



Biodiversity Duty First Consideration

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Lead Member/Relevant Portfolio Holder	Portfolio Holder for Governance, Environment & Regulatory Services (& Deputy Leader)

Corporate Priority:	Be recognised as clean, green, and attractive; well on our way to becoming a net zero borough.
Wards Affected:	ALL
Date of consultation with Ward Member(s):	N/A
Exempt Information:	N
Key Decision:	Y It has a significant impact on persons living or working in an area comprising two or more wards in the Borough.
Subject to call-in:	No

1 Summary

- 1.1 The Biodiversity Duty - First Consideration was introduced by the Environment Act 2021 and required local authorities to make a first consideration in respect of biodiversity by 1st January 2024. Alongside many other local authorities, this requirement was overlooked by Melton Borough Council as work was concentrated on the roll-out of biodiversity net gain in the planning system, which was the overarching objective of the Environment Act.
- 1.2 Policies and objectives to meet the biodiversity duty following the First Consideration should then be approved as soon as possible after, and in any case no later than 1st January 2026.
- 1.3 The First Consideration is set out at Appendix 1 to this report, and a work plan is being prepared to ensure that the policies and objectives required to meet the duty will be considered on time.

2 Recommendations

That Cabinet:

- 2.1 **Notes the contents of this report and approves the First Consideration Report at Appendix A**

3 Reason for Recommendations

- 3.1 To enable the Council to fulfil its statutory duty in accordance with the Environment Act 2021 to make its First Consideration in respect of biodiversity.

4 Background

- 4.1 The UK's biodiversity is declining with 15% of species threatened with extinction, and since 1970 more species have seen their populations decrease than increase. Habitat loss, overexploitation, climate change, pollution and invasive species are the primary drivers of biodiversity declines.
- 4.2 Actions the Council takes on biodiversity will contribute to achievement of national goals and targets including by 2030, the government has committed to halt the decline in species abundance and protect 30% of UK land
- 4.3 Public authorities who operate in England must consider what they can do to conserve and enhance biodiversity in England. This is the strengthened 'biodiversity duty' inserted into the Natural Environment and Rural Communities Act 2006 by the Environment Act 2021.
- 4.4 This means that, public authorities must:
- Consider what they can do to conserve and enhance biodiversity
 - Agree policies and specific objectives based on their consideration
 - Act to deliver their policies and achieve their objectives

5 Main Considerations

- 5.1 To meet its biodiversity duty public authorities should have completed a 'first consideration' of what action to take for biodiversity by 1st January 2024 and then agree policies and objectives as soon as possible after this date (Biodiversity Duty Plan). Agreed actions should then be reconsidered within five years of completion of this 'first consideration' with subsequent rolling reconsiderations at a frequency of no longer than every five years.
- 5.2 A Biodiversity Duty Plan is required to:
- Outline across all functions of the Council, what we are doing and planning to do to conserve and enhance biodiversity
 - Form the basis for the Biodiversity Duty Reporting.
 - Ensure that we are able to demonstrate how we are meeting the Biodiversity Duty from the policy level through to strategy, processes and practices

- Describe any specific projects that contribute to meeting the Biodiversity Duty
- 5.3 Local authorities (excluding parish councils) must publish a Biodiversity Duty Report which documents the policies and actions carried out to comply with the biodiversity duty. The end date for the first reporting period should be no later than 1 January 2026. After this, the end date of each reporting period must be within 5 years of the end date of the previous reporting period
- 5.4 The Department for Environment, Food & Rural Affairs (DEFRA) intends to include references to the biodiversity reports in the 5-yearly reviews of the Environmental Improvement Plan.
- 5.5 The First Consideration is now overdue, which is not unique to Melton Borough Council. Responsibility for this area of work is not specific to a particular team and as a smaller local authority we have no specialist Ecology Officer; as a local planning authority we rely on responses from the County Council to inform planning decision making. Further, there is crossover with Biodiversity Net Gain being implemented through the Local Plan, which will need to be reported as part of the Biodiversity Duty. As such this work was not picked up and the First Consideration deadline of 1st January 2024 was missed.
- 5.6 Subsequently, work has been carried out on the Biodiversity Duty and the First Consideration which was taken to a meeting with the Senior Leadership Team and an appropriate governance route has been agreed.
- 5.7 Appendix A is a draft version of the First Consideration based on the approach of other local authorities. It has been developed with input from key teams across the Council to document relevant initiatives / strategies / policies already in place, reflecting that the Biodiversity Duty is a corporate responsibility and as such requires a whole Council approach.

