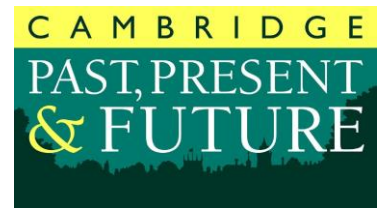


Greater Cambridge Shared Planning

By email to:

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13 September 2021

Dear Natural Environment Team

### **Response to draft Biodiversity SPD**

Cambridge Past, Present & Future is Cambridge's largest civic society. We are a charity run by local people who are passionate about where they live. We operate in the greater Cambridge area and working with our members, supporters and volunteers we:

- Are dedicated to protecting and enhancing the green setting of Cambridge for people and nature.
- Care about Cambridge and are an independent voice for quality of life in the strategic planning of Greater Cambridge.
- Are working to protect, celebrate and improve the important built heritage of the Cambridge area.
- Own and care for green spaces and historic buildings in and around the city for people and nature, including Wandlebury Country Park, Coton Countryside Reserve, Cambridge Leper Chapel & Barnwell Meadows, Bourn Windmill and Hinxtton Watermill.

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We welcome the publication of the Draft Biodiversity Supplementary Planning Document (SPD) and the opportunity to comment on it. It provides useful guidance but should be strengthened further, as recommended in our comments below. This applies particularly to:

- the description of the importance of biodiversity in terms of past losses;
- development connected with agriculture;
- issues arising with regard to mitigation and compensation;
- baseline dates for establishing ecological value of sites;
- the need to highlight the implications of development decisions on water resources;
- provision of Suitable Alternative Greenspace (SANG);
- securing mitigation, compensation and biodiversity net gain.

### **Detailed Comments**

#### **Section 1. Introduction**

1.1. Recognition of the threats to Biodiversity in Cambridgeshire is welcome. This could be expanded further to reinforce the importance of the guidance and aspirations of the SPD, particularly the welcome 20% target of Biodiversity Net Gain. For example, the latest Cambridge City Council Biodiversity Strategy Draft 2021-30 June 2021 (pages 6-8) gives detail on the challenges including examples of Biodiversity loss. This also identifies key influences on biodiversity loss over the years including agriculture and hydrological change (we comment further on these below).

## Section 2. Emerging Environment Bill

2.2. The timetable of the emerging Environment Bill is noted, and it is assumed that the SPD will be adjusted in the light of any further significant changes before the Bill is enacted. There are issues that arise from the implications of the Bill, for example with regard to Biodiversity Net Gain and others that are subject to further comment below.

## Section 3. Planning Policy

3.2.3. The reference to the need for development plans to take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure is welcomed. This objective is a core part of CPPF's recent 'Cambridge Nature Network' and we are pleased that this document has also been referenced in the SPD. Development plans should also have been the subject of separate assessment to ensure that potentially harmful environmental impacts are avoided at the earliest possible stage.

3.7. The examples given of the types of permitted development rights that may be exercised include those on agricultural land. Changes in agricultural practice have had profound effects on biodiversity. Whilst it is appreciated that most agricultural activity falls outside planning control, current agricultural permitted development rights include a range of activity for the erecting or extension of buildings and for excavations and engineering operations. There may also be times when development connected with agriculture is of such a scale that planning permission is required. All of this activity could impact habitats and species and merits highlighting as a separate biodiversity issue in the guidance.

The Government has also relaxed some permitted development rights recently and it is possible that more will follow. There may be the need to amend and update the SPD accordingly if any increase in permitted development rights has implications for biodiversity conservation or fall outside the scope of the current guidance.

## Section 5. Biodiversity in the Development Management Process

5.2. Overarching principles. Strict adherence to the mitigation hierarchy is essential to protect biodiversity, particularly to avoid damage or loss in the first place through, for example, less damaging alternative sites or designs. The hierarchy then goes on to describe the other key stages of mitigation and possible compensation. Offsetting damage to the natural environment can be difficult and problematical. With regard to the latter, Local Authorities need to be fully confident that any mitigation strategy will work, its effectiveness monitored over time and sufficient legal and financial provisions exist to secure any remedial action (See further comments on the latter below).

