



Council Offices, Kiln Road,
Thundersley, Benfleet,
Essex SS7 1TF.
Tel. No: 01268 882200



CABINET AGENDA

Date: Wednesday 20th December 2023

Time: 7.15pm or on the rising of Special
Council NB Time

Venue: Council Chamber

This meeting will be webcast live on the internet.

Membership:

Councillor Blackwell	Chairman - Leader of the Council
Councillor W. Gibson	Strategic Planning (Deputy Leader of the Council)
Councillor Fuller	Environment
Councillor T . Gibson	Special Projects & Assets
Councillor Mountford	Resources
Councillor Palmer	Economic Growth & Climate Action
Councillor Mrs Sach	Health Wellbeing & Housing
Councillor Savage	People & Community

Cabinet Enquiries:

Ann Horgan ext. 2413

ahorgan@castlepoint.gov.uk

Reference:

6/2023/2024

Publication Date:

Tuesday 12th December 2023

AGENDA
PART I
(Business to be taken in public)

- 1. Apologies**
- 2. Members' Interests**
- 3. Minutes**
To approve the Minutes of the Cabinet meeting held on 15th November 2023.
- 4. Biodiversity Net Gain SPD – Consultation**
(*Report of the Cabinet Member Strategic Planning*)
- 5. Essex Parking Guidance Consultation 2023**
(*Report of the Cabinet Member Strategic Planning*)
- 6. Corporate Performance Scorecard Quarter 2**
(*Report of the Cabinet Member Resources*)
- 7. The Paddocks - Update on Progress of Refurbishment Works**
(*Report of the Leader of the Council Cabinet Members Resources, Environment*)
- 8 . Business Support Update**
(*Report of the Cabinet Member Economic Growth & Climate Action*)
- 9. Transforming Together – The Council's Programme Modernisation Programme Update**
(*Report of the Leader of the Council , Cabinet Member Resources*)
- 10. New Constitution Report and Recommendations from Scrutiny Committee**
(*Report of the Leader of the Council*)
- 11. Unauthorised Encampment Conference Update**
(*Report of the Cabinet Member People & Community*)
To be provided at the meeting.
- 12. Matters to be referred from /to the Standing Committees**
There are none.
- 13. Matters to be referred from /to Policy & Scrutiny Committees**
Items 4 & 10 refer.
Leader is to request Place and Communities Policy & Scrutiny Committee to review our approach to promoting tourism opportunities in Castle Point and make recommendations back to Cabinet on what we should do as a Council and in partnership with others to improve the promotion of the local tourism offer and support local businesses in the tourism and leisure sectors.

PART 2
(Business to be taken in private)
(Item to be considered with the press and public excluded from the meeting)

There was none known at the time of publication of the agenda.

INFORMATION
(which does not form part of the agenda but is published with the agenda)

December Forward Plan - Is attached, it does not form part of the again. The Forward Plan contains details of key decisions likely to be required in the next three months.



CABINET



15th NOVEMBER 2023

PRESENT:

Councillor Blackwell	Chairman – Leader of the Council
Councillor W. Gibson	Strategic Planning
Councillor Fuller	Environment
Councillor Mountford	Resources
Councillor Palmer	Economic Growth & Climate Action
Councillor Sach	Health Wellbeing & Housing
Councillor Savage	People & Community

APOLOGIES: Councillor T. Gibson

ALSO PRESENT:

Councillors Acott, Benson, Campagna, Dearson, Howlett and Jones.

MEMBERS QUESTIONS

No notice had been given.

46. MEMBERS' INTERESTS:

Cllr Fuller declared a non-pecuniary interest under Minute 53 Item 9 LTA funding Offer to Improve Tennis Courts at King George V Recreation Ground – Request for Council Contribution, by reason of his membership of Hadleigh Park Lawn Tennis Club, Benfleet.

47. MINUTES

The Minutes of the Cabinet meeting held on 18th October 2023, were approved and signed as a correct record.

48. COMMUNITY INFRASTRUCTURE LEVY (CIL) GOVERNANCE ARRANGEMENTS

Cabinet considered a report setting out for agreement the governance arrangements for spending Community Infrastructure Levy (CIL) receipts in future years.

The Scrutiny Committee had been tasked by Council to review the proposed governance arrangements and agree the recommendations presented to Cabinet. The recommendations from the Committee had been incorporated into the arrangements before Cabinet. These included greater Member engagement with the Scrutiny Committee having two opportunities to input into the spending plan before presentation to Cabinet for sign-off each Autumn; and wider engagement with community organisations serving the elderly and young people, and groups engaged in more niche activities in developing the spending plan.

Resolved:

1. To agree the Governance Arrangements for the spending of CIL receipts as set out in Appendix 1 of this report.

2. To authorise the establishment of the CIL Technical Advisory Group, for the purpose of providing a technical steer on the CIL Spending Plan.
3. To note that initial engagement with infrastructure providers will occur at the beginning of 2024 to inform the CIL Spending Plan for 2025/26 – 2028/29.

49. BUDGET AND POLICY FRAMEWORK FOR 2024/25

Cabinet considered the report setting out the proposed Budget and Policy Framework for 2024/25 taking account of the requirements of the Constitution, the Financial Planning Strategy and statutory requirements for calculating the budget requirement and setting the Council Tax.

Resolved:

To approve the proposed Budget and Policy Framework for 2024/25.

50. COUNCIL TAX REDUCTION SCHEME & EXCEPTIONAL HARDSHIP FUND SCHEME 2024/25

Cabinet considered a report providing an update on the 2023/24 Council Tax Reduction (CTR) and Exceptional Hardship Fund (EHF) schemes and recommending the proposed CTR and EHF schemes for 2024/25.

Resolved:

1. To note the performance and spend information relating to the 2023/24 CTR scheme (at Appendix's A, B, and C).
2. To agree to make no changes to the CTR or EHF schemes for 2024/25 and recommend to Full Council approval for adoption from 1 April 2024.

51. FINANCIAL UPDATE

Cabinet considered the report providing Cabinet with the 2023/24 forecast outturn position in respect of the General Fund (GF) and Housing Revenue Account (HRA) as at the second quarter stage. These were detailed at paragraphs 5,6,7and 8 of the report.

Cabinet was asked to approve a capital scheme of £81k to fund the cost to replace the pool hoists at the Council's leisure Centres at Runnymede and Waterside Farm.

