latest biodiversity metric
Compensation outside of UA of impact site and beyond neighbouring UA	Outside of the West of England region (and only undertaken in exceptional circumstances).	See latest biodiversity metric

7.5 When should the baseline value be calculated?

7.5.1 The baseline must be calculated within 12 months of the submission of the BNG plan and baseline habitats calculated before any development and/or site clearance has taken place. Where a site has been subject to any clearance after the 'specified date' set out within the Environment Act (currently 30th January 2020[12]), the assessment must use professional judgement and all available historic information to make an assessment of the habitats that were likely to have been present.

7.5.2 The assessment must adopt a precautionary approach and assign the habitat to be in 'good condition' and assume it to be a habitat of at least moderate or high distinctiveness (e.g., where a grassland habitat is impacted, it must be classified as at least other neutral grassland in good condition).

7.5 Biodiversity Net Gain Report

7.5.1 The Environment Act requires that every planning permission has a biodiversity net gain plan which has been approved by the local planning authority outlining how the development will achieve a 10% net gain. The Environment Act requires that the biodiversity net gain plan covers:

- How adverse impacts on habitats have been avoided and minimised;
- The pre-development biodiversity value of the on-site habitat;
- The post-development biodiversity value of the onsite habitat;
- The biodiversity value of any off-site habitat provided in relation to the development;
- Any statutory biodiversity credits purchased.

[11] Large strategic sites located outside of the LPA boundary but within the West of England Nature Recovery Network may still be able to be given this Low-risk category. These sites are likely to have been agreed with the LPA and LNRS as being suitable strategic sites and deliver landscape scale biodiversity net gain.
[12] The specified date will change in line with changes in the Environment Act

7.5.2 The biodiversity net gain plan needs to be presented as a coherent **Biodiversity Net Gain Report** which draws together all aspects of the BNG assessment, this is required to validate the planning application. Table 3 provides a summary of the information that must be provided at submission stage.

Table 3 Information required on BNG to validate a planning application

1. Biodiversity Net Gain Report	The BNG report must include the following as a minimum: • a map of the baseline habitats and the post-development habitats with labels which can be cross referenced with the habitat descriptions in the report and the rows in the metric; • where a development requires HEP, a clear plan showing the HEP habitats separated from the BNG habitats must be provided. HEP habitats can only be used to deliver no net loss; • where river habitats are included, the assessment must be undertaken by a suitably trained and qualified ecologist (e.g. trained in the MoRPh Rivers field survey); • a copy of the habitat and condition assessment sheets; • a summary of how the assessment meets the 10 good principles of BNG[13].
2. A copy of metric spreadsheet	Spreadsheet must be the latest published version of the metric. It must include details of the habitat parcels and any linear tree line/hedgerow and river/stream habitats on the site. There must be notes and comments to aid understanding, or where guidance required comments to be used.
3. Copies of GIS data (upon request)	Data should include both the baseline and proposed habitats provided as shapefiles. Habitat data should conform with the BNG data standard, produced by the Association of Local Environment at Records Centres.

