

Our Pendle Our Future



Biodiversity Duty First Consideration December 2023

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1. Introduction

- 1.1 The [Environment Act 2021](#) received royal assent on 9 November 2021. It creates the legal framework to improve and protect the natural environment.
- 1.2 The [Environmental Improvement Plan 2023](#) is the first revision of the [25 Year Environment Plan](#), which was published in January 2018. It sets out a vision for action to help the natural world regain and retain good health. It sets out how the government will work with landowners, communities and businesses to improve nature by halting the decline in biodiversity and establishes interim targets to help measure progress.
- 1.3 The emerging [Local Nature Recovery Strategy](#) for Lancashire, and requirements for new development to deliver [Biodiversity Net Gain](#) should be seen in this context.
- 1.4 The ‘general biodiversity objective’ was introduced by [Section 40\(1\) of the Natural Environment and Rural Communities Act 2006](#) (the NERC Act). It required all local authorities and other public bodies to “*conserve biodiversity*” in the exercise of their functions.
- 1.5 [Section 102 of the Environment Act 2021](#) expanded the general biodiversity objective and introduced legal obligations on reporting. Local authorities must now consider what action can properly be taken to further “*the conservation and enhancement of biodiversity.*” The first such consideration must be undertaken by 1st January 2024.

2. Considering the Biodiversity Duty

Legislation

- 2.1 [The NERC Act, as amended](#) states that actions which may be taken by the local authority to further the general biodiversity objective include:
- (a) conserving, restoring or otherwise enhancing a population of a particular species, and
 - (b) conserving, restoring or otherwise enhancing a particular type of habitat.
- 2.2 Section 102 (3) (1) of the Environment Act 2021 states that:
- A public authority which has any functions exercisable in relation to England must from time to time **consider** what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.*

Reporting

- 2.3 Primary legislation requires the detailed consideration of actions taken to conserve and enhance biodiversity to address:
- Current policies, objectives, and actions.
 - Future actions over a period of five years from the end of the reporting period.
- 2.4 On 17th May 2023, the Department for Environment, Food and Rural Affairs (DEFRA) issued further guidance on how to approach the consideration of actions taken to conserve and enhance biodiversity. The guidance comes in two parts:
- [Complying with the biodiversity duty](#)
 - [Reporting your biodiversity duty actions](#)
- 2.5 The DEFRA guidance states that there “must” also be a consideration of how the organisation complies with the following “relevant strategies”, which were introduced by the Environment Act 2021:
- [Local Nature Recovery Strategies \(LNRS\)](#)
 - [Species conservation strategies](#)
 - [Protected site strategies](#)

- 2.6 The consideration must show an understanding of:
- How they are relevant to the organisation
 - How they affect land that the Council owns or manages, and appropriate actions to conserve and enhance biodiversity
 - How to contribute to the strategy, where appropriate
- 2.7 The Pendle report also considers the actions taken in 2023 relating to the introduction of the mandatory requirement for developers to deliver a minimum net gain of 10% for biodiversity. This means that new development will result in more or better-quality natural habitat than there was before development took place.

First Consideration

- 2.8 This report is the first consideration of the extent to which Pendle Borough Council, is meeting its commitment to further the general biodiversity objective, when exercising its functions. It covers the five-year period from 1st January 2024 to 1st January 2029. Future reports will also employ a base date of 1st January, and be published as soon as possible after the base date, allowing for any internal reporting procedures.
- 2.9 In response to its consideration of the actions it carries out to conserve and enhance biodiversity, a local authority can conclude:
1. There is no further action it can properly take.
 2. Further action could be taken.
- 2.10 Where it is concluded that further action could be taken to conserve and enhance biodiversity, s40 1(A) of the NERC Act, as amended states that the relevant public bodies “must”:
- (a) Determine such policies and specific objectives as it considers appropriate for taking action to further the general biodiversity objective, and
 - (b) Take such action as it considers appropriate, in the light of those policies and objectives, to further that objective.
- 2.11 The framework outlined above provides the basis for the following table, which explains how Pendle Borough Council is currently meeting the general biodiversity objective and the requirements in reporting on the Biodiversity Duty.

