Policy Title:

LP28 - Ecology and Biodiversity Net Gain

Existing Policies Which adopted Core Strategy or Policies Sites and Places (PSP) policy would eventually be replaced	**New Policy: Ecology and Biodiversity Net Gain** **Replaces Policies Sites and Places policy PSP19 – Wider Biodiversity**
Non-Strategic / Strategic	**Non-Strategic**

Purpose

This policy sets out the key ecological requirements and expectations that new developments must consider, to ensure that wildlife and biodiversity are suitably protected and enhanced.

This Ecology and Biodiversity Net Gain (BNG) policy promotes the conservation, restoration, creation and enhancement of priority habitats, ecological networks and the protection and recovery of protected and priority species. The policy promotes the connectivity of existing ecological corridors and habitats, using the Local Nature Recovery Strategy to support nature recovery both locally and nationally. It identifies and pursues opportunities for securing measurable net gains for biodiversity through reflecting and integrating the new and updated national legislation surrounding ecology and Biodiversity Net Gain.

This policy also identifies the hierarchy of sites designated for nature conservation, which aims to ensure that the most valuable ecological habitats and species are appropriately protected in relation to the features for which they are designated.

Policy wording

Ecology and Wider Biodiversity

1. **Development proposals should maximise opportunities to enhance, create and extend links for habitats and species using the Local Nature Recovery Strategy (LNRS), to avoid fragmentation and increase the functionality and connectivity of ecological corridors.**
2. **Development which would be likely to have an impact upon designated sites and their functionally linked habitats or species which contribute to nature conservation and recovery, will be required to:**
    a. **Be informed by an appropriate ecological survey and assessment of impacts; and**
    b. **Be designed and sited to avoid any harm to identified sites, habitats and species of importance.**
3. **Where loss of nature conservation value is unavoidable to enable acceptable development, proposals will be required to provide appropriate mitigation, or as last resort, compensation.**

Designated Sites and Irreplaceable Habitats – Hierarchy

i. **International and National**

4. **Development which would have an adverse impact on Internationally and Nationally designated sites, directly or through functionally linked habitats outside the designated sites, will be refused, in accordance with the approach in national planning policy.**

ii. **Irreplaceable Habitats**

5. **Development proposals resulting in the loss or deterioration of Irreplaceable Habitats will be refused, unless there are wholly exceptional reasons. Adequate buffer zones must be implemented around Irreplaceable Habitats, with a minimum 15m buffer zone for Ancient Woodland.**

iii. **Local Sites**

6. **Development which does not avoid, mitigate or, as a last resort, compensate any significantly harmful impacts on "Local Wildlife Sites" or Regionally Important Geological Sites (RIGS), will be refused.**

Biodiversity Net Gain (BNG)

7. **New development, unless exempt, will provide a Biodiversity Net Gain of at least 10% demonstrated through the Statutory Metric and will:**
    a. **Adhere to the Biodiversity Gain Hierarchy where onsite gain must be considered first, and where this is demonstrably not possible, through purchasing registered offsite biodiversity units and, as a last resort purchasing statutory biodiversity credits; and**

b. **Avoid adverse effects to 'very high distinctiveness' habitats and 'high distinctiveness' habitats. Bespoke compensation will only be considered if the public benefit significantly outweighs the ecological value of the site; and**

c. **Ensure that BNG is integral to the design aspect of the overall scheme through retaining and enhancing existing habitats and creating new habitats; and**

d. **Monitor the creation and enhancement of significant onsite gains until habitats are complete; and**

e. **Maintain significant onsite gains for at least 30 years, from the completion of development.**

8. **In addition to the statutory minimum requirements, applicants are expected to submit the additional information specified within the Local Validation List.**

Supporting text

Local Nature Recovery Strategy LNRS

1. Local Nature Recovery Strategies (LNRS) are an England-wide system of spatial strategies that establish priorities and map proposals for specific actions to drive nature's recovery, expand and connect existing habitat, and provide wider environmental benefits.
2. The West of England's (WoE) LNRS has been developed by the West of England Mayoral Combined Authority (WECA) and is based on the original WENP ecological network mapping. The WoE LNRS is now presented on the Local Habitat Hap (LHM) and shows 'areas of importance for biodiversity', based on existing designated sites, and 'focus areas for nature recovery' that could become of particular importance for biodiversity.

