

Strategic Planning Policy Team  
Babergh and Mid Suffolk District Councils

**By email only**

18<sup>th</sup> June 2024

Dear Sir/Madam,

Thank you for sending us details of this consultation. We welcome the ambition and intent behind the creation of a Biodiversity and Trees Supplementary Planning Document (SPD) to provide additional guidance to developers on protecting and enhancing biodiversity and nature as part of development.

We are especially supportive of the Councils' ambition to encourage development to deliver higher levels of Biodiversity Net Gain (BNG) where possible. It is the Government's stated intent that Biodiversity Net Gain should contribute to nature recovery. Babergh and Mid Suffolk are the most nature-depleted districts in Suffolk, with lower coverage of nationally important wildlife sites (a key indicator for biodiversity) than the average for Suffolk and England. It is entirely appropriate, given the depleted state of nature in the districts, for the Councils to want to encourage development, which has been one of the key drivers of biodiversity loss, to do more to increase biodiversity through the enhancement and creation of new wildlife habitats. We have provided additional evidence in our detailed comments below to help:

- a. justify the ambition for development in Babergh and Mid Suffolk to deliver more than the statutory minimum 10% BNG,
- b. support the view that the aspiration for development to deliver 20% BNG in Suffolk is reasonable, proportionate, and deliverable.

We have arranged our detailed comments below according to the numbered sections and paragraphs in the SPD to which they pertain.

#### **4. Biodiversity Mitigation Hierarchy and Biodiversity Net Gain**

Suffolk Wildlife Trust welcomes the further guidance on the application of the mitigation hierarchy and biodiversity net gain requirements.

At **4.1** we suggest it should be explicitly stated that applications which fail to demonstrate that they will avoid adverse effects on the integrity of a Protected Habitats site will be refused planning permission.

At **4.4 c)** we note that in the event mitigation cannot avoid adverse effects on integrity of statutory designated sites (SSSI, LNR, NNR, SPA, SAC, Ramsar), it will not normally be acceptable for local authority planning applications to proceed to compensation unless the applicant can demonstrate that the public benefit of a scheme outweighs the damage to a protected site or sites. For sites of international importance (SPA/SAC/Ramsar sites) this test is embedded in the Habitat Regulations Assessment process. In these

circumstances, planning permission will be refused if the applicant cannot demonstrate that the public benefit of a scheme significantly outweighs the unavoidable harm to statutory designated sites.

**How will the Councils assess the BNG calculation?**

**4.13** We propose wording is changed to:

*The BNG report will include habitat mapping that clearly sets out existing and proposed losses together with the proposed retention, enhancement, and creation of habitats, to meet the minimum 10% BNG requirement.*

**4.14-4.19**

We welcome the ambition of the Councils to ‘*encourage applicants to deliver at least 20% BNG where possible.*’

It is Suffolk Wildlife Trust’s view that it is reasonable and justified to expect development in Babergh and Mid Suffolk to exceed the statutory minimum requirement of 10% biodiversity net gain in most circumstances due the significantly lower baseline biodiversity value of land in the districts compare with elsewhere in the country and in other parts of Suffolk. We hope the following evidence support the case for BMSDC to encourage developers to exceed the minimum statutory requirements for BNG wherever possible.

**a) BMSDC’s low biodiversity baseline**

Babergh and Mid Suffolk Districts are significantly more nature-depleted than the average for England or Suffolk. Evidence for this is provided in the proportion of the area of the districts that is designated as Sites of Special Scientific Interest (SSSI) for its national importance for biodiversity.

The average for England and Suffolk is just over 8% of the area of the country/county. Just 2.5% of Babergh and Mid Suffolk is designated as SSSI. For Mid Suffolk, this figure just 0.45% of the area of the district. For Babergh it is 5.5%.

SSSI is the most robust indicator available for the presence of habitats of national importance for biodiversity. As such, we consider it is a reasonable proxy for the state of nature in Babergh and Mid Suffolk compared with other parts of Suffolk and England as a whole.

