

**Report of Consultation**  
**Biodiversity SPD**

February 2019

## **Contents**

1. Name of document
2. Purpose of Supplementary Planning Document (SPD)
3. Persons/bodies/groups consulted
4. Ways in which consultation was undertaken
5. Representations
6. Sustainability Appraisal
7. Appendix 1 – Summary of comments and City Council response

## **1. Name of Documents**

- Biodiversity SPD

## **2. Purpose of the SPD**

The production of the above SPD will help to ensure that development meets the Council's aspirations in terms of biodiversity.

SPDs are documents which add further detail to the policies in the Local Plan. They can be used to provide further guidance for development on specific sites, or on particular issues. SPDs are capable of being a material consideration in planning decisions but are not part of the statutory development plan.

This SPD is supplementary to the Local Plan Part 2 (2020) and the Nottingham City Aligned Core Strategy (2014). The SPD conforms to the National Planning Policy Framework (NPPF) and once adopted will be a material consideration when determining planning applications.

## **3. Persons/bodies/groups consulted**

Consultation has been undertaken with statutory bodies, local businesses, citizens, agents and developers, wider interest groups and stakeholders, local councillors, and Nottingham City Council officers. Letters providing details of the consultation were sent to all contacts on the Local Plan database of consultees. A targeted consultation also captured specific interest groups relating to biodiversity.

## **4. Ways in which consultation was undertaken**

Consultation was undertaken in accordance with the City Council's Statement of Community Involvement (SCI). Comments on the draft SPD were invited for a 7 week period from 28 June to 16 August 2019.

Paper copies of the consultation documents and response forms were made available at the City Council's deposit points; Nottingham City Council's offices at Loxley House, Station Street; The Local Studies Library, Nottingham Central Library, Angel Row; as well as at all other City Libraries.

The document was available to view and download from the City Council's web site alongside downloadable response forms and an online response form. The consultation was also advertised on the Engage Nottingham Hub webpage...

## 5. Representations

A total of 47 representation comments were received from 8 interested parties (made up of 5 organisations, 2 individuals and the City Council's Planning Committee). All comments have been considered and a number of changes to the SPD were proposed as a result. The table in **Appendix 1** sets out the comments made, and the City Council's response to them, together with any recommended changes to the draft document.

## 6. Sustainability Appraisal

Undertaking a Sustainability Appraisal (SA) is a statutory requirement/process, which must be undertaken for any new planning document in accordance with the Planning and Compulsory Purchase Act (2004). The purpose of an SA is to assess the economic, social and environmental impacts of projects, strategies or plans, so that the preferred option promotes, rather than inhibits sustainable development. In addition to an SA, European directive 2001/42/EC (commonly referred to as Strategic Environmental Assessment or SEA), requires that Local Authorities undertake an "environmental assessment" of any plans and programmes they prepare that are likely to have a significant effect upon the environment.

The requirements of the SEA have been incorporated into the SA for the Local Plan Part 2 (2020). An SA was undertaken on the Local Plan Part 2, therefore a separate SA is not required. The process has appraised social, environmental and economic effects. The SA was undertaken from the start of the LAPP process through its various preparation stages. In doing so, it has helped to ensure that the decisions made on policies and allocations have contributed to achieving sustainable development. Furthermore, the SA recommended some changes to ensure that the LAPP is as sustainable as possible. The SA has facilitated the evaluation of alternatives and also considered the cumulative, synergistic and secondary impacts of the LAPP policies and sites.

The SA also demonstrated that the Plan is an appropriate approach when considering reasonable alternatives and, where negative impacts have been found, suggested suitable mitigation measures to try and overcome them. Monitoring arrangements are also proposed to ensure that the impact of the policies can be properly evaluated.

Full details of the SA process, and methodology can be found at [www.nottinghamcity.gov.uk/localplan](http://www.nottinghamcity.gov.uk/localplan).