(Under this item Councillor Mountford provided an update on the successful Fireworks event that took place on Saturday, 4th November which had made a small profit of £210 in contrast to previous events.)

Resolved:

1. To note the GF Revenue 2023/24 forecast outturn position as at the second quarter stage, an underspend of £812k.
2. To note the GF Capital 2023/24 forecast outturn position as at the second quarter stage, an underspend of £395k.
3. To note the HRA Revenue 2023/24 forecast outturn position as at the second quarter stage, an overspend of £232k.

4. To note the HRA Capital 2023/24 forecast outturn position as at the second quarter stage, a balanced position.
5. To agree a new capital scheme for £81k in relation to pool hoists, with payments approval in the 2024/25 budget, as detailed in paragraphs 6.4 to 6.6.

52. AUTHORITY TO REPRESENT THE COUNCIL

Cabinet was asked to authorise a member of the Council's Law Team employed by the Council to represent the Borough Council in proceedings before the Magistrates' Court and County Court.

Resolved:

That the following member of the Law team is authorised to appear before the Magistrates' Court and County Courts to represent the Borough Council in legal proceedings pursuant to Section 223 Local Govt Act 1972 and Section 60(2) County Courts Act 1984: -

- Hannah Blainey – Trainee Solicitor

53. LTA FUNDING OFFER TO IMPROVE TENNIS COURTS AT KING GEORGE V RECREATION GROUND – REQUEST FOR COUNCIL CONTRIBUTION

Cabinet considered a report on a request by the Lawn Tennis Association (LTA) for the Council to make a financial contribution to cover a shortfall in grant to meet the increased cost of refurbishing the tennis courts at King George V Recreation Ground so that the project can proceed.(Cabinet had accepted grant funding from the LTA of £79k at the Cabinet meeting held on 20.9.2023.)

With increased and variable costs emerging across projects nationally the LTA had needed to make challenging decisions on the allocations it was able to make to each project. As such it had advised that it needed to work closely with councils to secure additional funds and find the difference between its approved grant amount and the final total project cost. In this case it had advised that it was now able to offer a grant of £70,125 meaning that the Council would need to make a financial contribution of £15,277.42 if the project was to proceed.

Cabinet noted that despite the need for the Council to now make a financial contribution towards the works, the LTA offer still represented good value for money given the cost and quality of the proposed refurbishment of the courts.

Resolved:

To approve a draw down from reserves so that the Council can make the necessary contribution of £15,277.42 towards the cost of refurbishing the tennis courts at King George V Recreation Ground.

54. AMENDMENT TO FIXED PENALTY NOTICE FINE LEVELS FOR FLY TIPPING, LITTERING, GRAFFITI ETC.

Cabinet considered the report on amendments to the level of Fixed Penalty fines the Council can set for Fly Tipping; Waste Disposal Duty of Care; Littering and Graffiti and Fly Posting and agreed the level of penalty fine to be applied.

Resolved:

To approve the following Fixed Penalty Notice fines :

1. The fixed penalty notice fine served for the offence of Fly Tipping under section 33ZA(9)(a) of the Environmental Protection Act 1990 be raised from the current level of £400 to £1000, reducing to £600 if paid within 10 days.
2. The fixed penalty notice fine served for the offence of Waste Disposal Duty of Care 34ZA(8) of the Environmental Protection Act 1990 be raised from the current level of £300 to £600, reducing to £400 if paid within 10 days.
3. The fixed penalty notice fine served for the offence of Littering under section 88(6A)(a) of the Environmental Protection Act 1990 be raised from the current level of £150 to £500, reducing to £200 if paid within 10 days. 2
4. The fixed penalty notice fine served for the offence of Graffiti and Fly Posting under section 43A(1)(a) of the Anti-Social Behaviour Act 2003 be raised from the current level of £100 to £500, reducing to £200 if paid within 10 days.

55. DISABLED FACILITIES GRANTS POLICY AMENDMENT

Cabinet considered the report seeking the approval of Cabinet to amend the current Council Disabled Facility Grant (DFG) policy, to include the introduction of a 'fast track' process making use of discretionary powers provided to the Council under the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 to allow cases to be processed with the maximum efficiency, for the benefit of Castle Point residents requiring disabled adaptations to their homes.

Resolved:

To approve the amended Disabled Facilities Grant Policy v2.3 (November 2023) attached in Appendix 1 to the report.

56. MATTERS TO BE REFERRED FROM/TO THE STANDING COMMITTEES

There were no matters.

57. MATTERS TO BE REFERRED FROM/TO POLICY & SCRUTINY COMMITTEES -

The Scrutiny Committee had considered the CIL Governance arrangements dealt with under Minute 48 Item 4.

Chairman

AGENDA ITEM NO. 4

CABINET

20th December 2023

Subject: Biodiversity Net Gain Supplementary Planning Document

Cabinet Member: Councillor W Gibson - Strategic Planning
Councillor M Fuller - Environment

1. Purpose of Report

- 1.1 The purpose of this report is to seek Cabinet approval to undertake consultation on the draft Biodiversity Net Gain (BNG) Supplementary Planning Document (SPD) in accordance with the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning Regulations 2012.
- 1.2 This report also provides a context for how the Council could potentially deliver and monitor BNG when it reaches the delivery phase. Further decisions are likely to be required on this matter.

2. Links to Council's priorities and objectives

- 2.1 Biodiversity Net Gain (BNG) helps deliver the Council's Environment priorities as BNG will ensure that development mitigates its impacts to the Borough's natural environment, ensuring biodiversity is enhanced through development. This helps to improve the local environment and contributes towards combatting climate change in the borough.

3. Recommendations

- 3.1 The Cabinet note the outcomes of the Environment Policy and Scrutiny Committee (Appendix 3)
- 3.2 The Biodiversity Net Gain Supplementary Planning Document found in Appendix 1 is published for public consultation in accordance with the Town and Country Planning Regulations 2012 (as amended) and the consultation plan found in Appendix 2.
- 3.3 In consultation with the Leader and Deputy Leader of the Council, the Chief Executive and Director of Place and Communities are authorised to make any final amendments to the Biodiversity Net Gain Supplementary

Planning Document (Appendix 1) and the consultation materials prior to consultation.

3.4 **The outcomes of the consultation and any resultant updates to the Biodiversity Net Gain Supplementary Planning Document are reported to Cabinet. The Cabinet will be asked at that time to recommend approval of the Biodiversity Net Gain Supplementary Planning for adoption to Council in accordance with the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning Regulations 2012.**

4. Executive Summary

4.1 The Environment Act was passed into UK law in 2021. The Act was brought in to halt the decline of species by 2030 and introduces a mandatory minimum 10% biodiversity net gain within development to ensure development improves or creates new habitats for nature.

