

**Test Valley Revised Local Plan DPD
2011 – 2029
Regulation 22 – Submission to
Secretary of State**

**Policy E5:
Biodiversity Topic Paper**

June 2014

REVISED LOCAL PLAN

TOPIC PAPER – POLICY E5 BIODIVERSITY

1 Introduction

- 1.1 The purpose of this paper is to provide background justification to the inclusion of the biodiversity policy within the Test Valley Revised Local Plan.
- 1.2 Test Valley has a diverse and high quality environment, incorporating a range of sites of ecological value, including a number that are of international importance. There is a legal obligation for public bodies to have regard ‘*to the purpose of conserving biodiversity*’ through the Natural Environment and Rural Communities (NERC) Act 2006. Therefore, the Revised Local Plan has a role in fulfilling this responsibility and seeking to conserve the biodiversity within the Borough.

2 Policy Context

- 2.1 There is a substantial amount of legislation in place that informs the approach to biodiversity, with a greater focus on designated sites and protected species. This includes the Conservation of Habitats and Species Regulations (2010) (as amended), which establishes the approach to international designations and protected species. The details of legislation have not been repeated below, but have been taken into account in developing the approach to biodiversity within the Revised Local Plan.
- 2.2 The Natural Environment White Paper ‘The Natural Choice’¹ highlights the importance of considering nature in all decision making. It recognises the importance of ecosystems and ecological networks, providing the framework for Local Nature Partnerships and Nature Improvement Areas. Following on from this, a new Biodiversity Strategy² was published. This notes the importance of a landscape scale approach to biodiversity.
- 2.3 The National Planning Policy Framework³ (NPPF) sets out the role of planning in promoting sustainable development, recognising social, economic and environmental dimensions. The conservation and enhancement of the natural environment falls within the core planning principles of the NPPF (paragraph 17), with further guidance provided in section 11. Paragraph 109 highlights that impacts on biodiversity should be minimised, with net gains being sought where possible. The Government’s commitment to halting the overall decline in biodiversity is also recognised.
- 2.4 Paragraph 113 of the NPPF establishes that criteria based policies should be provided by local planning authorities to provide a framework to assess

¹ The Natural Choice: Securing the Value of Nature, HM Government, 2011.

² Biodiversity 2020: A strategy for England’s wildlife and ecosystem services, DEFRA, 2011.

³ National Planning Policy Framework, Department for Communities and Local Government, 2012.

proposals against that have the potential to affect protected wildlife and geodiversity. The hierarchy of importance of designations needs to be recognised in terms of the level of protection provided and their role as part of a wider ecological network. Paragraph 114 also highlights that local plans should plan positively for networks of biodiversity.

- 2.5 Paragraph 117 of the NPPF provides further advice on the content of planning policies on biodiversity and geodiversity⁴, with paragraph 118 guiding the determination of planning applications in relation to biodiversity considerations. There is also cross over with other key issues throughout the NPPF. For example, paragraph 99 recognises the need to take account of the implications for biodiversity as a result of climate changes over the longer term.
- 2.6 The National Planning Practice Guidance (NPPG) includes a section on the natural environment, which incorporates biodiversity and ecosystems. Paragraph 8⁵ recognises that local plans should seek to deliver a strategic approach to the protection and improvement of the natural environment, accounting for local priorities, and consider opportunities for specific proposals to enhance biodiversity and contribute to habitat and wildlife connectivity. Paragraphs 18 to 20⁶ provide advice in relation to the mitigation hierarchy, as discussed in paragraph 118 of the NPPF (i.e. avoidance, mitigation, compensation). Guidance on other topics, such as air quality and climate change, also note the importance of considering biodiversity and potential indirect effects on it.
- 2.7 More local information on biodiversity assets is available through the Hampshire⁷ and Test Valley⁸ Biodiversity Action Plans. These documents provide background information on biodiversity within the locality, including specific species and habitats, as well as providing action plans seeking to conserve and enhance biodiversity.

3 Revised Local Plan

- 3.1 In preparing a policy on biodiversity for the Revised Local Plan, regard was had to the content of national guidance, including the matters the NPPF advised were covered. In addition, the Council sought the advice on Natural England in the preparation of the policy. This included discussion on the specific wording.
- 3.2 Given the range of habitats and species within the Borough, some of which are subject to designations, and the need to conserve and enhance ecological networks, the policy needed to provide a general framework that can be

⁴ Note: There are no Nature Improvement Areas within Test Valley.

⁵ Reference ID: 8-008-20140306.