*Table showing area of SSSI, and % coverage, for Babergh and Mid Suffolk compared with the averages for Suffolk and England.*

	Total area ha <sup>1</sup>	SSSI area <sup>2</sup>	% SSSI coverage
Babergh	57,512	3,294.6	5.5
Mid Suffolk	87,106	391.9	0.45
BMSDC combined	146,618	3686.5	2.5
Suffolk (county)	380,141	31,500.6	8.3
England	13,046,000	1,102,425.9	8.45

Note: **highlighted** low SSSI coverage in Babergh and Mid Suffolk compared with national and county average.

<sup>1</sup> Data sources for administrative areas: [Local Authority Districts \(May 2023\) Boundaries UK BFC - data.gov.uk](#); [Counties \(May 2023\) Boundaries EN BFC | Open Geography Portal \(statistics.gov.uk\)](#)

<sup>2</sup> SSSI areas derived from data downloaded from Natural England’s Designated Sites data portal in June 2024. [Designated Sites View \(naturalengland.org.uk\)](#)

## **b) Babergh and Mid Suffolk District Councils Biodiversity Emergency Declaration**

We note that in 2019, Babergh and Mid Suffolk District Councils declared a Biodiversity Emergency. Encouraging developers to deliver more ambitious levels of biodiversity net gain is consistent with and can help to further the Councils' ambition to tackle the biodiversity emergency.

## **c) Babergh Mid Suffolk's contribution to the UK's target to protect 30% of our land and seas for biodiversity by 2030**

In its introduction, the Trees and Biodiversity SPD refers to the international agreement to protect 30% of the planet for nature by 2030 – an agreement that the UK played a leading role in securing at the COP15 biodiversity summit. As a signatory to this agreement the UK is committed to protecting 30% of its land and seas for nature by 2030.

Given the significantly lower baseline for biodiversity in Babergh and Mid Suffolk compared with other parts of the county and the country, it is evidence that for Babergh and Mid Suffolk to make a proportionate contribution to the national targets of 30% of land being protected for nature by 2030 there will have to be significantly more habitat created / restored here than in other parts of the county / country. Development that delivers more than the minimum statutory 10% biodiversity net gain could make a significantly contribution to this aim.

## **d) Suffolk County Council biodiversity net gain policy aim**

We note that in February 2022, Suffolk County Council adopted a policy aim to deliver an additional 10% biodiversity net gain across its own housing programme on top of the statutory minimum 10% biodiversity net gain required by the Environment Act 2021 and subsequent amendments to the Town and Country Planning Act.

The Agenda and Minutes of the Cabinet meeting at which this policy was adopted are publicly available via the County Council's website: [Search Page - Committee Minutes \(suffolk.gov.uk\)](#)

The relevant section of the confirmed minutes starts on page 60 – '57. Biodiversity Policy Development Panel'. The policy on BNG is item 8.

The wording of the policy as adopted is:

*'a) The County Council should aim to deliver a further 10% biodiversity net gain in aggregate across the housing programme, in addition to the 10% biodiversity net gain that will be required on each site. b) That in delivering over and above the minimum required, the Council should aim to provide enhancement for species and improve connectivity.'*

While this policy aim only applies to Suffolk County Council's own housing programme and does not establish a higher than 10% biodiversity net gain requirement for all development in Suffolk, it does provide additional evidence that delivering biodiversity net gain more than 10%, and aiming for at least 20% where possible, is considered to be not only desirable but reasonable and deliverable in Suffolk.

### ***Delivering BNG Off-site***

**4.20** This paragraph needs to be reviewed and re-written.

It does not make sense as it is currently worded and risks causing significant confusion for applicants between the Biodiversity Gain Hierarchy and the general biodiversity / ecological mitigation hierarchy.<sup>3</sup>

We recommend that this paragraph, which seeks to establish the Councils' preference for habitat enhancement or creation for BNG to be delivered on site, refers to the [Government guidance on BNG](#). This guidance explains the Biodiversity Gain Hierarchy which is set out in Articles 37A and 37D of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Excerpt from this guidance:

*This hierarchy (which does not apply to irreplaceable habitats) sets out a list of priority actions:*

