

## Topic – Environment and Energy

### DM37 Green Infrastructure and Nature Conservation

#### Green Infrastructure

Development proposals will be required to demonstrate that they safeguard and/or contribute positively to the existing multifunctional network of Green Infrastructure that covers all forms of green and open spaces; the interrelationship between these spaces and; ensure that the natural capital of the area is retained, enhanced and complements UNESCO Biosphere objectives<sup>1</sup>.

Where practicable, green infrastructure should be integral to the design and layout of the scheme ensuring it is planned and managed to realise current and potential value to communities and to support the widest delivery of linked environmental, social and economic benefits.

#### Nature Conservation

Development should avoid adverse impacts and ~~All development should~~ seek to conserve and enhance biodiversity and geodiversity features ensuring:

- accordance with the mitigation hierarchy requirements of the NPPF<sup>2</sup>
- an additional measurable net gain in biodiversity is achieved;
- that recognised protected and notable ~~priority~~ species and habitats are protected and supported;
- ancient woodland and irreplaceable habitats are protected
- that appropriate and long-term management of new or existing habitats is secured and opportunities to connect habitats are secured

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<sup>1</sup> The [Brighton and Lewes Downs UNESCO Biosphere](#) aims to pioneer and inspire a positive future by connecting people and nature, as an international demonstration area for sustainability. Its objectives are threefold: conserve and enhance nature; pursue sustainable development of society and economy; and, encourage environmental knowledge, learning and awareness and engagement.

<sup>2</sup> [The “mitigation hierarchy” is set out in the NPPF paragraph 180, the Biodiversity – code of practice for Planning and Development and the British standard for Biodiversity management \(BS42020\) 2013. In essence it seeks avoidance of harm; then mitigation; then compensation alongside new benefits for wildlife.](#)

- to ensure a network of nature recovery<sup>3</sup>; and
- where relevant, the control and eradication of any invasive non-native species present on site.

Developers will be expected to work with existing partnerships to support and enhance the following green infrastructure and nature conservation features:

- the Nature Improvement Area <sup>4</sup>
- protected and notable species and habitats<sup>5</sup>
- ancient woodland
- aged/veteran trees
- protected trees<sup>6</sup>
- the City's National Elm Collection
- marine and coastal biodiversity
- geodiversity

Proposals liable to affect green infrastructure and nature conservation features either directly or indirectly must be supported by an appropriate and detailed site investigation/ assessment and accord with provisions set out in the mitigation hierarchy<sup>7</sup>. Measures to avoid or prevent harmful effects will be required

### Designated Sites

Where proposals are liable to [impact](#) cause direct or indirect harm to a designated sites, they must provide:

- a) evidence to demonstrate that the objectives of the designation and integrity of the area will not be undermined;

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<sup>3</sup> Nature recovery networks allows opportunities for [protection and](#) enhancement of existing nature assets including protected sites and wildlife-rich habitats, [and creation of new habitats](#), to be identified and prioritised within a local area.

<sup>4</sup> The South Downs Way Ahead Nature Improvement Area (NIA - the NPPF defines NIA as: "Inter-connected networks of wildlife habitats intended to re-establish thriving wildlife populations and help species respond to the challenges of climate change."

<sup>5</sup> Protected species/habitats include species of animal or plant, or its habitat (including feeding, resting and breeding areas) protected under National and European legislation and/or included on a Red List (ie complies with criteria set by the International Union for Conservation of Nature [IUCN] or similar following a process review). Notable species/habitats include those identified as being of principal importance in England, Section 41 of the Natural Environment and Rural Communities Act 2006; priority UK Biodiversity Action Plan (BAP) and Local BAP habitats and species; and, those listed on the Sussex Rare Species Inventory (held by Sussex Biodiversity Record Centre). See also Annexe 1 of the adopted Nature Conservation SPD (SPD11)

<sup>6</sup> Protected trees includes those covered by a Tree Preservation Order and/or lie within a conservation area.