Compensation to provide alternative habitat can be even more difficult and should only ever be regarded as a last resort. It also needs full justification of why harm cannot be avoided; arguably irrevocable damage to important biodiversity sites or species should only ever be considered if there is a clear public interest at stake. It is appreciated that the SPD covers the process by which the mitigation hierarchy operates and mentions overarching principles and standards. However, more emphasis to the need for strict adherence to the mitigation hierarchy and the potential practical difficulties that may be involved in securing effective mitigation or compensation would be welcome.

5.2.5. The SPD indicates that:

*'The approach to following the hierarchy should be informed by the ecological value of the habitats and species to be affected. Impacts to Priority habitats and species should always be avoided, if possible, but mitigation or compensation for other species and habitats is also **desirable**.'* (emphasis added).

There may be occasions when mitigation or compensation for non priority species and habitats is not just desirable but required and the wording in the guidance should be changed to reflect this.

5.3.3. This refers to development predicted to result in impacts on irreplaceable habitat and indicates that compensation strategies should include contribution to the enhancement and management of the habitat. However, it should also be noted that the duty to restore important habitats that are, for example, in unfavourable condition, should apply as a freestanding obligation. Compensation for damaging development to a site by way of its habitat enhancement and management should not substitute action that should be happening anyway. This should be made clear in the guidance.

5.4.2. This indicates that where there is a predictable impact on biodiversity and insufficient ecological information is submitted to support determination, the Councils are likely to refuse an application. This is also repeated in subsequent sections of the SPD and is strongly supported. Local Authorities should always take a precautionary approach and refuse consent when the required ecological information is lacking or where up to date surveys have not been provided.

5.4.11. This indicates:

*'Pre-development biodiversity value must be calculated before any site clearance or other habitat management work has been undertaken, by the applicants or anybody else. **However, if this is known to have happened, the condition of the site on or after 30th January 2020 will be taken as the habitat baseline stated in Schedule 14 Part 1 paragraph 6 of the emerging Environment Bill.***

The intention to set a baseline date for the predevelopment biodiversity of a site in line with the emerging Environment Bill is noted. However, it is possible that habitat clearance of site may have taken place before 30th January 2020. Indeed, this happened in a recent case regarding development south of Coldhams Lane in Cambridge where habitat clearance of a City Wildlife site happened several years ago. In this case, information and records of the site of the site before its clearance are available but have not been taken into account by the applicant. CPPF and others object (inter alia) to the proposal because the full biodiversity value of the site is not represented and this, in turn, affects the real value any net biodiversity gain claimed. [To read full CPPF response click [here](#)].

The intention of the Bill is to provide legal certainty regarding relevant dates with regard to future planning applications. However, the way this is quoted in the guidance is potentially misleading because it implies that any damage prior to 30th January 2020 will not be taken into account. We do not believe it is the intention of the Bill to legitimise in any way acts of deliberate damage before 30th January 2020 and would argue strongly that this is certainly not the case when clear information exists about the biodiversity value of a site before that date. In such cases Local Planning Authorities should take into account the past biodiversity value of a site as material consideration in any planning decision, including the assessment of net biodiversity gain. The current draft guidance is potentially misleading and should be amended accordingly (This comment also applies to para 5.5.31).

5.5.2. The caveat regarding the need to fully consider potential impacts of increased public access on important habitats and species is welcomed. This issue is becoming increasingly important as recreational pressure on existing sites in Cambridgeshire increases (see also comments re SANG below).

5.5.13 - 17. This section refers to sustainable drainage. The availability of water of an adequate quality and volume is of crucial importance to both the protection of existing biodiversity and its future enhancement. It is disappointing that the SPD does not give greater emphasis to this as a headline issue.