4.2 Biodiversity Net Gain (BNG) is a strategy to stop the loss of nature. It is a way to allow development of land but guaranteeing that development contributes to the recovery of nature. It is a tool that will ensure habitats for wildlife are in a better condition than they were before development, to allow flourishing of biodiversity above its existing state.

4.3 BNG has benefits to nature by protecting, enhancing and creating new local habitat networks. This also can have positive impacts to the wider community through improved open spaces and green networks, as well as providing enhancements to air quality and flood resilience, improving the borough's overall resilience to climate change.

4.4 A BNG Supplementary Planning Document (SPD) has been prepared to ensure the Council is meeting its requirements to implement BNG and providing clarity to all stakeholders about how it will be implemented within the borough. This will allow for a smoother transition when BNG becomes mandatory.

4.5 In terms of delivering BNG, Natural England have prepared a biodiversity metric which has to be completed by a competent person and submitted as part of planning applications. This will set a baseline level of biodiversity on the site and what will be required to be delivered by the development. The preference in all instances is for BNG to be delivered on development sites, however there may be instances where off-site BNG credits may be reasonable, either within the borough or as a last resort through the government's BNG statutory credit service. Where BNG is off-site the biodiversity metric includes a multiplier related to the proximity of off-site provision to the development site. The further from a development off-site provision is, the greater the level of BNG provision required.

- 4.6 BNG will be secured through a planning obligation or through conservation covenants and must be maintained for at least 30 years after the completion of habitat works.
- 4.7 Implementation of BNG raises options for the Council, such as potential to utilise Council owned land for off-site BNG and how that would work in practice. Additionally, the monitoring of BNG over a 30-year period means there is a lot to consider for the Council to ensure that BNG is delivered and maintained effectively. This report sets out in further detail that may need to be considered or reflected on in greater detail by the Council in the future.
- 4.8 The draft BNG SPD was presented to Members at the Council's Environment Policy and Scrutiny Committee on 20th November 2023. The notes from this meeting can be found in Appendix 3 and the key outcomes for the BNG SPD and consultation plan have been highlighted in section 5 of this report.
- 4.9 A Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Report has been prepared and can be found in Appendix 4. This document is proposed to be consulted on along with the BNG SPD.

5. Castle Point Environment Policy and Scrutiny Committee

- 5.1 Officers presented a draft BNG SPD for the Council's Policy and Scrutiny Committee to consider on 20th November 2023. After discussion several recommendations were proposed, these can be found in Appendix 3. Some recommendations referred to the specific documents supplied, as well as recommendations to be considered through the Castle Point Plan Board.
- 5.2 The recommendations specific to the BNG SPD and Consultation Plan and resultant actions are summarised in the table below. The modifications proposed have been made and highlighted as tracked changes in Appendix 1 and Appendix 2.
- 5.3 Following the Environment Policy and Scrutiny Committee, the government have released further guidance on BNG. Consequently, further modifications have been proposed since the committee took place. These modifications have been summarised in table 3 below and are highlighted as tracked changes in Appendix 1.

Table 1: Recommendations to the BNG SPD

No.	Recommendation	Response	Modification
1	Paragraph 2.2.1.2 – remove reference to a 'climate and ecological crisis' as the Council has not declared a climate emergency.	Recommendation is acceptable and a modification has been proposed.	2.2.1.1 The Environment Act 2021 introduced mandatory BNG legislation. This is because we are in a climate and ecological emergency. For climate change, the science tells us.....
2	Paragraph 2.3.1.1 – reword this paragraph to be grammatically correct.	Recommendation is acceptable and a modification has been proposed.	2.3.1.1 Successful delivery of BNG can help to deliver on the goals <u>of</u> Everyone's Essex, for example: green growth, net zero.....
3	Section 3.2.3 – Where the document references a 'competent person' further information should be included about the level of qualifications.	Recommendation is acceptable and a modification has been proposed.	At the end of paragraph 3.2.3.1 add the following text: <u>The Council expects the competent person to be a qualified ecologist.</u>
4	Paragraph 3.13.1.5 – Amend the wording in the first sentence to ensure applicants reimburse the council where external expertise is required.	Recommendation is acceptable and a modification has been proposed.	3.13.1.5 Where external expertise is required to review and validate the biodiversity gain plan or other ecological reports submitted with the application, which may be the case for larger or complex applications, applicants may be requested to <u>must</u> reimburse the Council....
5	Appendix A to be updated with the latest Biodiversity Gain Plan template released by Natural England.	Recommendation is acceptable and a modification has been proposed.	A link to the Biodiversity Gain Plan has been added to Appendix A and typos amended.
6	Where BNG cannot be secured on-site the document should list the	Recommendation is acceptable and a	A new paragraph has been added after 3.9.3.4, this text includes the following:

No.	Recommendation	Response	Modification
	<p>preferred order of off-site BNG provision in the following order:</p> <ul style="list-style-type: none"> • Within the ward of the development site • Within an adjoining ward of the development site, within the local authority boundary • Within the local authority boundary • Within an adjoining ward of the development site, in a neighbouring local authority • Within an adjoining local authority • As a last resort beyond the local authority and neighbouring authorities 	<p>modification has been proposed.</p>	<p><u>Where BNG cannot be delivered onsite and offsite BNG is required, to ensure BNG is kept as local to the development site as possible, the Council's preferred offsite BNG provision is in the following order:</u></p> <ul style="list-style-type: none"> <u>• Within the ward of the development site;</u> <u>• Within an adjoining ward of the development site, within the local authority boundary;</u> <u>• Within the local authority boundary;</u> <u>• Within an adjoining ward of the development site, in a neighbouring local authority;</u> <u>• Within an adjoining local authority;</u> <u>• As a last resort beyond the local authority and neighbouring authorities.</u>
7	<p>Investigate whether the Council can request developers to pay for an ecologist, chosen by the Council to undertake the monitoring.</p>	<p>Recommendation is acceptable and a modification has been proposed.</p>	<p>Amend paragraph 3.12.2.1: This will require commitment to managing the site, through effective stewardship and maintenance. The developer must also submit monitoring reports are required to be submitted to the LPA, and the reports must be checked, and enforcement action taken as required.</p> <p>Add the following paragraph after 3.12.2.2:</p> <p><u>It is the councils preference that a developer pays the council to undertake the monitoring on their behalf. The costs associated with this monitoring would be included within a legal agreement. If, however, the developer wishes to undertake their own monitoring, the council will seek a monitoring fee through a legal agreement to enable</u></p>