<sup>7</sup>

- b) funded management plans that secure the long term protection and enhancement of remaining features<sup>8</sup>; and
- c) up-to-date information about the biodiversity/geodiversity which may be affected and how loss impacts can be mitigated to achieve ~~and additional measurable net gains achieved.~~

Proposals ~~for development within a designated site of importance to nature conservation or which could impact upon a designated site~~ must also satisfy the following criteria:

#### A. Internationally protected sites

All development must comply with the Conservation of Habitats and Species Regulations (as amended)<sup>9</sup> Development likely to have significant effects on an international site (either individually or in combination with other plans or projects) and which would affect the integrity of the site ~~will be subject to Habitat Regulations Assessment and~~ will not be permitted unless the council is satisfied that:

- i) There is no alternative solution (which can be adequately demonstrated by the developer); and
- ii) There are imperative reasons of overriding public health or public safety for the development; and
- iii) Adequate ~~mitigation measures and/or~~ compensatory provision is secured.

#### B. Nationally protected sites

Development proposals should avoid impacts on nationally protected sites<sup>10</sup>. Development proposals likely to have an adverse effect on the site's<sup>1</sup> notified special interest features will not be permitted ~~unless~~ the only exception is if:

- i) \_\_\_\_\_ the benefits of the development, at this site, clearly outweigh both the likely impact to notified features on the site and any broader impacts on the network of nationally protected sites; and
- i)ii) \_\_\_\_\_ the ~~loss impacts~~ can be mitigated in accordance with the mitigation hierarchy; and through on or off-site habitat creation to achieve a net gain in biodiversity/ geodiversity.

<sup>8</sup> Remaining features includes those retained in situ, translocated and/or provided to compensate for lost features.

<sup>9</sup> The Conservation of Habitats and Species Regulations 2017 (as amended).

<sup>10</sup> Development likely to have a significant effect on nationally protected sites will be required to assess the impact by means of an Environmental Impact Assessment.

~~ii)iii) on or off site additional measurable net gains in biodiversity/geodiversity can be achieved.~~

Development likely to have a significant effect on nationally protected sites will be required to assess the impact by means of an Environmental Impact Assessment.

### C. Locally protected sites

~~Unless allocated for development in the City Plan, D~~ development proposals that will result in an adverse effect on the integrity of any local site **which cannot be either avoided or adequately mitigated** will not be permitted, unless<sup>11</sup>:

- i) ~~the site is allocated for development in the City Plan or there are exceptional circumstances that justify the development of the site and can be demonstrated to outweigh~~ing the adverse effects on the local designation ~~are clearly demonstrated~~; and
- ii) ~~the impacts~~loss can be mitigated through on or off-site habitat creation; ~~and to achieve a net gain in biodiversity/geodiversity.~~
- ~~ii)iii) on or off site additional measurable net gains in biodiversity/geodiversity can be achieved.~~

~~Development proposals considered to have a significant effect on local sites will be required to assess the impact by means of an Ecological Impact Assessment.~~

~~Proposals liable to affect green infrastructure and nature conservation features either directly or indirectly must be supported by an appropriate and detailed site investigation/ assessment and accord with provisions set out in the mitigation hierarchy<sup>12</sup>. Measures to avoid or prevent harmful effects will be required. Where proposals are liable to cause direct or indirect harm to a designated site, they must provide: evidence to demonstrate that the objectives of the designation and integrity of the area will not be undermined; funded management plans that secure the long term protection and~~

<sup>11</sup> ~~Development proposals considered to have a significant effect on local sites will be required to assess the impact by means of an Ecological Impact Assessment.~~

<sup>12</sup> ~~The "mitigation hierarchy" is set out in the Biodiversity — code of practice for Planning and Development and the British standard for Biodiversity management (BS42020) 2013. In essence it seeks avoidance of harm; then mitigation; then compensation alongside new benefits for wildlife.~~

~~enhancement of remaining features<sup>13</sup>; and  
up-to-date information about the biodiversity/goodiversity which may be  
affected and how loss can be mitigated to achieve measurable net gains.~~

## Supporting Text

2.275 The natural environment is critical to all living things. Its conservation and enhancement also brings about social and economic benefits and it can support climate resilience in built up urban areas. A development proposal's impact upon the natural environment must be considered early in the design process, including cumulative [and in-combination](#) impacts and impacts upon the wider environment. Applicants must properly assess the harmful effects of their proposals on the natural environment/natural capital<sup>14</sup>, seek to minimise the impact and give full consideration to achieving biodiversity net gains, in particular to species and habitats of ~~particular~~ [principal](#) importance (formerly known as BAP habitats) and the value of incorporating appropriate green infrastructure solutions into the design (see also Policies DM22 Landscape Design and Trees, DM1 Housing Quality, Choice and Mix, DM43 Sustainable Drainage and City Plan Part One policies, CP8 Sustainable Buildings, CP10 Biodiversity, CP16 Open Space and CP17 Sports Provision).