Planning decisions can influence the quantity and quality of water with further potential effects on biodiversity in a number of ways. For example, the use of streams and rivers to carry the outfall from sewerage treatment could have critical effects on wildlife. In addition, whilst water availability is, of course, a relevant constraint that the planning system should consider, the capacity of our watercourses to dispose of treated water waste is likely to be a more binding one. Furthermore, consideration must also be given to the, climate-change-induced, greater frequency of storm events. Without increased investment by the water authorities the frequency of storm events leading to raw sewerage being discharged is likely to increase, even at current levels of development. Another potential consequence of planning decisions is the demand for increased abstraction of better-quality water from aquifers leading to more pressure on vulnerable wildlife dependent on it. The guidance should highlight these key issues as they (and similar considerations) should be part of the policy framework within which development applications should be considered. This would also provide the proper context for subsequent references to development plan policies that reflect concern for the implementation and management of water conservation measures, for example in Local Development Framework North West Cambridge Area Action Plan October 2009 referred to in Appendix 1 page 68 of the draft SPD.

Reference is also made at para 5.6.11. to the court case *R (on the Application of Preston) v Cumbria County Council* [2019] EWCA 1362. This indicates that planning and other competent authorities must carry out their own assessment for plan and projects with potential significant effects. Such an assessment would also include any 'in combination effects' of other plans and projects. The assessment of in combination effects is very relevant to development that could impact on water resources and should apply to all planning decisions that could impact biodiversity. In order to do this, system wide analysis and a subsequent monitoring framework are required to take accounts of effects both upstream and possibly downstream as well. Such assessments would also require analysis of effects at a catchment area which, of course, may cover different administrative boundaries. Again, the guidance should highlight this as part of the proper decision making process for development proposals.

5.5.18. and 5.5.26. The Council's target for net biodiversity gain over the 10% required by the Environment Bill is welcomed and fully supported given the scale of biodiversity losses in the past. See comment re para 1.1. above - further explanation of the scale of biodiversity losses in the SPD will help to support this argument.

5.6.8. The first stage of a Habitats Regulations Assessment is triggered by a plan or project that is likely to have significant effects not adverse effects as implied by the current wording. Assessment of whether adverse effects arise follows at the Appropriate Assessment stage.

5.6.22. The discussion of the use of Suitable Alternative Natural Greenspace (SANG) to avoid and mitigate recreational pressure within and around important nature conservation sites is noted. It is also stated that:

*'Whilst current Local Plan policies do not set requirements in respect of SANG, developers need to consider how to implement this detailed advice from Natural England, in conjunction with the councils' Open Space standards to provide access to sufficient greenspace to meet daily recreational needs of new residents.'*

Recreational pressure on sensitive wildlife sites is only likely to increase and it is vital that other adequate alternative greenspace is provided and secured to avoid any adverse effects. Whilst it is appreciated that current Local Plan policies do not set out requirements in respect of SANG, Local Authorities should also take the lead in future development plans with clear overarching policies that provision of SANG may be required for certain residential developments. This should be reflected as clear statement of intent in the SPD.

5.8.1. - 5.8.4. This section of the SPD refers to management plans, monitoring and enforcement. This area of work is of critical importance to ensure that the effectiveness of mitigation or compensation for

potentially damaging developments that otherwise might have been refused. There are two issues that are particularly relevant. First, with regard to biodiversity net gain, the current use of the Defra metric focuses on the provision of habitat. This may be used to mitigate effects or secure enhancement for species directly affected by a development. However, to ensure that species affected will benefit from habitat provision requires careful monitoring - simply creating new habitat will not necessarily mean the species affected will use it.

Second, the emerging Environment Bill may indicate an audit trail for the delivery of Biodiversity Net Gain commitments for a period of 30 years, but this should not be taken as a cut-off date after which nothing further is required. For example, if compensation is required for the permanent loss of an important wildlife site and this requires permanent management funding, it should be provided in perpetuity, e.g. through a ring fenced lump sum of money. This reflects the logical principle that permanent loss requires permanent recompense. Furthermore, Local Authorities have the power through separate legal agreements with developers to ensure this happens. The guidance should thus make it clear that commitments in perpetuity may also be required.

I am very happy to discuss any of the points raised in our comments further.

I trust that you will take our comments into consideration.

Yours sincerely

A handwritten signature in cursive script that reads "James Littlewood".

James Littlewood  
Chief Executive