No.	Recommendation	Response	Modification
			<u>an ecologist appointed by the council to review the monitoring reports submitted.</u>

Table 2: Recommendations to the Consultation Plan

No.	Recommendation	Response	Modification
8	Amend the proposed dates in the document as PSC was delayed by one month. Approval of Cabinet in December 2023 and consultation to commence in January 2024.	The consultation plan will be updated accordingly, with consultation due to commence in January.	<p><i>Under title 'When will the consultation occur and for how long?'</i></p> <p>It is assumed that if the Council's Cabinet approve the BNG SPD for public consultation, which is due to be considered on <u>15th November 20th December 2023</u>, consultation will commence later in <u>January 2024 November 2023</u>.</p> <p>Prior to adoption of an SPD the Council is required to consult for a minimum of four weeks on the proposed documents. Consultation will therefore close prior to the Christmas 2023 period.</p>

Table 3: Modifications proposed following the Environment Policy and Scrutiny Committee

No.	Document	Summary	Modification
9	BNG SPD	Updated document version.	Front cover Version for Policy and Scrutiny October Cabinet December 2023
10	BNG SPD	Includes a definition of what a strategic site is. This was discussed during the Environment Policy and Scrutiny Committee	<p>New paragraph before 3.3.1.1:</p> <p><u>Large or strategic sites are defined as the following:</u></p> <ul style="list-style-type: none"> • <u>For residential: where the number of dwellings to be provided is 10 or more units or the site area is larger than 0.5 hectares.</u>

No.	Document	Summary	Modification
			<ul style="list-style-type: none"> • <u>For non-residential: where the floor space to be created is 1,000 square metres or greater or where the site is one hectare or larger.</u>
11	BNG SPD	Updates to appendix A following further information from the government and relevant updates within the document	<p>Amend paragraph 3.12.2.4:</p> <p>The template <u>can be found</u> will be included in the appendix A once available and should be submitted with proposals where onsite BNG</p> <p><u>Biodiversity Gain Plan Template</u> <u>The latest biodiversity gain plan template and guidance documents can be found online through this link -</u> <u>www.gov.uk/government/publications/biodiversity-gain-plan</u></p> <p><u>Habitat management and monitoring plan</u> <u>The latest guidance for habitat management and monitoring plans can be found here - Creating a habitat management and monitoring plan for biodiversity net gain - GOV.UK (www.gov.uk)</u> <u>Templates for this can be found here - Habitat Management and Monitoring Plan Template - JP055 (naturalengland.org.uk)</u></p> <p>The following documents are due to be released by the government in <u>November 2024 due course</u>. This appendix will be updated once they have been completed:</p> <ul style="list-style-type: none"> • <u>Biodiversity Gain Plan Template</u> • <u>Natural England Template Monitoring Plan</u> • <u>Natural England Template Offsite Register</u> <ul style="list-style-type: none"> o Adapted to provide an onsite register for facilitating Local Councils approach to monitoring onsite BNG
13	BNG SPD	Updates to appendix B following further examples of best practice and the contents page, following the amended title.	<p>Amendments to Appendix B</p> <p>Remove the template Section 106 wording and replace with the following:</p>

No.	Document	Summary	Modification
			<p>Appendix B – <u>Section 106 and planning condition template examples</u> <u>Suggested s106 Policy Wording</u> – from Buckinghamshire Council. <u>The Planning Advisory Service (PAS) has provided some online templates for</u> <u>example BNG planning conditions and Section 106 templates. These can be</u> <u>found here - Biodiversity Net Gain in Development Management Local</u> <u>Government Association</u></p>
14	Consultation Plan	Amended title to include full name of document being consulted on in	<p><i>Under title 'What are we consulting on?'</i> <u>Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA)</u> Screening Report on the Biodiversity Net Gain Supplementary Planning Document</p> <p><i>Under title 'What comments are being sought?'</i> Comments are also being sought on the outcomes of the <u>Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA)</u> Screening Report.</p>

6. Report

6.1 What is a Supplementary Planning Document (SPD)?

6.1.1 SPDs should build upon and provide more detailed advice or guidance on policies in an adopted local plan. As they do not form part of the development plan, they cannot introduce new planning policies into the development plan or in their own right. They are, however, a material consideration in decision-making. They should not add unnecessary financial burdens on development.

6.2 Planning Requirements and Legislation

6.2.1 The concept of BNG is within the National Planning Policy Framework (NPPF) as '*planning policies and decisions should contribute to and enhance the natural environment by...minimising impacts on and providing net gains for biodiversity*'.

6.2.2 BNG was later brought mandatory into law by the Environment Act 2021. This Act requires developments to provide a minimum 10% increase in biodiversity. The requirements for BNG on major development sites is due to come into force in January 2024 and April 2024 for minor development sites.

6.2.3 Policy EC14 in the 1998 Adopted Local Plan encourages habitat creation in conjunction with development which supports the principles of BNG by enhancing biodiversity and complementing existing biodiversity. Policy EC14 - Creation of new wildlife habitats states the following:

'The Council will encourage proposals for further nature reserves. It will also promote the creation of new wildlife habitats in conjunction with development proposals. In considering planning applications, the Council will take into account the potential for the creation of wildlife habitats, particularly where these would enhance and complement existing elements of nature conservation on adjoining land.'

6.2.4 For the reasons set out within this section not only is BNG supported by the Adopted Local Plan it is required by the NPPF and now law. Therefore, it is necessary for the Council to implement BNG effectively within the borough to meet its legal requirements. A BNG SPD is the proposed vehicle to achieve this task effectively.

6.3 Implementing the Environment Act

6.3.1 The Environment Act 2021 introduces a biodiversity duty to public authorities. This means that the Council must do the following:

- Consider what it can do to conserve and enhance biodiversity,
- Agree policies and specific objectives,
- Act to deliver policies and achieve objectives.

- 6.3.2 Planning practice guidance states that a public body must complete the first consideration of what action to take for biodiversity by 1 January 2024 and policies and objectives can be agreed after this.
- 6.3.3 Preparation of a BNG SPD goes about setting out action on how to conserve and enhance biodiversity. As the Castle Point Plan emerges, further work will be undertaken on what else the council can do to conserve and enhance biodiversity, with relevant policies and objectives.

