



EXECUTIVE BOARD DECISION

REPORT OF:	Executive Member for Growth and Development
LEAD OFFICERS:	Strategic Director of Growth & Development
DATE:	Thursday, 7 March 2024

PORTFOLIO/S AFFECTED:	Growth and Development
WARD/S AFFECTED:	(All Wards);
KEY DECISION:	Y

SUBJECT: 'First Considerations' towards the Council's Biodiversity Duty

1. EXECUTIVE SUMMARY

- 1.1 In response to the ecological emergency, the Government have introduced legislation, guidance and new duties to help drive the recovery of nature. Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC) introduced a legal duty for Councils to conserve and enhance nature. The Environment Act 2021 has since strengthened that responsibility so that Councils must now identify the objectives and actions they will take to meet that duty, and prepare regular reports on how they are meeting those actions. This report seeks approval of the 'first considerations' document which sets out the Council's objectives, policies and actions identified to meet the general biodiversity duty.

2. RECOMMENDATIONS

That the Executive Board approve the 'First Considerations' Report setting out how the Council is fulfilling the biodiversity duty.

3. BACKGROUND

- 3.1 In response to the current ecological crisis, national Government set out a 25-year Environment Plan, with an ambition "to leave our environment in a better state than we found it", and a wider commitment to protect 30% of land and seas by 2030 ("30x30"). The interventions the Government plans to take to improve the environment have been set out through legislation and guidance, including the Natural Environment and Rural Communities Act 2006 (NERC), the Environment Act 2021 and Environmental Improvement Plan (EIP) 2023.
- 3.2 The EIP sets out the Government's plan to deliver environmental improvements, committing to, by 2042, increase species abundance by at least 10% from 2030 levels, restoring or creating at least 500,000 hectares of habitats and restoring 75% of 1 million hectares of protected sites to favourable condition. It introduces 10 goals, with the apex goal of halting (and reversing) the decline in biodiversity.

- 3.3 To support this apex goal, Section 40 of the NERC Act places a legal duty on Councils to further the 'general biodiversity objective' – that is, to conserve and enhance biodiversity. Section 102 of the Environment Act 2021 has since strengthened that duty further so that Councils must identify the actions they can take to strengthen local biodiversity and then produce regular reports on that activity.
- 3.4 The first report, the 'First Consideration' of the actions the Council can take, must happen by 1 January 2024, and the Council must determine the policies and objectives for taking action 'as soon as practicable' after that consideration. The Council must consider how its services, strategies, policies and decision-making can better support the recovery of nature within the borough by identifying a series of objectives (what we want to achieve) and policies and actions (what we will do to achieve them). This must be undertaken with regard to other relevant strategies, including the Local Nature Recovery Strategy (LNRS). Such actions should be Council-wide and may cover a wide range of services. Actions may include improvements to existing, or the creation of new, habitats that can support a variety of flora and fauna, but activity may also extend to areas such as public education and engagement. The 'First Consideration' then provides the basis for the first Biodiversity Report, which is due by 1 January 2026
- 3.5 Strategic Planning have led the preparation of the 'First Consideration' report, working in consultation with other Council services, including Environment, Highways and Drainage and Public Health teams, to identify an initial series of objectives, policies and actions that the Council could pursue to help conserve and enhance nature within the Borough. This includes implementation of a series of planning-based, mandatory requirements stemming from the NERC Act and the Environment Act, including Biodiversity Net Gain and the LNRS, as well as a number of more locally identified actions.
- 3.6 The 'First Considerations' report, title *Biodiversity: Supporting the Recovery of Nature in Blackburn with Darwen* was completed in December 2023 and is attached as Background Paper 1.

4. KEY ISSUES & RISKS

- 4.1 This report recommends that the NERC First Consideration Report is endorsed/approved. The First Considerations report is Background Paper 1 to this report. Failure to produce and approve a report would result in the Council failing to meet their duties under the NERC Act 2006 and the Environment Act 2021. In preparing the first considerations report, the Council have accorded with the timeframes set through the legislation. There is no requirement for the report to be formally published, but it may be made available through the Council website as part of the wider suite of information on biodiversity.
- 4.2 The First Considerations report will be a live document, and it is intended that the objectives, policies and actions identified in it can be updated internally at any time. However, the report acknowledges that Council budgets and resources are often limited, and we may not be able to deliver on every identified action or objective presented through the First Consideration, and so some actions are identified as 'opportunities' rather than commitments. The First Consideration report serves to provide our initial objectives and actions. Changes from that initial position and our overall progress since the first considerations report will be reviewed in our first Biodiversity Report in 2026 and any appropriate clarification or justification will be reported at that time.