## Appendix 1 - Summary of comments and City Council response

Name	Summary of comments	City Council response
Member of the public	Consultation noted. Though concerning, parts of the Council need to alter their damaging 'on the ground' modi operandi.	A Management Plan will state the nature of any interventions on the ground to address this issue.
Nottinghamshire Wildlife Trust	General comment - suggested amendments to include aspirations/goals and targets. SPD could be more visionary. Suggest an expanded introduction, around, for example, making Nottingham a leading green city. A firm statement conveying that the Council is aiming to secure certain features should be made earlier in the document. Refer to the Trust's 'Nottingham for Nature Manifesto' document for ideas.	Reference made in document to the Council Plan and the pledges within this, e.g. zero carbon, bee friendly city, etc.
Nottinghamshire Wildlife Trust	Para 4.5 (now para 3.5 in final SPD) - suggest it is made clear that compensation is a last resort.	Paragraph 3.5 amended.
Nottinghamshire Wildlife Trust	Para 5.1 (now para 4.1) - quote additional paragraphs from the NPPF, e.g 170-177 and the Government's recently updated Natural Environment Guidance.	Para 175 of NPPF added to para 4.1.
Nottinghamshire Wildlife Trust	Para 6.1 (now para 5.1) - use the term 'wildlife' alongside definitions of biodiversity and ecology.	The term wildlife has been added to para 5.1
Nottinghamshire Wildlife Trust	Flow diagram at para 6.1 (now para 5.1) - diagram could be interpreted as assuming that permission may always be granted, even where there are ecological impacts from the proposal. Additional route needed prior to stage 3 for possible refusal. Support text in the following section which explains the diagram.	Additional note added to diagram at Stage 3.

Nottinghamshire Wildlife Trust	Para 6.4 (now para 5.4) - amend to clarify that permission can be refused if adequate consideration to biodiversity has not been given. This is misleading as it suggest Local Planning Authority has no role/responsibility.	Para 5.4 refers to a developers' role in considering biodiversity at the outset, before involvement of the LPA. The Biodiversity SPD should be referred to in the early stages on the development process. No amends to text considered necessary. This is currently referred to on the Nature and Wildlife Council webpage and it is intended to be included in the updated planning application Validation Checklist.
Nottinghamshire Wildlife Trust	Para 6.10 (now para 5.10) -- it is not always a good idea to provide access to 'retained' habitats. Amend to take account of this.	Public open space will be located where most appropriate dependent upon surrounding open space network; sometimes this is buffered against existing OSN to limit impacts from development and dealt with as necessary.
Nottinghamshire Wildlife Trust	Para 6.11 (now para 5.11) - make clear that compensation is a last resort.	Paras 5.6/5.7/5.8 set out how applicants must consider biodiversity at the outset, without thought being given as a last resort or add on to wider development. Section 5.8 has been updated to add 'last resort' and how development may be refused. Section 5.11 has been updated to add last resort.
Nottinghamshire Wildlife Trust	Para 6.12 (now para 5.12) - clarify that compensatory habitat creation or a commuted sum will be appropriate only in 'rare' instances in line with NPPF.	Para 5.12 amended.
Nottinghamshire Wildlife Trust	Para 6.13 - amend text to take account of the fact that offsetting is likely to be a legal requirement in the near future.	Document to be updated to reflect any changes in Government legislation and policy.
Nottinghamshire Wildlife Trust	Para 6.19 - need to monitor planning conditions covering soft landscaping etc. Long term maintenance of soft landscaping required.	Requirements for maintenance arrangements for soft landscaping have been added to 'Stage 2: Design' section and referenced in para 5.12 for compensatory habitat or commuted sum.