6.4 **BNG Overview**

How will BNG be delivered?

- 6.4.1 Natural England have produced a biodiversity metric calculator, this is a tool that is used to assess sites and converts habitat features into a numerical value known as biodiversity units. The biodiversity metric calculates how a development will change the biodiversity value of a site as biodiversity units.
- 6.4.2 The biodiversity metric uses changes in the extent and quality of habitats as a proxy for nature, and calculates the habitat found on a site before development, how much might be lost to development and how many biodiversity units would be required to meet a net gain in biodiversity by a minimum of 10% of its original value. A biodiversity metric calculation must be submitted as part of a planning application.
- 6.4.3 Applicants will be required to run a baseline BNG calculation for their proposed development using the latest published Biodiversity Metric. The guidelines for the metric highlights that it should be conducted by a competent person. The SPD further highlights that this should be from a qualified ecologist.
- 6.4.4 If it has been found that the habitat on site has been degraded since 30 January 2020 so that the habitat is lost prior to the baseline survey, then the site will need to be reassessed using data (aerial imagery and other habitat data) held by the Council from prior to the loss of the habitat.
- 6.4.5 Habitat replacement as part of BNG has to be like for like or like for better. Additionally, area based habitats, linear (e.g. hedgerows) and watercourses are all treated separately within the metric. A minimum 10% BNG is required for each three habitat types individually.
- 6.4.6 Biodiversity units are for post development BNG measures these can be on-site, off-site or as a last resort statutory credits.
- 6.4.7 On-site units are delivered through habitat creation/enhancement through landscaping and green infrastructure.
- 6.4.8 Off-site units are delivered through habitat creation/enhancement through habitat banks with public or private landowners. Where off-site BNG is required to deliver all or part of the BNG requirement applicants are encouraged to purchase off-site units from BNG sites that are identified as a priority for nature

improvement in the Local Nature Recovery Strategy (LNRS), which is being prepared by Essex County Council.

6.4.9 Following the Environment Policy and Scrutiny Committee, the SPD has proposed further clarification on the provision of off-site BNG, with preference for BNG to be provided as local as possible to the development site. The SPD now proposes a hierarchy of preferred offsite localities at the ward level, compared to the local authority level in the biodiversity metric. This can be found under no. 6 in table 1 of this report.

6.4.10 This local context is in addition to the spatial risk multiplier that is included within the biodiversity metric tool when calculating offsite gains. Where offsite BNG is proposed outside the local planning authority, the metric uses a multiplier which means that more biodiversity units would be required than offsite BNG within the local authority. A higher spatial risk multiplier is used for offsite BNG that is proposed outside of the local planning authority area and neighbouring local authorities, resulting in a higher requirement of biodiversity units.

6.4.11 Off-site measures must be maintained for a minimum of 30 years after the completion of the habitat works to create or enhance the habitat. BNG will be secured through a planning obligation or conservation covenant.

6.4.12 As a last resort where BNG cannot be delivered on or off-site statutory credits can be purchased which fund and deliver large scale habitat projects delivering high value habitats which provide long-term nature-based solutions, including via habitat banks. The price of statutory credits will be set by the market, therefore supply and demand will be a factor in the price. The price will be set higher than the cost of equivalent off-site unit on the market, this should encourage use of the mitigation hierarchy and ensure statutory credits are used as a last resort.

How will BNG be secured and maintained?

6.4.13 BNG will be secured through a legal agreement, this will be in the form of a Section 106 Agreement or a conservation covenant.

6.4.14 Section 106 Agreements are legal agreements between local planning authorities and developers/landowners as part of the planning permission process.

6.4.15 Conservation covenants are agreements between landowners and a responsible body. These came into being as a means of delivering BNG since September 2022. Councils and other bodies with a conservation interests, such as wildlife trusts can apply to Defra to become a responsible body.

6.4.16 BNG is required to be established and maintained for a minimum of 30 years. To achieve this a development may not begin until a Biodiversity Gain Plan is submitted and approved by the Council.

6.4.17 Biodiversity Gain Plans set out the key ecological considerations relevant to the development proposals, the biodiversity management principles for new habitat creation areas and the enhancements that are likely to be achieved. The Environment Act sets out that the biodiversity gain plan should cover:

- How adverse impacts on habitats have been minimised.
- The pre-development biodiversity value of the onsite habitat.
- The post-development biodiversity value of the onsite habitat.
- The biodiversity value of any offsite habitat provided in relation to the development.
- Any statutory biodiversity credits purchased; plus
- Any further requirements as set out in secondary legislation.

6.5 **BNG and the Castle Point Plan**

6.5.1 The Environment Act 2021 enshrines a minimum 10% BNG into law from November 2023 (now delayed until January 2024) for major sites and April 2024 for minor development sites, this therefore precedes the planned adoption of the Castle Point Plan.

6.5.2 There may be an opportunity to increase the minimum threshold of BNG through the Castle Point Plan where evidence suggests this is appropriate. This will be explored as part of the Plan preparation and Members will be engaged on this through the Castle Point Plan Board. A number of recommendations were made through the Environment Policy and Scrutiny Committee and these will be reviewed by the Board in due course.

6.5.3 As BNG will become a mandatory requirement for all sites past April 2024 the Council is therefore advised to adopt a BNG SPD to provide more detail advice or guidance before most of the planning applications the Council receives are liable to BNG. This will ensure landowners, applicants, developers and all relevant stakeholders are engaged with the preparation of a BNG SPD, ensuring that they know what will be required from them before they submit applications, guaranteeing a more streamlined process and delivery of high quality BNG.

7. **Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment Screening Report**

7.1 Where an SPD is likely to have a significant effect on the environment a Strategic Environment Assessment (SEA) should be undertaken. An SEA screening report has therefore been prepared to assess the BNG SPD.

7.2 It was concluded that the SPD will result in positive, long-term effects in relation to biodiversity protection and enhancement and that none of the effects of the BNG SPD will be significant. Therefore, the BNG SPD will not require an assessment of the significant environmental effects of the plan under the SEA Directive and Environmental Assessment Regulations and can therefore be screened out for its requirement of a SEA In line with the requirements of Directive 2001/42/EC.