5. POLICY IMPLICATIONS

- 5.1 The requirement to produce a 'First Considerations' report, and subsequent Biodiversity Reports, is set through national legislation. As the 'First Considerations' report sets out, the Council have

undertaken a review of existing and proposed policies which may support and/or tie into the biodiversity duty, including the recently adopted Local Plan (2021-2037) and associated supplementary planning documents, the Climate Emergency Action Plan, Health and Wellbeing Strategies, and the Tree and Woodland Strategy.

- 5.2 The 'First Considerations' report identifies opportunities for additional policies or strategies to be developed, namely a Biodiversity Strategy for the Borough. This, however, remains subject to Council impetus and the availability of external ecological expertise.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications arising from the preparation of the first considerations report, as this has formed part of the existing resource within Strategic Planning. However, the 'First Consideration' report identifies a series of opportunities across Council services to help meet the biodiversity duty, some of which may require additional resources and funding to action. It will be for the Council to determine the weight of importance that the biodiversity emergency should command, and what resources are ultimately assigned to it (for example, an ecologist resource to lead the response). Officers will pursue all available options for additional funding to support new burdens and/or opportunities. The recent award of Planning Skills Delivery Fund grant for specialist ecologist expertise over the coming 18 months will contribute to this work.
- 6.2 However, whilst there may be financial costs borne from responding to the Council's biodiversity obligations, it is important to balance these against the opportunities that such actions to enhance nature can generate, including delivering improvements to health opportunities, increasing resilience to climate change, mitigating flood risk, and making our Borough a more attractive, healthier place to live. For example, recent studies into health have shown for every £1 invested into nature recovery, there is £2.16 of additional benefits in terms of reduced costs to the NHS¹. Interventions can also be combined with existing actions, for example designing habitats into flood mitigation measures, such as swales and sustainable drainage systems (SuDS). Responding to the biodiversity crisis can help meet our Corporate Plan objectives to improve our residents' quality of life; including building happier, healthier and safer communities and delivering our Climate Emergency Action Plan.
- 6.3 In the event additional resources are required over and above those currently available, approval for such resources will be sought in line with the Council's Financial Procedure Rules.

7. LEGAL IMPLICATIONS

- 7.1 The Council have fulfilled their legal duty thus far to both the NERC Act 2006 (s40A) and the Environment Act 2021 (s.103) by preparing the 'first consideration' report. The first considerations report notes our future reporting obligations under the NERC Act 2006.

8. RESOURCE IMPLICATIONS

- 8.1 As part of any recommendations for improvement opportunities, through this study or future studies, there may be additional burdens placed on the resources of other Council areas to manage/deliver those actions, for example creating or enhancing habitats, tree planting, etc.

¹ [New report proves nature-based health projects save NHS time and money | The Wildlife Trusts](#)

However, other opportunities may result in a reduction to resource pressures, for example reducing grass cutting.

8.2 There are also opportunities to engage and involve the community in delivering some of the enhancement measures, drawing upon existing community groups such as the CVS Climate Action Fund and People's Jury. A number of groups have already expressed interest in local-level climate/nature conservation work, and this resource could be drawn upon.

8.3 The full range of actions the Council can take will be wholly dependent on the availability of resources (and funding) and the weight of focus the Council wishes to give to restoring the natural environment and addressing the biodiversity crisis (alongside the twinned climate emergency). In addressing the biodiversity crisis, there are real opportunities to deliver meaningful benefits to nature, the climate, our communities, and our economy.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. (*insert EIA link here*)

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. (*insert EIA attachment*)

10. CONSULTATIONS

10.1 None required.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

VERSION:	1
CONTACT OFFICER:	PMO Growth
DATE:	February 2024
BACKGROUND PAPER:	1. Biodiversity: Supporting the Recovery of Nature in Blackburn with Darwen (First Considerations Report under the NERC Act (2006))