Nottinghamshire Wildlife Trust	Para 6.22/6.23 (now paras 5.23/5.24) - procedure for what do to if protected species are found unexpectedly should be added.	Paras 5.23 and 5.24 amended.
Nottinghamshire Wildlife Trust	Appendix 1 - remove reference to Nature Improvement Area as this is out of date.	This reference is part of the quoted justification text for LAPP Policy EN6: Biodiversity. Therefore, it is not appropriate to amend this as it is still included in the policy wording of the adopted LAPP document. However, the Nature Improvement Area is no longer being progressed.
Nottinghamshire Wildlife Trust	Appendix 1 - include Making Space for Nature/biodiversity offsetting/Notts Biological and Geographical Record Centre (NBGRC)/Schedule 1 birds/woodland planting.	Text added at Appendix 1 making reference to documents. The NBGRC is mentioned in para 5.3 and Appendix 2. The biodiversity metric for offsetting is included in para 5.13. Council Plan pledges also included in the Foreword. Reference to Black Redstart added.
Nottinghamshire Wildlife Trust	Appendix 2 - refer to Black Redstart as a Schedule 1 bird in the city.	Appendix 2 amended to include reference to Black Redstart.
Nottinghamshire Wildlife Trust	Appendix 2 - add reference to Notts Biological and Geographical Record Centre (NBGRC) and Notts Insight Mapping.	Appendix 2 amended to add reference to NBGRC and Nottm Insight Mapping.
Nottinghamshire Wildlife Trust	Appendix 3 - strongly support all these measures. Refer to new trees/woodland creation in suitable locations, as well as community involvement as part of education where people can get involved with the management of green spaces.	Landscaping schemes are included in Appendix 3. These will be specific to a development, depending on existing habitat and development proposals. There is the potential to link biodiversity enhancement schemes with open space projects which currently include community aspirations/involvement.
Nottinghamshire Wildlife Trust	General comment - amend text to include a statement to say that current Government legislation / guidance shall be utilised if more up to date than the SPD.	Additional paragraph added under General Advice heading, on p24.

Nottingham Local Access Forum	Para 5.1 - move NPPF quote to appendices.	Disagree. The Council considers that the references to NPPF are important in setting the context to planning policy and considered important to include in the main text of the document.
Nottingham Local Access Forum	Stage 1 - SPD should state how practically biodiversity will be recorded, monitored and shared.	Data collection and recording is not fundamental to the SPD; consultant ecologists include data searches within ecological surveys and any records they gather as per their agreements with National Biodiversity Network and local records centres.
Nottingham Local Access Forum	Data collected should be shared in one place, on the National Biodiversity Network Atlas and managed by the National Biodiversity Network, and the advantages of doing this.	Data collection and recording is not fundamental to the SPD; consultant ecologists include data searches within ecological surveys and any records they gather as per their agreements with National Biodiversity Network and local records centres.
Nottingham Local Access Forum	Para 6.6 (now para 5.6) - delete some wording, and use full title of document.	Text amended at para 5.6, and full title used.
Nottingham Local Access Forum	Para 6.7 (now para 5.7) - omit "ideally" as this is a requirement not an ideal, subject to proviso.	Agree. Word omitted.
Nottingham Local Access Forum	Para 6.13 - should be omitted or rewritten. Biodiversity offsetting remains highly controversial and has no statutory basis.	Reference to biodiversity offsetting will remain, to ensure the SPD will adhere to any future Government legislation and guidance. Offsetting has, as yet, not been adopted in Nottingham City. Policy EN6 of the adopted LAPP includes reference to offsetting.
Nottingham Local Access Forum	Para 6.14 (now para 5.14) - add "...including street tree planting." to sentence 2.	Reference to tree planting added to para 5.14.
Nottingham Local Access Forum	Para 6.18 - would benefit from a 'plain English' re-write.	Disagree. It is felt that this paragraph is clear so no amendments are proposed.

Nottingham Local Access Forum	Para 6.19 - suggest section is headed "Landscaping Heads of Terms" with the text to read " Where biodiversity net gain is to be mainly achieved through landscaping then agreement on Heads of Terms will be necessary prior to the planning decision. Aspects covered may include..." etc.	Disagree. Trees are part of wider biodiversity considerations. Section 6.19 (now 5.21) refers to the protection of species/habitats during construction.
Nottingham Local Access Forum	Stage 3/para 6.21 - should be strengthened. Various amendments suggested.	Reference to '..require protection PRIOR to the commencement..' can only be covered in a mitigation plan associated with a planning permission. Construction Environment Management Plans (CEMPs) are included in this section. Developer will appoint an Ecologist; NCC do not have any say over who is used but do say they must be qualified and, where necessary, licensed. Supervision by an Ecologist is included in this section.
Nottingham Local Access Forum	Para 6.23 - a Construction Environment Management Plan (CEMP) should not be conditional unless Heads of Terms agreed (as per para 6.19).	A CEMP will be secured by a suitably worded condition where necessary, based on results from an ecological survey and prior agreement of any mitigation or otherwise. Para 5.24 updated.
Nottingham Local Access Forum	Stage 4 - this section is weak. Needs to define management post-development and need for contract between developer and site owner. Contracts should include a commitment to share data.	Bullet point added, as per section Stage 2: Design.
Nottingham Local Access Forum	Appendices - suggest they are simplified, particularly section on 'Justification' and avoid too much repetition. Text referring to biodiversity offsetting should be deleted.	Reference to biodiversity offsetting will remain, to ensure the SPD will adhere to any future Government guidance and legislation. Offsetting has, as yet, not been adopted in Nottingham City. Policy EN6 of the LAPP includes reference to offsetting. The 'Justification' section is a copy of the justification text for Policy EN6: Biodiversity, which explains the Policy.