Issue	Action(s)	Completion Date	Responsible Officer(s)
Lancashire Local Nature Recovery Strategy (LNRS)	Participate in the production of the LNRS, alongside other local and unitary authorities. Formally adopt the LNRS once it has been published by Lancashire County Council, who are leading on its preparation. Ensure conformity with the Pendle Biodiversity and Climate Change Action Plan(s), as appropriate.	July 2025 TBC	NW SAW
Development Management	Implement BNG requirements into planning decisions, as required by the Environment Act 2021.	January 2024	NW
Development Management	Appoint the Greater Manchester Ecology Unit (GMEU) to offer specialist advice on applications where biodiversity is a significant issue.	January 2024	NW
Development Management	Prepare BNG Guide for use by applicants and offer pre-application advice as necessary. Update the guidance as necessary.	January 2024	NW
Development Management	Revise validation requirements to take account of BNG	February 2024	NW
Pendle Local Plan Fourth Edition	Take the Local Plan through to adoption in 2025, incorporating strong support for the enhancement of biodiversity in the spatial vision, key objectives, strategic planning and development management policies.	December 2026	NW
Committee Reports	Revise committee report template to ensure biodiversity is considered and enhanced as part of decision making	April 2024	PS / JW
Council Estate	Establish a baseline value for biodiversity on the main areas of council owned land and consider how to enhance its biodiversity value going forward. Ecological assessments are already being carried out on the Council's principal and holdings.	January 2024	NW / DW

Issue	Action(s)	Completion Date	Responsible Officer(s)
Council Estate	Consider the opportunities for BNG across the Council's estate, including both land and premises.	June 2024	
Council Estate	Consider the practicality and viability of using Council owned land for offsite biodiversity credits to be used by developers not able to provide BNG on their own sites in accordance with the mitigation hierarchy.	June 2024	
Council Estate	Gib Hill – formally designate as a Local Nature Reserve and enhance its biodiversity value.,	April 2027	PR / SM
Grounds Maintenance Programme	Where practical and possible extend the differential mowing regime to additional sites, should public feedback and an assessment of the benefits for biodiversity support this.	TBC	PR
Development Projects	Council and joint venture development schemes to use the Biodiversity Net Gain: Good Practice Principles for Development prepared jointly by the Chartered Institute of Ecology and Environmental Management (CIEEM), the Institute of Environmental Management and Assessment (IEMA) and the Construction Industry Research and Information Association (CIRIA).	June 2024	PS
Training	Offer training to council officers and councillors on the requirements of Biodiversity Net Gain.	April 2024	NW
Funding	Identify internal and external funding opportunities, which may contribute towards the enhancement of biodiversity in the Borough.	Ongoing	GD
Promotion	Promote a better understanding of BNG and the opportunities for commercial enterprises with large sites and/or land holdings in the	Ongoing	PS / AB

Issue	Action(s)	Completion Date	Responsible Officer(s)
	borough, voluntary groups etc. to become involved. Celebrate local success stories.		
Reporting	Provide greater public transparency through the publication of reports confirming how the Council is meeting its general biodiversity objective in line with the national reporting requirements.	April 2025	NW / GD
Parks	Trees and woodland enhancement strategies?? Review the Management Plans for the various municipal parks?	TBC	PR
Biodiversity Emergency	Pendle Council to declare a Biodiversity Emergency.	TBC	PS / GD
Biodiversity Working Group	Establish a working group of officers and councillors to help drive forward a strategy and strategic objectives for enhancing biodiversity.	TBC	PS / GD
Lancashire 2050	Contribute to the preparation and adoption of this long-term strategic plan with a shared vision, shared ambition, shared goals and shared priorities, which has wider environmental objectives.	April 2025	RR

Key to Officers:

RR – Rose Rouse PS – Phillip Spurr NW – Neil Watson DW – David Walker SAW – Sarah Astin-Wood JW – Jane Watson PR – Phil Riley
 IB – Iftikhar Bokhari GD – Gill Dickson RG – Ryan Gifford SM – Steve Maartens AB – Alice Barnett

Biodiversity Report

- 2.12 A further requirement of the Environment Act 2021 is the need to publish a Biodiversity Report. In addition to considering what could be done to further the general biodiversity objective, this also reports back on actions that have already been taken.
- 2.13 The end of the first reporting period is 1st January 2026. The end date for each subsequent reporting period must be within 5 years of the end date of the previous reporting period.
- 2.14 The Biodiversity Report must include:
- a summary of the action taken to comply with the biodiversity duty;
 - how the LPA plans to comply with the biodiversity duty in the next reporting period; and
 - any other information considered appropriate.
- 2.15 Reports prepared by a local planning authority (LPA) must also include:
- a summary of the actions carried out to meet Biodiversity Net Gain (BNG) obligations;
 - details of the net gains in biodiversity resulting, or expected to result, from BNG Plans approved by the LPA as part of planning applications; and
 - a summary of how the LPA plans to meet BNG in the next reporting period.

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