- *first, in relation to onsite habitats which have a medium, high and very high distinctiveness (a score of four or more according to the statutory biodiversity metric), the avoidance of adverse effects from the development and, if they cannot be avoided, the mitigation of those effects; and*
- *then, in relation to all onsite habitats which are adversely affected by the development, the adverse effect should be compensated by prioritising in order, where possible, the enhancement of existing onsite habitats, creation of new onsite habitats, allocation of registered offsite gains and finally the purchase of biodiversity credits.*

Principle 6 of [Biodiversity Net Gain: Good Practice Principles for Development](#) published by CIRIA, CIEEM, and IEMA, and reproduced in Appendix 5 of the SPD, states that BNG should achieve the best outcomes for biodiversity. There will be circumstances in which the best outcomes for biodiversity are achieved by off-site delivery, for example due to constraints on the type and condition that on-site habitats could achieve due to underlying site conditions or impacts such as recreational disturbance or predation by domesticated cats. In such circumstances, off-site measures should be preferred.

We urge the Councils not to set themselves so firmly against off-site measures that the delivery of BNG in Babergh and Mid Suffolk does not achieve the best outcomes for biodiversity.

**4.2.3** We would strongly encourage the Councils to use S106 agreements or another appropriate legal agreement to secure funding and frameworks for monitoring, reporting, and enforcement of BNG requirements for all major development where a significant proportion of a development's BNG is achieved through on-site measures.

Reliance on planning conditions to secure on-site BNG for major development, without a legal agreement in place, risks monitoring and reporting for on-site habitats falling by the wayside, and the Councils being left without the ability to secure funding to carrying out monitoring and enforcement themselves.

Such legal agreements should include provisions for how failure of on-site habitat creation and enhancement to achieve target condition, which could leave a development failing to achieve its statutory BNG obligations, would be addressed and remedial actions implemented and paid for.

**4.26** It should be noted that there may be cases in which it is not only not practicable, but not ecologically preferable, for off-site BNG to be delivered in accordance with the location hierarchy. In these circumstances, it may be appropriate to require ecological justification and evidence to support deviation from the location hierarchy, e.g. if following the hierarchy would not deliver ecologically sound or desirable outcomes.

---

<sup>3</sup> What is the Biodiversity Gain Hierarchy and how does it relate to the mitigation hierarchy for planning decisions where there is a significant harm to biodiversity? [Biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/biodiversity-net-gain)

**4.48** *'The Local Nature Recovery Strategy (LNRS), which is being led by Suffolk and Norfolk County Councils as responsible bodies'*

Should read:

*'The Local Nature Recovery Strategy (LNRS), which is being led by Suffolk and Norfolk County Councils as responsible authorities.'*

**4.29** Should be: *'In line with recommendation from Suffolk Wildlife Trust...'*

The matrix should be included in the SPD to enable applicants needing to deliver BNG off-site to identify the most preferable locations.

### ***Biodiversity measures in householder applications***

#### **4.31-4.35**

Add:

- Use of native and locally appropriate (e.g. to soils and drainage) species in landscape planting plans.

## **5. What the Councils expect in developments**

**5.1.1.** SWT is very supportive of the Councils' ambition and encouragement for development to deliver 20% BNG where possible.

**5.3.1.** We support the requirement for details of mitigation and compensation for protected species impacts to be submitted for applications requiring this information to be validated.

### **5.4. Existing biodiversity information**

**5.4.1** Specific reference should be made to County Wildlife Sites to make it clear to applicants that they must request information about CWS that might potentially be affected from SBIS.

### **5.5 Determination of planning applications**

**5.5.2** *'Preliminary Ecological Assessment'* should be *'Preliminary Ecological Appraisal'* to be consistent with commonly used terminology.

**5.5.5** We support the precautionary approach proposed to the assessment of the baseline biodiversity value of sites proposed for development.

5.5.7 Propose following changes to wording:

Planning conditions may include requirements for the following:

#### **Approval and implementation of:**

- Ecology report recommendations (mitigation, compensation and enhancement measures).
- Construction Environment Management Plans including Biodiversity.
- Wildlife sensitive lighting plans.
- Landscape and Environment Management Plan.
- Biodiversity Net Gain Plan (BNG habitats).
- Biodiversity Enhancement Strategy (for species).
- Householder Biodiversity Enhancement Measures.