Ecological Surveying

3. National planning policy requires that local plans should promote the conservation, restoration of priority habitats, ecological networks and the protection and recovery of priority species.
4. Where the Council has reasonable grounds for believing development could impact on biodiversity, it will require the appropriate species and habitat surveys to be carried out to inform a planning application. This includes sites supporting species protected under the Conservation of Habitats & Species Regulations 2017 ('European Protected Species), the Wildlife & Countryside Act 1981 (as amended), Section 41 of the Natural Environment and Rural Communities (NERC) Act and the Badger Act 1992.

5. More locally significant planning applications will be expected to be informed by a data search through Bristol Regional Environmental Records Centre (BRERC) (https://www.brerc.org.uk/). Ecological reports must be written in line with CIEEMs Guidelines for Ecological Report Writing.

European Protected Species

6. Where surveys have identified a European Protected Species (EPS) as being present, the application will be subject to the same derogation 'tests' as a Natural England European Protected Species mitigation licence, as required by law under the Habitat Regulations 2017. A mitigation strategy will need to form part of the application in order to demonstrate that there are no satisfactory alternatives to the present scheme and that development would not be detrimental to the maintenance of the species at a favourable status in its natural range. Any such measures will be drawn up and agreed prior to determining the application. Where an application fails these derogation 'tests', planning permission will be refused.

District Level Licensing

7. District Level Licensing (DLL) is an alternative approach to traditional European Protected Species mitigation licensing for planning applications to develop sites which could affect Great Crested Newts (GCN). DLL aims to increase the number of GCN by providing new or better habitats in targeted areas to benefit their wider population. It's a simpler, quicker process than mitigation licensing because planning applications do not need to include surveys of GCN or plans to carry out mitigation work to move newts to safety.
8. Instead of carrying out site-specific mitigation and compensation, developers choosing DLL will make a 'Conservation Payment' which will be used to fund a net increase in habitat (ponds) for GCN across the local landscape.
9. The level of payment required will depend on:
    a. The number of ponds impacted;
    b. The GCN risk zone in which the site is located;
    c. Whether GCN presence has already been determined through site specific surveys.
10. In order to join the DLL scheme, developers must acquire an Impact Assessment and Conservation Payment Certificate (IACPC) from Natural England. This must be submitted to the LPA as part of the application. More information can be found at: How to join the great crested newt district level licensing scheme - GOV.UK (www.gov.uk).

Priority Habitats and Species

11. Under Section 41 of the Natural Environments and Rural Communities (NERC) Act (2006) the Secretary of State has a legal duty to publish the list of habitats and species of Principal Importance. These are habitats and species deemed to have principal importance for the purpose of conserving biodiversity.

12. Priority species are highlighted as being of conservation concern for a variety of reasons, including their scarcity, iconic nature, or a rapid decline in their population. Priority habitats cover a wide range of semi-natural habitat types and are identified as being the most threatened and requiring conservation action.

Designated Sites and Irreplaceable Habitats – Hierarchy

International and National

13. National planning policy requires that local plans should distinguish between the hierarchy of sites (International, European, National and Locally designated). This includes Internationally and Nationally designated sites, as listed within saved Policy PSP18, Statutory Wildlife Sites: European Sites and Sites of Special Scientific Interest (SSSIs) (or future replacement), and also includes Local Nature Reserves (LNR).

Irreplaceable Habitats

14. Irreplaceable Habitats are habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, considering their age, uniqueness, species diversity or rarity. The Government is responsible for defining and publishing a list of Irreplaceable Habitats.

15. Buffer zones are defined areas peripheral to an Irreplaceable Habitat or protected area which provide a semi-natural habitat buffer between the development and ecologically sensitive areas, aiming to mitigate negative impacts.

16. For Ancient Woodlands, the proposal must have a buffer zone of at least 15 metres from the boundary of the woodland to avoid root damage (known as the root protection area). Where assessment shows other impacts are likely to extend beyond this distance, the proposal is likely to need a larger buffer zone. For example, the effect of air pollution from development that results in a significant increase in traffic.