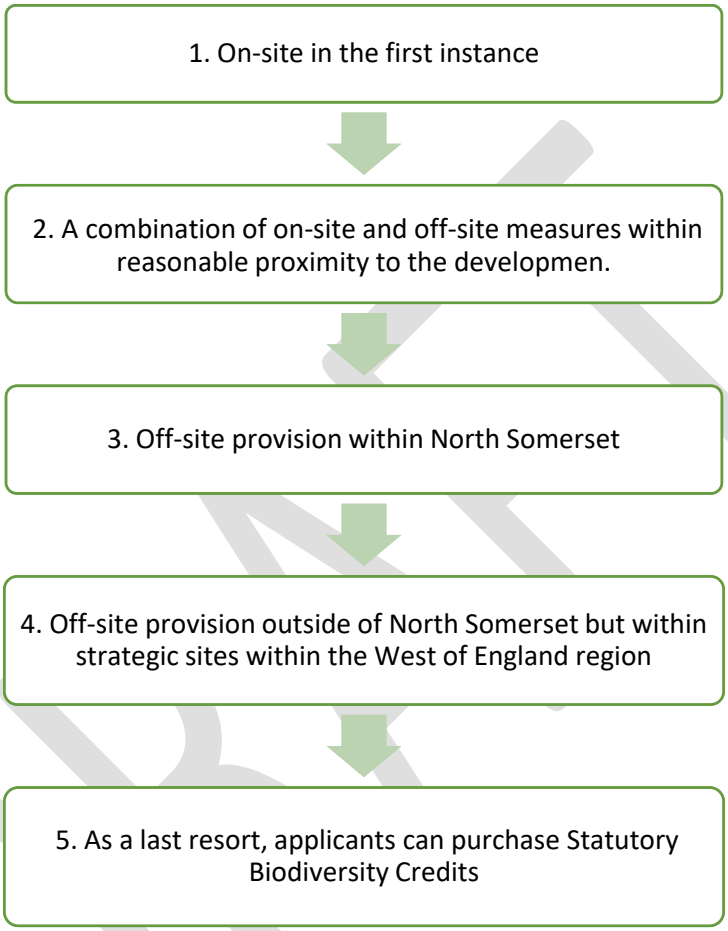
7.5.3 For outline planning permission and phased developments any application documentation will need to explain the strategy to achieve the biodiversity gain objective across the whole site and demonstrate how this will be delivered on a phase-by-phase basis through subsequent detailed design. It will also be necessary to demonstrate how biodiversity net gain delivery will be tracked on a phase-to-phase basis, including the target percentage gains to be delivered at each stage. The applicant will be required to submit a Biodiversity Gain Report for approval prior to the commencement of individual phases of development.

[13] https://cieem.net/wp-content/uploads/2019/02/Biodiversity-Net-Gain-Principles.pdf

8.0 PROVIDING AND SECURING BIODIVERSITY NET GAIN

8.1 Introduction

8.1.1 The Council's preference is for on-site compensation and BNG measures. If this is not possible then, providing and securing biodiversity net gain should use this sequential approach:



8.2 Biodiversity Offsetting – Off-Site Provision

8.2.1 If it is not possible to achieve 10% net gain on site, then developers can deliver off-site BNG using the same assessment process on the off-site land to calculate how many units the site can deliver as compensation. It is also expected that a 30-year management and monitoring plan will be needed to be submitted as part of the planning application. It is the applicant's responsibility to secure off-site BNG, and should consider the options outlined in Table 4:

Table 4 Biodiversity offsetting options (no order of priority)

Applicant pays sum to North Somerset Council	**Applicant purchases offset land**	**Applicant pays third party habitat broker**
The applicant does not own the land required for offsetting. The Council is paid to deliver and take on full responsibility for the offset requirements. Note – The final sum will also include a 15% admin fee on top of the calculated financial contribution to cover the cost of the habitat survey, calculation using the metric, monitoring, and reporting whether this is undertaken by Council staff or an external consultant. The Biodiversity Unit tariff is available on the Council's website.	The applicant buys/owns land required for offsetting (adjacent or in close proximity to the development sites). The applicant designs and implements a bespoke offsetting site which targets the impacts of the development. Management may be passed to a third party.	The applicant does not own the land for offsetting. The third-party broker designs, implements and manages a bespoke offset site which targets the impacts of the development.

8.2.2 The priority for off-site BNG compensation is always as close to the development site as is functionally possible (i.e., any new habitat should be located where it can be readily colonised by the species that it is intended to support). Off-site compensation and net gain should apply the Lawton principles of creating **more, bigger, better, and joined** areas for biodiversity and should be designed in such a way to optimise the ecosystem services that meet local needs. It should also be demonstrated that the site will contribute to the strategic nature conservation objectives in the area. Where it has adequately been shown that there are no available opportunities to deliver BNG off-site within North Somerset, applicants can provide BNG outside of the of the district on strategic sites within the West of England region.

8.2.3 There needs to be security of the delivering for biodiversity offsetting projects. The Environment Act requires that any enhancements or provision are maintained for at least 30 years after the development is completed, this will be enforceable through a condition, planning obligation or conservation covenant. This ensures that the habitats are maintained even if the land is sold. In the case where the off-setting land is outside of North Somerset, the relevant Local Planning Authority where the BNG site is located may need to be a signatory to the legal agreement.