2.276 Green infrastructure is a multi-functional and connected network of predominantly green spaces, water and other environmental features in urban and rural areas that delivers a wide range of environmental, social, economic benefits and quality of life benefits. It can help strengthen climate change resilience, health and well-being of communities, economic vibrancy, and, provide habitats and wildlife corridors as well as urban cooling. Green infrastructure is a fundamental part of sustainable development and the city plan is committed to ensuring that new development protects and enhances a network that is vital to the future of Brighton and Hove. A Natural Capital Investment Strategy for Sussex [2019](#)<sup>15</sup> ~~is being prepared which when adopted~~ will guide the implementation of this policy.

2.277 In Brighton & Hove the key spatial backbone/framework for green infrastructure is formed by the South Downs Way Ahead Nature Improvement Area (NIA) which includes the City's Green Network<sup>16</sup> along with other identified open

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~~<sup>13</sup> Remaining features includes those retained in-situ, translocated and/or provided to compensate for lost features.~~

<sup>14</sup> Natural Capital is the world's stocks of natural assets which include geology, soil, air, water and all living things. It is from this Natural Capital that humans derive a wide range of services, often called ecosystem services, which make human life possible

<sup>15</sup> Sussex Local Nature Partnership 'Natural Capital Investment Strategy for Sussex'

<sup>16</sup> The South Downs Way Ahead Nature Improvement Area (NIA) is one of 12 NIAs that were announced by Government in February 2012. It sets a landscape scale approach to biodiversity and focuses on safeguarding endangered chalk grassland, vital for rare and endangered wildlife and the provision of clean drinking water and green space. ~~The South Downs Way Ahead Nature Improvement Area (NIA) is one of 12 NIAs that were announced by Government in February 2012. It sets a landscape scale approach to biodiversity and focuses on~~

space (including allotments, orchards and community food production spaces), designated nature conservation sites and the seafront (promenade, beach and sea) including brownfield land in urban areas and former industrial land. However, the City's green infrastructure encompasses more than this 'spatial backbone' and includes; street trees, residential gardens, green roofs/walls and landscaped/flood management areas including sustainable drainage systems (SuDS). Cycling/walking routes and manmade features designed to enhance biodiversity/recreation ([e.g.](#) bird/bat boxes and bee bricks) are also important to the overarching concept in the City.

2.278 A key element of green infrastructure is identifying, retaining and enhancing a rich ecological network. The presence of protected species is a material consideration in planning decisions. Many other species are nationally rare or vulnerable although not currently protected by law. In some cases these species have specialised habitat requirements and survive in a few, localised areas. Some habitats are irreplaceable such as ancient woodland and aged/veteran trees whilst the City's remaining population of elm trees (known as the 'National Elm collection') is nationally important. The council considers that species and habitats that are protected, rare or vulnerable should be conserved, with appropriate buffer strips, as part of the development management process. The opportunity for nature recovery networks should be considered in accordance with the emerging Nature Capital Investment Strategy for Sussex and future Local Nature Recovery Strategies, [which will become a requirement under the forthcoming Environment Act](#). Any invasive non-native species should be removed in accordance with legislation [and best practice guidance](#) (see also DM40 Protection of the Environment and Health – Pollution and Nuisance).

2.279 The council will continue to work with the Brighton and Lewes Downs UNESCO Biosphere partners, including the South Downs National Park Authority and other surrounding authorities, to secure a landscape scale approach to biodiversity and green infrastructure [as recommended by People and Nature Network \(PANN\) 2020, which builds upon the Sussex Natural Capital Investment Strategy](#).