Member of the public	Adopt the comments received from Notts Wildlife Trust about being more ambitious.	Noted.
Member of the public	Section 40 of NERC Act 2006 is quoted in Appendix 1. Suggest this be set out as a preamble or introduction to the document so as to set the tone. The Council must have regard to this section in carrying out its planning functions as well as other Council operations, including selling green space to developers. It is a misunderstanding within the Council that this is only to do with the Parks Department. Any help to change this concept and attitude by raising s40's profile would be much appreciated.	Agree. Text amended in Appendix 1 to make reference to Government Natural Environment White Paper and Lawton Report and Nature Recovery Network Principles. Paragraph referring to NERC from Policy EN6: Biodiversity justification in main body of text.
Member of the public	This is a good document which should be used as a precedent elsewhere.	Support noted.
Historic England	Noted	N/A
Severn Trent	Supportive of the inclusion of the statement "De-culvert and re-naturalise a watercourse that passes through or beneath your site". Culverted watercourses can prevent the connection of surface water to the natural water system, increasing flood risk and placing an additional strain on the sewerage system. The de-culverting of watercourses can provide sustainable outfalls for surface water, minimising the amount of water going into the sewers. We are also supportive of the section on Sustainable Drainage Systems (SuDS), Where SuDS are designed in accordance with industry best practice, they can provide biodiversity and amenity benefits as well as water storage.	Support noted.

Nottingham City Council Planning Committee	Suggest that guidance and/or technical guide should not only consider species type but also volume of species.	As part of the surveying process, species populations are recorded as part of surveys submitted with planning applications.
Nottingham Open Spaces Forum	Would like to see the principle of net gain in biodiversity, highlighted in the Foreword, repeated in all those sections (e.g. Stage 2: Design, which highlight need to “avoid, mitigate, compensate”.	Net gain referenced in the Introduction and through inclusion of the relevant NPPF paragraphs. Section 'Stage 1: Assessment of Ecological Impact' has been updated, and para 5.13 includes reference to Natural England's recently published Biodiversity Metric 2.0. Section 2 updated.
Nottingham Open Spaces Forum	Para 6.13 Biodiversity offsetting – this section should be omitted. There is no consensus regarding the efficacy of offsetting schemes and they do not have any statutory basis. As written the paragraph could be seen to imply that offsetting is an option to allow a let out from the duty to avoid harm. The final section of Justification on page 29 should also be omitted or significantly amended.	Reference to biodiversity offsetting will remain, to ensure the SPD will adhere to any future Government guidance and legislation. Offsetting has, as yet, not been adopted in Nottingham City. Policy EN6: Biodiversity of the LAPP includes reference to offsetting and this cannot be changed.
Nottingham Open Spaces Forum	Stage 4 - management and monitoring – it is unclear how required management and monitoring regimes will be policed and what penalties may be incurred in the event of default.	Bullet point added to section Stage 2: Design, and Section 4: Management And Monitoring.