8.3 National Biodiversity Gain Site Register

8.3.1 As part of the Environment Act 2021, Natural England is developing a national biodiversity net gain site register. Any off-site gains included in a Biodiversity Gain Plan will need to be registered on the national biodiversity gain site register by the provider and the registered gains allocated to the specific development in question. Sites must have a section 106 legal agreement or conservation covenant in place. Registration will likely involve an online

application to the register operator who will assess whether the application (and its proposed enhancements) meet the eligibility criteria.

8.4 Habitat Banks

8.4.1 Habitat Banks are new, pre-established wildlife habitats which are created on the basis that the costs can be met through selling biodiversity units to developers. Biodiversity units can only be used to off-set biodiversity impacts if they are purchased from approved habitat banks. Habitat banks will need to be approved by the Council through a submitted plan including details of the baseline habitats (unit values), details of habitat creation (unit values) and management and monitoring objectives.

8.5 BNG and scheme design

8.5.1 When designing post-development habitat schemes, it is important that the proposals follow the mitigation hierarchy. Where possible schemes should first avoid impacts on habitats, reduce any unavoidable impacts on habitats, reduce any unavoidable impacts and mitigate for any impacts that remain. The mitigation hierarchy should therefore influence site design with applicants expected to evidence this.

8.5.2 In designing habitat creation and enhancement for development sites, it is important that proposals are realistic and deliverable. Proposals for the creation or restoration of high or very high distinctiveness habitats are generally unlikely to be successful on development sites, especially where recreational access is also provided. Recreational disturbance and eutrophication, as well as specialised management requirements mean these habitats are unlikely to be realised on many development sites.

8.5.3 It is crucial that the design of a scheme is developed in conjunction with all other aspects of a site, including arboriculture, landscape, heritage, archaeology, drainage, and public open space provision.

8.5.4 In addition, should the design change during development of a scheme in such a way that alters its impact on biodiversity, the BNG assessment will need to be reviewed and revised.

8.6 Monitoring, management, and enforcement

8.6.1 Monitoring of both on-site and off-site habitats is required as part of the delivery on BNG. It will either be the landowner or developer's responsibility to ensure monitoring and reporting obligations are fulfilled as set out in the Biodiversity Net Gain Plan.

8.6.2 Monitoring must be carried out at least every 5 years and must collect sufficient information to determine the habitat type and condition, as well as progress towards the target habitats and condition as set out in the BNG assessment.

8.6.3 A report must be submitted to the Council at least every 5 years setting out the result of the monitoring and any remedial action required to address any issues in the delivery of the target habitats and condition.

8.6.4 The Council reserve the right to undertake compliance checks on both on-site and off-site BNG habitats. If there is failure to deliver, or attempt to deliver, biodiversity net gain outcomes which are secured through planning legal agreements or planning conditions, the Council will take the appropriate and necessary action to ensure compliance.

9.0 OTHER TYPES OF IMPACT ASSESSMENT

9.1 The Habitat Regulations and Appropriate Assessment

9.1.1 A Habitat Regulations Assessment (HRA) must be carried out to determine if a proposed development could significantly harm a European Protected Site (SAC/SPA/Ramsar). There are three main steps to a HRA process:

1. Screening – to identify the likely impacts of a proposed development either directly or indirectly, and whether these impacts will have a significant impact on the conservation objectives of the site. If the site does not pose a significant impact, then applications can move onto the next stage.

2. **Appropriate Assessment** - to assess the likely significant effects of the proposed development in more detail including identifying ways to avoid or minimise any effects.

3. Derogation – if a proposed development fails the appropriate assessment, this stage offers the opportunity for exemption. To qualify for derogation the proposal must pass the three tests:

- There are no feasible alternative solutions that would be less damaging or avoid damage to the site.
- The proposal needs to be conducted for imperative reasons overriding public interest.
- The necessary compensatory measures can be secured.

If the proposed development, meets these tests then applicants must notify the Secretary of State for approval.