6 Options Considered

- 6.1 The report (and the biodiversity duty) is a statutory requirement and therefore if it was not provided the Council would not be undertaking its statutory functions and could be open to legal challenge.

7 Consultation

- 7.1 The First Consideration Report has been developed in consultation from Local Plans/Climate Change, Corporate Assets and Environmental Services.
- 7.2 As this is a First Consideration (and a statutory duty) there is no need to consult further at this stage, however further consultation will be required from departments across the Council to develop the Biodiversity Duty Plan with input from Members through the relevant governance process.

8 Next Steps – Implementation and Communication

- 8.1 Following approval of the First Consideration Report the next steps are to set the policies, objectives and actions to meet the Biodiversity Duty by no later 1st January 2026.

9 Financial Implications

- 9.1 None directly, however, there are costs in terms of staff time to implement the Duty and there could be capital investment required to fund specific projects which, if required will be presented to Members for consideration and approval once the defined objectives and actions have been agreed.

Financial Implications reviewed by: Assistant Director for Resource – 16/10/2024

10 Legal and Governance Implications

- 10.1 As indicated above the Biodiversity Duty is imposed by the Natural Environment and Rural Communities Act 2006 by the Environment Act 2021 This requires preparation and submission of the First Consideration Report to identify the action that the Council can take to further the General Biodiversity Objective.

Legal Implications reviewed by: Monitoring Officer.

11 Equality and Safeguarding Implications

- 11.1 There is no need at this stage to undertake an Equality Impact Assessment as this is not a new policy or service. An EIA will be completed at the second stage to set the policies, objectives and actions to meet the Biodiversity Duty.

12 Data Protection Implications (Mandatory)

- 12.1 A Data Protection Impact Assessment (DPIA) has not been completed because there are no risks/issues to the rights and freedoms of natural persons by undertaking this First Consideration.

13 Community Safety Implications

- 13.1 Any impacts or implications in regard to Community Safety will be considered at the second stage to set the policies, objectives and actions to meet the Biodiversity Duty.

14 Environmental and Climate Change Implications

- 14.1 Tackling climate change alongside protecting and enhancing the natural environment are issues that are co-dependent given biodiversity will suffer from the impacts of climate change and is also greatly depleted within Leicestershire. There is potential across the borough for the Biodiversity Duty to help tackle climate change whilst also protecting and enhancing nature, and reducing pollution.
- 14.2 There are no direct environmental and climate change implications in respect of undertaking this statutory duty, but it has clear positive implications for biodiversity at the second stage to be completed before 1st January 2026.

15 Other Implications (where significant)

- 15.1 Health and Wellbeing Implications: Improving the local natural environment makes the borough more enjoyable for all, it has also been shown to be beneficial to our mental health and wellbeing.
- 15.2 Environmental Implications: as paragraph 14.1 and 14.2
- 15.3 Human Resource Implications: Officer time and additional resources are required to ensure that the work is prioritised as a corporate requirement.

16 Risk & Mitigation

Risk No	Risk Description	Likelihood	Impact	Risk
1	Not undertaking the statutory Biodiversity First Consideration	Very Low	Critical	

		Impact / Consequences			
		Negligible	Marginal	Critical	Catastrophic
Likelihood	Score/ definition	1	2	3	4
	6 Very High				
	5 High				
	4 Significant				
	3 Low				
	2 Very Low			1	
	1 Almost impossible				

Risk No	Mitigation
1	Members agree to the recommendations within this report and the Biodiversity First Consideration enclosed at Appendix 1.

17 Background Papers

- 17.1 None

18 Appendices

18.1 Appendix 1 - Biodiversity Duty - First Consideration Report 2024