Natural England	Stage 1 - welcome the requirements set out for survey reporting to support planning applications.	Noted.
Natural England	Stage 2 - welcome the measures to maintain and create wildlife corridors to habitats on and off site. Also welcomes the requirement for boundary fencing to be permeable to hedgehogs, our preference would be for hedging to be mandatory where it is not necessary for safety reasons for the biodiversity benefits it provides. Also welcomes that SuDS that benefit biodiversity are encouraged, CIRIA's SuDs manual also provides advice on how to design SuDs for amenity and biodiversity.	Noted.
Natural England	Stage 3 - welcomes the inclusion of biodiversity protection during the construction phase of developments. Where Construction Environmental Management Plans (CEMPs) are produced they should update biodiversity baseline where appropriate i.e. multiphase developments where survey data may be more than the recommended two years old when subsequent phase is constructed. CEMPs should embed biodiversity and set out how staff will be trained when they start on site and at any points during construction when it is relevant to their work activities. CEMPs can be used to ensure time lags in biodiversity loss and biodiversity enhancement being attained is avoided. They should also set out how monitoring and inspection of biodiversity features will be undertaken during construction, this will ensure risks are identified up as early and gives the greatest opportunity to take actions to prevent damage.	Noted. Para 5.24 amended.

<p>Natural England</p>	<p>Stage 4 - welcomes the inclusion of site specific bespoke habitat management, monitoring requirements, this will provide an opportunity to ensure that any enhancement measures that have been undertaken will continue to function as they were intended to in perpetuity and the maximum ecological value is achieved. Natural England feels that an adaptive monitoring approach is vital in ensuring that BNG is successful. This stage may also provide an opportunity to quantify the enhancements that have been provided by the development in line with para 174 of the NPPF.</p>	<p>Noted. Management and monitoring plan document required and bullet point added at Stage 2: Design.</p>
<p>Natural England</p>	<p>Validation Checklist, Section 7 - sets out when an ecology assessment is required to support a planning application. Natural England would advise that this approach will limit the ability of Nottingham City council to contribute to national biodiversity targets as it will result in a large number of developments that will not be required to provide BNG. Natural England would advise Nottingham City council to adopt the approach taken by Dorset County Council and Warwickshire County Council and make all development within your authority adopt this approach regardless of geographical location or scale. As mentioned above the Government has committed to making Biodiversity Net Gain a mandatory requirement in all development, in response to this major developers have embraced BNG and have called for a standardised approach across local planning authorities on how this is implemented to improve efficiency and effectiveness in the planning system. This is why Barratt Developments Ltd6, Berkeley Group, Carillion, Balfour Beatty and Kier have part funded CIRIA's Biodiversity net gain. Good practice principles for development guidance.</p>	<p>Not all planning applications come with ecological surveying; e.g. signage or minor residential scheme. Text added under Stage 1 to state that all development must provide a net gain for biodiversity.</p>

Natural England	<p>Welcomes the guidance on what ecological enhancements would be expected. In order to ensure that BNG is quantifiable it is important to state that an accepted approach to calculating this is used and if possible that same methods that was used for the whole project life cycle. Natural England notes the requirements for commercial buildings over 1000m<sup>2</sup>, the requirements for green roofs or living walls are not quantified, this could lead to token measures that would result in lost opportunities. It may be helpful to highlight that BREEAM schemes include accreditation for biodiversity enhancement, the approach to assess biodiversity in BREEAM schemes is referred to as the BREEAM strategic ecology framework (SEF) (BRE, 2016a)<sup>8</sup>. The publication of Defra's updated Biodiversity Net Gain metric is currently out for consultation but when this guidance is finalised it will be considered the most appropriate approach to quantifying BNG in developments<sup>9</sup>. Natural England is supportive of the inclusion of living roofs in all appropriate development. Research indicates that the benefits of green roofs include reducing run-off and thereby the risk of surface water flooding; reducing the requirement for heating and air-conditioning; and providing habitat for wildlife. We would advise your council that some living roofs, such as sedum matting, can have limited biodiversity value in terms of the range of species that grow on them and habitats they provide. Natural England would encourage you to consider the use of bespoke solutions based on the needs of the wildlife specific to the site and adjacent area. I would refer you to <a href="http://livingroofs.org/">http://livingroofs.org/</a> for a range of innovative solutions.</p>	<p>Text in Section 7 amended to include at least 25% of a building should be green/ brown roof. Biodiversity Metric 2.0 referenced in Appendix 1.</p>
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