9.1.2 Where such an effect is identified the applicant will be expected to provide the Council with all the necessary information a document titled **'Evidence to inform an HRA'**. This document will identify effects and their significance and the proposed avoidance and/or mitigation measures incorporated in the proposal to ensure it will not adversely affect the integrity of the European Site. Notwithstanding this, however, recent judicial authority has determined that the initial scope of an HRA cannot include mitigation measures to negate any impacts arising from a development but must address and assess them on their own. These measures should carry through to other supporting documents for the planning application and the document will inform the HRA carried out by the Council. Please see note below.

Note - where a proposal has the potential to affect Natura 2000 Sites, the Council expects the applicant's ecological consultant to submit a Shadow HRA (sHRA) for review. Should the Council find the report sufficiently comprehensive then this will be adopted as the Council's HRA. If the Council finds the shadow HRA to be of poor quality the applicant will be advised to revise the shadow HRA to ensure it is sufficiently comprehensive toconsider all likely significant effects (LSE) and subsequently to this initial assessment to devise appropriate mitigation/compensation to reduce LSE.

9.2 Environmental Impact Assessment (EIA)

9.2.1 Environmental Impact Assessment (EIA) is a process to receive approval for a proposed development and is governed by the Town and Country Planning Act. The EIA considers any potential ecological, social, economic and health impacts of a proposed development to inform the Council of its impacts before granting planning permission.

The key stages are:

Screening – to determine if the proposed development requires an EIA. The types of projects requiring an EIA can be found here - www.gov.uk/guidance/environmental-impact-assessment#Screening-Schedule-2-projects

Scoping – if it is confirmed that a proposed development requires an EIA, then the Council will determine the range of issues that need to be considered in a scoping opinion.

Environmental Statement – once the above stages are complete, an Environmental Statement should be prepared under the guidance of experts then submitted to the Council for determination.

10.0 BIODIVERSITY DESIGN GUIDE

10.1 This section provides a more technical guide and illustrates ways to design and build in biodiversity to developments. The information is set out by elements and features along with links to best practice guidelines.

Table 5 Biodiversity Design Guide

Landscaping	
Landscaping schemes should retain, enhance, and increase the most valuable existing semi-natural and Priority Habitat on site. Hedgerow breakage should be minimised to maintain connectivity, including boundary hedges. These features should be designed to link up both habitats within the boundary, and the wider landscape. For example, native hedgerows with (species-rich) buffers provide routes (wildlife corridors) along which species such as hedgehogs, butterflies and bats forage and move. New semi-natural and Priority Habitat(s) should be created. This could include native woodland, hedges, scrub, ponds, and wildflower meadows, in areas of landscaped open space. Bespoke species habitats could include creating deadwood habitats and hibernaculum. Ensure a minimum 10m ecological riparian buffer zone is maintained for existing streams and rivers. Ensure existing green infrastructure, such as semi-natural and Priority Habitat(s), wildlife corridors such as hedgerows, within and adjacent to the scheme have adequate buffers and are managed for their associated wildlife. Development will need to incorporate a 15m protective buffer to SNCI's. Buffers should consist of semi-natural habitat comprising native plant species of local provenance. Wherever appropriate, development should include the restoration and enhancement of any watercourses on and adjacent to the development site including the naturalisation of any culverted lengths. These measures should include the removal of any invasive species such as Himalayan Balsam.	

Sustainable Drainage Systems (SuDS) should be designed to benefit biodiversity, including permanent standing water, reedbeds and marginal and emergent vegetation, to provide additional wildlife habitat whilst also contributing to the flood attenuation capacity for the development. SuDS maintenance buffers should be managed sensitively for wildlife. Boundary treatments adjacent to private gardens/adjacent residential properties should consist of semi-natural habitat comprising mixed native scrub, hedgerows, or broadleaved woodland. However, suckering, and thorny species in native hedgerow mix adjacent to play areas and native hedgerow with suckering species adjacent to allotments are discouraged. If this is not feasible 'wildlife friendly' fencing which has a 150mm gap between the fence and the ground or a 13cm-by-13cm gap in the fence at ground level should be used. These gaps will need to be indicated on the landscape/ecological plan. Formal landscape planting schemes, particularly those in urban and suburban areas should consist of a mixture of new and retained native shrubs, trees, and plants to provide nectar and pollen for bees, hoverflies, butterflies, and other pollinators throughout the year. Where there is access to adequate public and private open space including gardens install appropriate nest boxes for garden birds (such as robins, blackbirds, thrushes, tits etc).	
Buildings	
Buildings should provide nesting and roosting opportunities for species of bats and birds. New buildings should provide integrated bricks in the structure of the building or roof space. If this isn't possible, they can be attached to the external features. The design of the brick/box should be applicable to the species. Further guidance can be found here: Bat Boxes - Buildings, planning and development - Bat Conservation Trust (bats.org.uk) Fitting Swift Nest Places (swift-conservation.org) Barn Owl boxes for trees - The Barn Owl Trust	 *Greenwood's Eco habitats bat box*