2.280 Proposals must assess potential impacts on, nature conservation features (which includes geodiversity) ([see paragraph 2.282](#)). This may require an ecological/geodiversity survey and reference to previous surveys, where appropriate. Proposals which may affect protected or rare species, within or outside a designated

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~~safeguarding endangered chalk grassland, vital for rare and endangered wildlife and the provision of clean drinking water and green space~~

site, must be fully informed by expert survey and advice<sup>17</sup>. Appropriate regard should be given to current and historical data, regeneration/repopulation potential, species' adaptability to climate change, irreplaceability of habitats, the significance of the site for the connectivity of habitats and species, and, where possible an assessment of 'natural capital'. Proposals will be expected to have taken into account the advice provided in SPD11 'Nature Conservation and Development', SPD06 'Trees and Development Sites' and any subsequent detailed guidance.

2.281 When applying this policy, regard will be given to the achievement of national and local Biodiversity Action Plan (BAP) Targets<sup>18</sup>. Enhancement opportunities should focus on habitats and species of principal importance - Brighton & Hove's local BAP habitats (e.g chalk grassland) and priority species (e.g. swifts, peregrines, house sparrows, starlings, white-letter hairstreaks, hornet robberfly etc.). Strong consideration should also be given to the protection of native species, and provision of roosting/nesting boxes for bat/birds (including swifts, house martins and swallows), gaps/holes at ground level in boundaries for hedgehogs, biodiverse roofs and walls, and, appropriate innovative and creative measures. All new build, refurbishment, and renovation schemes should incorporate swift boxes and bee bricks where possible ensuring their installation follows best practice guidance [including local guidance set out in the Guidance Note for Provision of Swift Boxes in New Development, 2020](#). SPD11 Nature Conservation and Development will be updated and will refer to a range of other low-cost nature conservation features that can be secured through new development.

2.282 Any proposal affecting nature conservation features and/or designated sites should include a nature conservation/ecological report which demonstrates evidence of working within the mitigation hierarchy (avoid, mitigate and as a last resort compensate) any losses and identifies opportunities to enhance the nature conservation value of the site. Ecological reports should be produced in line with the British Standard on biodiversity ~~management~~ [in planning and development](#) BS42020:2013 and CIEEM Technical Guidance (and subsequent revisions). Reports should include evidence that they have followed the mitigation hierarchy set out in BS42020 which seeks as a preference to avoid impacts, then to mitigate unavoidable impacts, and, as a last resort, to compensate for unavoidable residual impacts that remain after avoidance and mitigation measures. Mitigation should be provided on site whenever possible. The LPA will only consider off-site compensation as a last resort where all on-site options have been fully explored. Avoidance, mitigation, compensatory and enhancement measures will be secured

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<sup>17</sup> The Sussex Biodiversity Record Centre (Woods Mill, Henfield) is the principal source of up-to-date desktop biodiversity information. The Booth Museum (Dyke Road, Brighton) [may](#) also hold [additional](#) data, [specifically regarding geodiversity](#) that may be relevant for nature conservation surveys.

<sup>18</sup> Brighton & Hove Local Biodiversity Action Plan (2013) or any subsequent updates.

through planning conditions or planning obligations. This includes a need to undertake a full life cycle analyses of developments including the impact of construction and materials over the long term). Alongside this, opportunities should be explored to provide new benefits for wildlife [to deliver measurable biodiversity net gains](#). Opportunities to deliver higher carbon dioxide savings through greater passive design, fabric and energy efficiency measures and low and zero carbon technologies will also be required (see CP8 Sustainable Buildings and DM4.3.4 Energy Efficiency and Renewables). [Nature-based solutions to carbon storage and sequestration should also be sought](#).