- 7.3 Additionally, a Habitats Regulations Assessment (HRA) screening report has been prepared to assess whether the SPD is likely to have a significant effect on a habitat site, either alone or combination with other plans or projects. Following the HRA screening it was considered that the requirement for the SPD to undertake further assessment under the Habitats Regulations 2017 is not considered necessary and as a result can be screened out.
- 7.4 The SEA and HRA Screening Report can be found in Appendix 4, to comply with relevant regulations, this document will be consulted on with the relevant statutory consultees.

8. Proposed Approach to Public Consultation

- 8.1 Prior to adopting an SPD the Council has a duty to consult on the draft document. The Regulations require a minimum of a four-week consultation period for SPD's and that consultations should be in accordance with the authorities adopted Statement of Community Involvement 2020, which also requires a minimum of four weeks consultation on SPD's.
- 8.2 It is proposed that following agreement from the Cabinet of the recommendations in this report that a public consultation will commence in January 2024. A consultation plan has been prepared and can be found in Appendix 2, this sets out the approach to the consultation, what is being sought, how it is being promoted and how the public can respond.

9. Next Steps

- 9.1 If the Cabinet agree the recommendations set out in this report, officers will commence a public consultation on the draft BNG SPD in accordance with the consultation plan (Appendix 2) and the Council's adopted Statement of Community Involvement 2020.
- 9.2 There is currently no examination process for SPDs. Therefore, after public consultation officers will prepare final versions of the BNG SPD to take back to Cabinet for recommendation for formal adoption to a Full Council meeting, this will likely be in March 2024. If the public consultation raises issues which need further investigation and significantly changes the draft document, there may be another Environment Policy and Scrutiny meeting on those issues.
- 9.3 As new information and guidance is released by the Government the SPD will be updated to include the latest information to ensure it is as up-to-date as possible prior to adoption.

10. Conclusion

- 10.1 BNG will become mandatory for all relevant planning applications from April 2024 as a consequence of the Environment Act 2021.
- 10.2 The BNG SPD provides clear guidance to all relevant stakeholders about what the Council will expect from them in regard to BNG. This will help to improve the transition towards mandatory BNG. It also ensures that good quality planning applications are submitted that incorporate BNG into the design of the scheme from the outset, leading to developments that implement high quality BNG.
- 10.3 It is proposed that Cabinet approve the BNG SPD for public consultation. The outcomes of the consultation will be reported back to Cabinet.

11. Corporate Implications

a. Financial Implications

- 11.1 There will be minimal financial implications to the Council to complete a public consultation on the draft BNG SPD as officers will utilise online methods of consultation through sending emails to notify consultees, social media and the Council's website. The scale of the consultation is set out in the consultation plan found at Appendix 2.
- 11.2 The Council received New Burdens funding from the government to help with the initial implementation of BNG. Where there are additional costs to the Council to undertake the consultation from printing to promotion, this will be taken from the New Burdens funding.

b. Legal Implications

- 11.3 BNG is a mandatory requirement from January 2024 for major development and from April 2024 for minor development. This SPD puts in place the mechanism and provides guidance on how the Council will effectively implement BNG to fulfil their legal requirements.
- 11.4 Section 106 agreements and conservation covenants are the delivery vehicles for BNG. This has implications for the Council's legal team through increased workload. They are legally binding on all parties to the agreement.

c. Human Resources and Equality Implications

Human Resources

- 11.5 The Council does not currently have an in-house ecologist resource. Due to the technical nature of BNG an external ecology resource is required to assess technical information regarding BNG that is submitted through planning applications. The Council has received some New Burdens funding to assist in

the first year and ecology resources have been commissioned through a service level agreement with Essex Place Services.

- 11.6 In terms of consultation of the BNG SPD, existing resources will be utilised to undertake the consultation. This includes sending out notifications, promotion materials, preparing the website for responses and analysing responses.
- 11.7 The BNG SPD provides guidance to applicants submitting planning applications. Clear guidance through an adopted BNG SPD will provide better planning application submissions that take into account BNG at the early stage. This will ease additional workload on the development management and validation teams in assessing planning applications and ensuring all relevant information that is required has been submitted.
- 11.8 Further work is required to be undertaken on how BNG will be monitored accurately, and further reports will be submitted for Cabinet to consider as new information emerges on the monitoring process. It is anticipated that an ecology resource will be required to not only assess planning applications but to ensure that BNG is being implemented post development. Officers are investigating whether this income could be secured through S106 Agreements. There may be instances where enforcement action is required and that may have implications to the capacity of the Council's enforcement team.
- 11.9 Officers will investigate the use of BNG tools that are emerging and whether they could help implement and monitor BNG.
- 11.10 Due to the likelihood of additional legal agreements as a consequence of implementing BNG, it is expected that there will be impacts to the councils legal team. BNG will become mandatory, so this pressure is likely regardless of the implementation of the SPD. It is however thought that notifying developers and applicants of the introduction of BNG through the consultation and guidance through this SPD will create better application submissions which may ease workload slightly.

Equality

- 11.11 There are no negative equality implications arising from this report.
- 11.12 Development of BNG provides the opportunity for improvements to the boroughs green spaces which have known benefits to physical and mental health. Additionally, improvements to BNG can improve the areas resilience to climate change through flood mitigation and improvements to air quality, which benefit the community, including those with protected characteristics.

d. IT and Asset Management Implications

- 11.13 The consultation process associated with the public consultation on the BNG SPD will make use of existing IT resources.

11.14 This report does not propose direct impacts to Council owned land, however there is an opportunity to use Council owned land for off-site BNG units. Cabinet may therefore wish to consider how Council owned land may be utilised for BNG sites in the future. Further reports on this matter may be presented to Cabinet as appropriate.

11.15 Officers will investigate the use of BNG tools that are emerging and whether they could help implement and monitor BNG.

12. Background Papers

- [The Environment Act 2021 \(as amended\)](#)
- [The Biodiversity Metric 4.0 - JP039 \(naturalengland.org.uk\)](#)
- [Plan-making - GOV.UK \(www.gov.uk\)](#)
- [Biodiversity net gain: what local planning authorities should do - GOV.UK \(www.gov.uk\)](#)
- [Biodiversity net gain - GOV.UK \(www.gov.uk\)](#)
- [Statement of Community Involvement 2020](#)

13. Appendices

- Appendix 1: Biodiversity Net Gain Supplementary Planning Document
- Appendix 2: Consultation Plan
- Appendix 3: Environment Policy and Scrutiny Meeting Outcomes (20 November 2023)
- Appendix 4: Strategic Environment Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Report

Report Author:

Maria Hennessy – Senior Planning Policy Officer



Castle Point Borough Council

Biodiversity Net Gain (BNG)
Supplementary Planning Document (SPD)

Version for Cabinet December 2023

Deleted: Policy and Scrutiny October

This is a collaborative document that was originally written for Essex Planning Authorities by Braintree District Council, Colchester City Council, Epping Forest District Council, Essex County Council, Southend-on-Sea City Council, and Tendring District Council. The document has been updated specifically for Castle Point Borough Council.