BS 42021:2022 Integral nest boxes - selection and installation for new developments - specification

Artificial lighting should be designed into buildings to avoid lighting spill on 'dark corridors' that support bats or owls. A lighting design plan will be required as part of the planning application. This guidance provides more detail - New Guidance on bats and lighting - News - Bat Conservation Trust

S-Brick – Action for Swifts

Green Roofs and Living Walls

Green roofs can provide opportunities for habitats as well as reducing water runoff.

Three elements to consider are:

- Aspect, available sunlight, and exposure.
- Habitat vs maximum loads of structure.
- Use, management, and maintenance.

Green roof bus stop in Utrecht

Living walls are being seen more in urban environments to help with urban cooling and can provide habitats for wildlife.

These aspects need to be considered:

- Source of water for irrigation.
- Reference habitats and focal species.
- Management.

More information can be found at - https://livingroofs.org/

Drapers Garden living wall in London

Roads and Streets	
Species rich road verges can provide vital habitats for pollinators and potentially create links to other habitats. Plant life – Road Verges SuDS can reduce surface water flooding along with providing biodiversity and amenity value. The Construction Industry Research and Information Association CIRIA provide guidance on good design of SuDS. Street tree planting contributes to improving habitat connectivity, improve air quality and help urban cooling and is especially important in urban environments.	 *Wildflower road verge*  *Kerbside raingardens, Cardiff*

Glossary

A

B

BNG – Biodiversity net gain
BRERC – Bristol Regional Environmental Records Centre
BS 42020:2013 – British Standard on Biodiversity – A Code for Practice for Planning and Development
BS 8683 – British Standard on Biodiversity Net Gain – A process for designing and implementing biodiversity net gain
BwN – Building with Nature standards

C

CIEEM – Chartered Institute of Ecology and Environmental Management
CIRIA – Construction Industry Research and Information Association
CROW – The Countryside and Rights of Way Act 2000

D

DAS – Discretionary Advisory Service
DLL – District Level Licensing

E

EcIA – Ecological Impact Assessment
EIA – Environmental Impact Assessment
EPS – European Protected Species

F

G

GI Strategy – Green Infrastructure Strategy
GCN – Great Crested Newts

H

HEP – Habitat Evaluation Procedure
HRA – Habitat Regulations Assessment

I

J

K

L

LNRs – Local Nature Reserves
LNRS – Local Nature Recovery Strategies
LSE – likely significant effects

M

N

NCA – National Character Area
NERC – Natural Environment and Rural Communities Act (2006)
NPPF – National Planning Policy Framework

O

P

PEAR – Preliminary Ecological Appraisal Reports

PPG – (National) Planning Practice Guidance

Q

R
RAMS – Reasonable Avoidance Measures
RIGS – Regionally Important Geological Sites

S
SAC – Special Area of Conservation
sHRA – shadow Habitat Regulations Assessment
SNCI – Sites of Nature Conservation Interest
SOAs – Strategic Opportunity Areas
SPA – Special Protection Areas
SPD – Supplementary Planning Document
SSSI – Sites of Special Scientific Interest
SuDS – Sustainable Drainage Systems

T

U
UA – Unitary Authority
UK BAP – UK Biodiversity Action Plan
UKHab – UK Habitat Classification System

V

W
WENP – West of England Local Nature Partnership
WoE – West of England

X
Y
Z