## Retention of:

- Environmental or Ecological Clerk of Works to oversee implementation of the above for large scale development sites (where required).

### 5.6 Habitat Regulations Assessment (HRA)

**5.6.4** It would be more accurate to state that ‘The purpose of HRA is to determine if a plan or project may affect the protected features of a habitats site before deciding whether to undertake, permit or authorise it.’

The aim of the Habitats Regulations themselves is to ‘maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest.’

### 5.8 Recreational pressure on Sites of Special Scientific Interest (SSSIs) and County Wildlife Sites (CWSs)

Add 5.8.3 Impact risk zones are not available for CWSs. Applicants will be expected to consult a qualified ecologist to assess the potential for adverse recreational effects on CWSs, with reference to the CWS citation and particular ecological features and species for which it has been designated. This information must be obtained from Suffolk Biodiversity Information Service (SBIS). Fees and data licence terms will apply.

### 5.9 Biodiversity Design case studies

#### 5.9.2 Landscaping good practice examples

**Watercourse buffers** – this example should make it clear that riparian buffer zones are measured from the top of the bank, and that the suggested buffers are a minimum not a maximum buffer.

**Buffer zones around ancient or veteran trees** – the SPD should provide a link to Government (Natural England and Forestry Commission) guidance: [Ancient woodland, ancient trees and veteran trees: advice for making planning decisions](#).

This guidance includes further advice, including that ‘*The buffer zone should be 5 metres from the edge of the tree’s canopy if that area is larger than 15 times the tree’s diameter.*’

As a more general comment, where the advice and guidance in the SPD is derived from more detailed advice and guidance published on Government or other external websites, it would be helpful to include links to this detailed guidance to signpost applicants to more information.

**Swift bricks and integrated boxes** – Suffolk Wildlife Trust would expect that all developments where the installation of swift brick and other integrated bird and bat boxes cannot be shown to be inappropriate should be required to install these to benefit wildlife.

**Rewilding** – while we would always encourage landowners and developers to think about the potential for restoring naturally functioning and resilient ecosystems, we would advise against including the example that rewilding can be used to compensate for biodiversity loss on site. It may be the case that this is possible in certain circumstances, but it is unlikely that rewilding on site will typically be appropriate or effective to compensate for specific protected species and habitat impacts.

Rewilding is a complex and expansive subject area, and there is a risk that providing a very small amount of information on the potential for rewilding to compensate for biodiversity loss on site could lead applicants to submit inappropriate proposals for mitigation or compensation.

**Boundary treatments** – we assume the reason for discouraging thorny species in native hedgerow adjacent to recreational areas is due to concerns about health and safety. We would strongly suggest that the well-known importance of native thorny hedgerow species such as hawthorn and blackthorn for wildlife from pollinators to dormice and nesting birds, combined with the vanishingly small risk posed to people from the

presence of native thorny plants in hedgerows – even those adjacent to recreational areas – should mean that the Councils do not feel the need to discourage their use in these locations.

**Roads and streets** – suggest rewording to:

*'Developers can **mitigate fragmentation effects and other impacts on mobile wildlife species** by creating underpasses and green bridges to enable wildlife to disperse and move freely'*

**Further good practice guidance on enhancing biodiversity**

The RSPB's Recovering Together report is excellent but does not provide good practice guidance on enhancing biodiversity. We suggest instead signposting applicants to the following additional resources:

- Natural England's [Green Infrastructure Framework – Principles and Standards for England](https://www.naturalengland.org.uk) ([naturalengland.org.uk](https://www.naturalengland.org.uk))
- Building with Nature Standards - [www.buildingwithnature.org.uk/](https://www.buildingwithnature.org.uk/) - and [case studies](#)

Please do not hesitate to contact us should you require any further information / clarification on the comments above.

Yours faithfully,

Rupert Masefield

Planning and Advocacy Manager