Contents

1. Introduction to the SPD	1
2. Biodiversity Net Gain	2
2.1 What is Biodiversity and Biodiversity Net Gain?	2
2.2 Why Now?.....	2
2.2.1 The Climate and Ecological Crisis.....	2
2.3 The Benefits of BNG.....	3
2.3.1 Benefits of BNG for Essex.....	6
3. Planning Requirements and Legislation	7
3.1 Overview of BNG related legislation.....	7
3.1.1 National Planning Policy Framework (NPPF), 2021 and Environment Act, 2021	7
3.1.2 Delivering Biodiversity Net Gain	7
3.1.3 Mitigation Hierarchy	8
3.2 The Biodiversity Net Gain Metric.....	9
3.2.1 Introduction to the Metric	9
3.2.2 Strategic Significance Multiplier	10
3.2.3 How will BNG be demonstrated?.....	10
3.2.4 Important considerations when using the Biodiversity Metric	11
3.3 Large/Strategic sites (January 2024).....	11
3.3.2 Minerals and Waste	12
3.4 Small sites (April 2024).....	12
3.4.2 Small Sites Metric.....	12
3.5 Exemptions to Mandatory BNG	13
3.6 Nationally Significant Infrastructure Projects (2025).....	13
3.7 Intertidal Habitats and Marine Net Gain	13
3.8 Watercourses	14
3.9 BNG Onsite, Offsite and Statutory Credits.....	14
3.9.2 Onsite BNG	15
3.9.3 Offsite BNG.....	15
3.9.4 BNG Statutory Credits	16
3.10 BNG good practice principles.....	17
3.10.2 The Urban Greening Factor	18
3.10.3 Irreplaceable habitats.....	19
3.10.4 Stacking and Additionality	19

Biodiversity Net Gain Supplementary Planning Document

3.11 Conservation Covenants and Section 106 Agreements	20
3.12 Management and Maintenance	20
3.12.1 Biodiversity Gain Plans	20
3.12.2 Monitoring and Stewardship	21
3.13 Summary of Planning application expectations.....	22
3.14 BNG Process Flow Charts	24
4. Local Nature Recovery	26
4.1 Biodiversity Net Gain and Local Nature Recovery Strategy (LNRS)	26
4.2 Local Nature Recovery Strategy (LNRS) and Planning	27
5. Delivery of BNG in combination with other planning matters.....	28
6. Biodiversity Net Gain Summary.....	29
7. Appendices.....	30
7.1 Appendix A – Further Guidance	30
7.2 Appendix B – <u>Section 106 and planning condition template examples</u>	30
7.3 Appendix C - Delivery of BNG through other planning matters – further detail	31
7.3.1 Green Infrastructure	31
7.3.2 Sustainable Drainage Systems (SuDS).....	31
7.3.3 Economic Development	31
7.3.4 Health and Wellbeing.....	32
7.3.5 Housing and Development.....	32
7.3.6 Accessibility to Green Space	32
7.3.7 Energy	32
7.4 Appendix D - Additional Considerations	34

Deleted: -

Deleted: Suggested s106 Policy Wording – from Buckinghamshire Council.

1. Introduction to the SPD

1.1.1.1 Supplementary Planning Documents ("SPDs") are used to provide guidance on specific sites or issues. SPDs, when adopted, are a material planning consideration in decision taking. This SPD in particular interprets national planning policy requirements and the mandatory requirement for BNG.

1.1.1.2 The delivery of biodiversity net gain that will be achieved through development will result in more and better-quality biodiversity than would otherwise be possible.

1.1.1.3 The purpose of this SPD is to provide an overview and guidance on Biodiversity Net Gain (BNG). The content of this SPD is designed to help developers, planning applicants, LPAs, decision makers, and landowners by summarising guidance on planning for and delivering BNG, signposting to detailed guidance, and setting out the Council's expectations for BNG.

1.1.1.4 This SPD outlines:

- What is Biodiversity, BNG, and its importance.
- Legislation and political drivers.
- Biodiversity Metrics.
- BNG good practice principles.
- Links to other planning
- Summary of the Essex Local Nature Recovery Strategy (LNRS).

1.1.1.5 Throughout references are made, with links where appropriate, to other guidance that can help to direct and enhance development design to ensure that BNG opportunities are incorporated from the beginning of the planning process.

2. Biodiversity Net Gain

2.1 What is Biodiversity and Biodiversity Net Gain?

2.1.1.1 Biodiversity is the variability among living organisms from all sources including, terrestrial, marine, and other aquatic ecosystems and the ecological complexes of which they are part: this includes diversity within species, between species, and of ecosystems (Convention of Biological Diversity).

2.1.1.2 Biodiversity Net Gain (BNG) is an approach to development, land and marine management that leaves biodiversity in a measurably better state than before the development took place (Natural England). BNG is additional to existing habitats and species protections. Intended to reinforce the mitigation hierarchy, BNG aims to create new habitats as well as enhancing existing habitats, ensuring the ecological connectivity they provide for wildlife is retained and improved (Natural England).

2.2 Why Now?

2.2.1 The Climate and Ecological Crisis

2.2.1.1 The Environment Act 2021 introduced mandatory BNG legislation. ~~For climate change, the science tells us that to avoid catastrophic effects we need to limit the increase in global temperature to 1.5°C. Mitigation measures are required to significantly reduce greenhouse gas emissions and limit global temperature rise. However, even with efforts to limit the cause of global warming, further climatic changes are inevitable in the future and the UK will need to adapt to the growing risks from climate change. Co-ordinated action from all sectors, national and local governments, and individuals is needed to mitigate and adapt to climate change.~~

2.2.1.2 A UK State of Nature Report 2019 demonstrated that not only are we dealing with a climate crisis, but also an ecological crisis. The UK has lost almost half its biodiversity since the 1970s and sits near the bottom of the Biodiversity Intactness Index¹. We have lost 97% of wild meadows, 26% of mammals are at risk of extinction and 22% of seabird species have declined. The greatest drivers of this change include urbanisation, intensification of agriculture, woodland management, pollution, and climate change. UN Sustainable Development Goal 15 calls on us to “recover sustainable use of terrestrial ecosystems, halt and reverse land degradation and halt biodiversity loss.”² BNG will tackle the loss of nature by ensuring that new developments are designed to provide habitats that can increase biodiversity within its area.