⁶ Reference ID: 8-018-20140306, 8-019-20140306 and 8-020-20140306.

⁷ Biodiversity Action Plan for Hampshire, Hampshire Biodiversity Partnership, 1998 (available at: <http://www3.hants.gov.uk/hampshirebiodiversity/hants-bap.htm>).

⁸ Biodiversity Action Plan for Test Valley, Test Valley Borough Council, 2008 (available: <http://www.testvalley.gov.uk/aboutyourcouncil/corporatedirection/environmentandsustainability/bap/>).

applied proportionally to the importance of the features under consideration. It was not considered to be necessary to have a series of policies for different features or designations, as the broad approach to considering biodiversity assets is broadly the same.

- 3.3 In relation to European nature conservation designations, the supporting text was considered to be the appropriate place to provide further elaboration on key issues that need to be considered to ensure that the policy would remain fit for purpose, in case guidance or evidence base updates result in a change in position. However, it was considered to be essential for the policy to specifically recognise the requirements of the Conservation of Habitats and Species Regulations given the number of designations within and in close proximity to the Borough. This provides a way to raise awareness of the requirements to potential applicants, without duplicating the legislation.
- 3.4 The geodiversity (geological diversity) and number of sites designated in relation to their geological interest is substantially lower than is the case for biodiversity. However, this matter needed to be covered in the policy in line with national guidance and through discussions with Natural England.
- 3.5 Through consultation, the wording of the policy has been refined. For example, as a result of representations received the policy wording in relation to European nature conservation designations was amended to include specific reference to potential effects that may occur as a result of the development 'either alone or in-combination'.
- 3.6 Where proposals have the potential to have an adverse effect on biodiversity, the mitigation hierarchy (see paragraph 2.6) is important in providing a clear approach to how such effects will be assessed. It was considered beneficial to provide a flow diagram in conjunction with the supporting text to clarify how this will be applied.

4 Proposed Way Forward

- 4.1 In light of the requirements of legislation and national guidance, the Council has proposed a single policy seeking to provide a framework for the consideration of biodiversity and geodiversity. The starting point is for proposals that conserve and enhance biodiversity to be considered favourably, whilst providing a framework for proposals that have the potential to cause harm to habitats and species. It also seeks to ensure that the approach to biodiversity is proportionate to the importance of assets that could be affected by proposals.
- 4.2 The proposed policy wording is replicated below. It is considered to conform with the requirements of national guidance on this topic. Natural England made no comments on this policy as part of the Regulation 19 (pre-submission) consultation.

Policy E5: Biodiversity

Development that will conserve, restore and enhance biodiversity in the Borough will be permitted.

Development that is likely to result in a significant effect, either alone or in combination, on an international or European nature conservation designation, or a site proposed for such designation, will need to satisfy the requirements of the Habitat Regulations⁹.

Development likely to result in the loss, deterioration or harm to habitats or species of importance to biodiversity or geological conservation interests, either directly or indirectly, will not be permitted unless:

- a) the need for, and benefits of, the development in the proposed location outweighs the adverse effect on the relevant biodiversity interest;
- b) it can be demonstrated that it could not reasonably be located on an alternative site that would result in less or no harm to the biodiversity interests; and
- c) measures can be provided (and secured through planning conditions or legal agreements), that would avoid, mitigate against or, as a last resort, compensate for the adverse effects likely to result from development.

The habitats and species of importance to biodiversity and sites of geological interest considered in relation to points a) to c) comprise:

- Sites of Special Scientific Interest (SSSIs);
- legally protected species;
- Sites of Importance for Nature Conservation (SINCs) and Local Nature Reserves (LNRs);
- priority habitats and species listed in the national and local Biodiversity Action Plans¹⁰;
- habitats and species of principal importance for the conservation of biodiversity in England¹¹;
- trees, woodlands, ancient woodland (including semi-natural and replanted woodland), aged and veteran trees, and hedgerows; and
- features of the landscape that function as 'stepping stones' or form part of a wider network of sites by virtue of their coherent ecological structure or function or are of importance for the migration, dispersal and genetic exchange of wild species.

The level of protection and mitigation should be proportionate to the status of the habitat or species and its importance individually and as part of a wider network.

⁹ Sections 61 and 62 of the Conservation of Habitats and Species Regulations 2010 and subsequent amendments.

¹⁰ This includes the Hampshire Biodiversity Action Plan and Test Valley Biodiversity Action Plan.

¹¹ See Sections 40 and 41 of the Natural Environment and Rural Communities Act 2006 (the NERC Act)