[In addition to any measures required to mitigate impacts, net gains in biodiversity should also be achieved. Biodiversity net gain should be delivered on site where possible, or off site as appropriate and should still be secured where proposals have negligible or no adverse impacts on biodiversity. The Sussex Local Nature Partnership \(LNP\) has an ambition to achieve a 20% target for biodiversity net gain from developments. The council will work with the LNP to bring forward evidence to support this target. The updated SPD will also address biodiversity net gain and include examples of achievable targets.](#)

[In relation to Part C of the policy, examples of exceptional circumstances include development required in relation to flood defences or coastal management, key infrastructure that meets the wider needs of the city, and transport related infrastructure. Where land within locally designated sites is subject to an allocation for development in the City Plan<sup>19</sup>, it is considered that the exceptional circumstances required under section C i\) of the policy have been demonstrated specifically through the examination and adoption of the City Plan Part One and the need to plan positively for housing within the context of a significant citywide housing shortfall. However, any development proposals on these sites will still be required to meet the requirements under section C ii\) and C iii\) for mitigation and net gain in biodiversity/geodiversity as well as requirements relating to ecological assessment.](#)

### **Designated Sites:**

**2.283 International/ European Sites:** These include Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Ramsar Sites. There are currently no sites of International or European importance for nature conservation within the City Plan area. However, Castle Hill is designated a Special Area of Conservation (SAC) and lies within the South Downs National Park and the administrative area of the city council [and there are several designated European sites \(SPAs and SACs\) elsewhere within East and West Sussex](#). ~~Large scale development within the City Plan area may still detrimentally affect the SAC by reason of additional pressure~~

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<sup>19</sup> This applies to a small number of housing sites allocated in Policy H2 and one site allocated in Policy H1.



~~from visitors and traffic.~~ [As part of the preparation of the City Plan Part Two, the council has undertaken a Habitats Regulation Assessment which concluded that the development proposed in the plan will not have significant adverse impacts on any designated European sites within 20km of the plan area boundary.](#)

**2.284 National Sites:** These include National Nature Reserves (NNRs) and Sites of Special Scientific Interest (SSSIs), both of which are designated by Natural England. There is one Site of Special Scientific Interest (SSSIs): Brighton to Newhaven Cliffs which lies partly within the City Plan area. There are currently no National Nature Reserves (NNRs) within the City Plan area. However there is both a designated NNR and SSSI at Castle Hill. Therefore, similar to the SAC, care is needed to ensure they are not affected by detrimental impacts from development within the City Plan area. [National sites also include Marine Conservation Zones \(MCZ\), designated through the Marine and Coastal Access Act 2009. The Beachy Head West MCZ lies partly within the City Plan area.](#)

**2.285 Local sites:** Locally important sites include locally designated wildlife or geological sites; [local geological sites](#) (LG~~ee~~S - formerly called Regionally Important Geological and Geomorphological Sites (RIGGS)) of regional significance, local wildlife sites (LWS) and local nature reserve (LNRs).

**2.286** There are currently 6 Local Nature Reserves<sup>20</sup> that lie in part or wholly within the City Plan area. These are:

- Bevendean Downland
- Ladies Mile
- Withdean Woods and Westdene Woodlands
- Whitehawk Hill
- Wild Park/Hollingbury
- Beacon Hill (majority lies within the National Park)

**2.287** There are 51 Local Wildlife Sites and 1 candidate Local Wildlife Site within the City Plan area<sup>21</sup> these are listed in Appendix 3 (as assessed in the 2017 LWS Review Report and updated in February 2020 following consultation with landowners).

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<sup>20</sup> Benfield Hill and Stanmer and Coldean LNR lie wholly within the National Park and are covered by policies in the adopted [South Downs Local Plan](#).

<sup>21</sup> There are 36 LWS that lie within the administrative area of Brighton & Hove City Council that lie within the National Park and are covered by policies in the adopted South Downs Local Plan

2.288 There are three Local Geological Sites within the City Plan area<sup>22</sup>, these are listed below (nb the first two adjoin one another):

- Black Rock, Brighton - (Sussex RIGS number: TQ30/236) (forms part of Brighton to Newhaven Cliffs SSSI Geological Site)
- Coastal Section, Friar's Bay to Black Rock Marina - (Sussex RIGS number: TQ40/174) (forms part of Brighton to Newhaven Cliffs SSSI Geological Site)
- The Goldstone, Hove Park – (Sussex RIGS number: TQ20/121) (Large sarsen about 2x3m set up on end in concrete and surrounded by 10 smaller stones) Grid ref: TQ286060

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<sup>22</sup> A fourth Local Geological Site within the administrative area of Brighton & Hove City Council – Stanmer Village TQ30/135 lies within the South Downs National park and is covered by policies in the adopted South Downs Local Plan.