Local

17. 'Local Wildlife Sites', known in South Gloucestershire as 'Sites of Nature Conservation Interest' (SNCI), and 'Local Geological Sites', known as 'Regionally Important Geological Sites' (RIGS), are afforded a certain level of protection through the planning system. Local Wildlife Sites make a vital contribution to delivering both nationwide and local biodiversity and geodiversity targets. They provide important and widely distributed wildlife refuges for habitats, plants and species and support other site networks through their connecting, stepping-stone, and buffering qualities.

18. When a proposed Local Wildlife Site has been nominated (with landowner permission) for designation, it is surveyed and checked against a strict set of regionally agreed criteria. Nominated Local Wildlife Sites are ratified by the Local Sites Partnership, a group consisting of the main nature conservation bodies across the West of England. Once designated, Local Wildlife Sites will be shown as an asset on the policies map and will be considered to have weight under this policy, reflecting their position within the hierarchy of sites. Please note that there will be an ongoing review of Local Wildlife Sites against the regional criteria, with designations added and removed as necessary.

Biodiversity Net Gain

19. Biodiversity Net Gain (BNG) aims to leave habitats for wildlife in a measurably better state than they were before the development occurred. All new developments, unless exempt, must achieve at least 10% BNG. BNG exempt developments include householder applications and 'small' self-build and custom build applications. Click here for a full list of exemptions.

20. BNG can be delivered onsite, offsite or via the statutory biodiversity credits scheme. The Biodiversity Gain Hierarchy (BGH), which local planning authorities must take account of when approving the Biodiversity Gain Plan (BGP), emphasises that BNG must be provided onsite wherever possible. Registered offsite biodiversity units will only be considered where it can be demonstrated that all reasonable opportunities to achieve measurable net gains onsite have been exhausted, or, where it can be demonstrated that greater gains can be delivered offsite with improvements clearly shown to be deliverable and consistent with the Local Nature Recovery Strategy (LNRS). As a last resort, where onsite or offsite gain is not possible, statutory biodiversity credits can be purchased with permission from the LPA.

21. The LNRS can support a strategic approach to BNG delivery by determining the 'strategic significance' multiplier within the statutory biodiversity metric. This incentivises developers to align their onsite and offsite habitat creation and enhancement with the LNRS. Where recommended actions have been created or enhanced in target areas identified within the LNRS, the strategic significance multiplier ensures that an additional 1.15x more units are created, compared to the same habitat creation or enhancement in a location not identified within the LNRS. This uplift in units means that landowners and developers are encouraged and rewarded for taking strategic actions for nature on their land, where it aligns with the LNRS.

22. Although the statutory framework for BNG has been designed as a post-determination matter, a draft BGP, pre and post development habitat maps, and a completed draft metric calculation (using the relevant Statutory Biodiversity Metric) is required prior to determination. The BGP must adhere to the biodiversity metric rules and principles and illustrate how 10% BNG will be achieved across all unit types (if applicable) and satisfy the habitat trading rules ("like for like" or "like for better"). This is to ensure confidence that the General Biodiversity Gain condition can be discharged.

23. If the LPA considers that there will be significant onsite gain, a draft Habitat Management and Monitoring Plan (HMMP) will also be required to support the application. If there is a requirement to purchase registered offsite units, then proof of deposit securing registered offsite units will be required as part of the application. A full proof of purchase will be required to discharge the General Biodiversity Gain condition.

24. Significant onsite gains will be secured via planning conditions, managed and monitored until proposed enhanced and created habitats are established, and target conditions are reached (habitat completion). The 30-year maintenance period and monitoring fees will be secured via planning obligations to ensure that the LPA can fulfil its long-term monitoring duty. The 30-year maintenance period starts once the development is complete (this includes the completion of all habitat creation and enhancement works).

25. BNG must be considered at the site selection and design stage. Having a clear understanding of the biodiversity value of the site proposed to be selected will determine the feasibility of delivery, making it easier and more cost-effective to protect biodiversity from the outset.
26. BNG does not change the existing range of ecological protections in planning policy and legislation, for Irreplaceable Habitats, protected sites and protected species.
27. Impacts on Irreplaceable Habitats and very high distinctiveness habitats as defined by the Metric cannot be mitigated by BNG and will not be eligible for off-setting. If impacts to Priority Habitats (high distinctiveness habitats) cannot be avoided, compensation will be considered on a case-by-case basis.

Additions	
Key evidence	
Other relevant policies to cross-reference?	PSP18 - Statutory Wildlife Sites: European Sites and Sites of Special Scientific Interest