Deleted: This is because we are in a climate and ecological emergency. ...

¹ <https://www.nhm.ac.uk/our-science/data/biodiversity-indicators/what-is-the-biodiversity-intactness-index.html#:~:text=The%20Natural%20History%20Museum%20has,bottom%20of%20the%20G7%20countries.>

² <https://sdgs.un.org/goals>

2.3 The Benefits of BNG

The Benefits of Biodiversity Net Gain			
For Developers	For Local Planning Authorities (LPAs)	For Nature	For the wider population
Green neighbourhoods BNG can help create greener neighbourhoods, that are more attractive places for people to live, work and do business.	Multifunctional benefits BNG can have multifunctional benefits such as, providing spaces for education, active travel, mental health and well-being, and physical health.	Bigger, better, and joined up habitats Providing more bigger, better, and joined up habitats in which wildlife can thrive. BNG will enhance the condition of existing habitats as well as creating new habitats.	Food security Increasing environmental stability through biodiversity net gain could help the future of the agricultural industry, and therefore food production.
Desirable places to live Development sites will be more attractive with the addition of BNG, making places more desirable to live in. It will also enhance their reputation, with possibilities to become examples of best practice.	Contribute to wider targets BNG can help LPAs achieve other targets, such as bringing investment to the local economy, place-making, improving air quality and flood resilience.	Supports nature recovery BNG is a mechanism to support the delivery of the Local Nature Recovery Strategy (LNRS). The LNRS identifies locations to create or improve habitat most likely to provide the greatest benefit for nature and the wider environment.	Soil health For farmers, using their land for biodiversity net gain, increasing biodiversity can result in increased soil health, pest control, nutrient cycling and it could also prevent runoff to waterways.

The Benefits of Biodiversity Net Gain			
For Developers	For Planning Authorities	For Nature	For the wider population
Contribute to other plans Developments that deliver BNG, particularly onsite, as evidenced through biodiversity gain plans, can concurrently contribute towards the delivery of other requirements as part of the planning application process. For example, BNG delivery can contribute towards a successful construction environment management plan (CEMP), Ecological Impact Assessment (EIA), and landscape and ecological management plan (LEMP).	Job creation Increased natural capital assets, creating green jobs.	Provision of ecosystem services Ecosystem services demonstrates further the benefits of nature. Ecosystem services include but not limited to soil formation, nutrient cycling, water cycling, pollinator, regulation of water, air and soil quality, climate regulation and more.	Resilience to climate change BNG can help mitigate climate change through the restoration and protection of nature. E.g., additional woodland can help sequester more atmospheric carbon.
Increased demand for areas Enhanced environmental quality can improve the value of a development.	Greener neighbourhoods BNG can help create greener neighbourhoods, that are more attractive places for people to live, work and do business.	Enhancing existing spaces for nature BNG contributes towards nature recovery by enhancing and uplifting existing habitats and spaces for nature.	Community resilience BNG can help communities adapt to climate change by increasing resilience to extremes of weather, including heatwaves and flooding.

The Benefits of Biodiversity Net Gain			
For Developers	For Planning Authorities	For Nature	For the wider population
Combining requirements BNG delivery can be combined with other requirements for developers. For example, Sustainable urban Drainage Systems (SuDS) and Public Open Space (POS) requirements. These can also be delivered through high-quality green infrastructure which is multifunctional and accessible.			Direct Impact on people BNG can benefit people directly, when communities can enjoy the high-quality natural surroundings either by BNG being achieved within the development footprint or when a biodiversity offset increases people's access to, or views of, nature.

2.3.1 Benefits of BNG for Essex

2.3.1.1 Successful delivery of BNG can help deliver the goals of Everyone's Essex, for example: green growth, net zero, levelling up, the environment, transport and the built environment and green communities can all be directly, or indirectly achieved through BNG.

2.3.1.2 BNG can contribute to wider targets in Essex:

- Increase natural Green Infrastructure (GI) from 14% to 25% by 2030 (Essex Climate Action Commission (ECAC)). Increase Natural Green Infrastructure from 14% to 25% by 2030 (Target set by the ECAC; an independent body which advise on how best to tackle the climate challenge).
- Enhance the resilience of the Essex landscape.
- BNG will ensure consistency across the county through measurable assessment methods of biodiversity.
- BNG will support the delivery of Nature Recovery Targets, which will contribute to a wider range of environmental targets, both nationally and locally.
- Through supporting the delivery of the Essex Local Nature Recovery Strategy (LNRS), BNG will be contributing to the formation of the England-wide Nature Recovery Network (NRN). The NRN is a national network of wildlife rich places to increase and restore nature, of which BNG will be key to its gradual formation and delivery.
- BNG and the LNRS are interconnected; the LNRS will identify where action to achieve net gain will have the most impact for nature recovery and encourage action in these locations through the way net gain is calculated via the biodiversity metric (see strategy significance multiplier in section 3.2.2). Read more detail on the LNRS in section 4.
- The interconnected nature of BNG and the LNRS will have strategic benefits, across LPAs, and county boundaries, benefiting biodiversity and nature across landscapes at both local and national scale- BNG is, by nature, cross-boundary.

Deleted: to

Deleted: on

3. Planning Requirements and Legislation

3.1 Overview of BNG related legislation

3.1.1 National Planning Policy Framework (NPPF), 2021 and Environment Act, 2021

3.1.1.1 The concept of BNG was introduced in the first iteration of the NPPF (2012). This was advanced by the Environment Act, 2021, which brings mandatory BNG into law. This means that all new developments will be required to deliver a minimum 10% increase in biodiversity. Local Planning Authorities have the discretion to go beyond 10% and require a higher percentage BNG if they so choose.

3.1.1.2 This was due to become mandatory for major sites in November 2023, however the government released in October 2023 that this is to be delayed to January 2024. BNG is due to be mandatory for small sites in April 2024. This will be a condition of planning permission in England as per section 98 of the Environment Act 2021 for relevant developments.

3.1.2 Delivering Biodiversity Net Gain

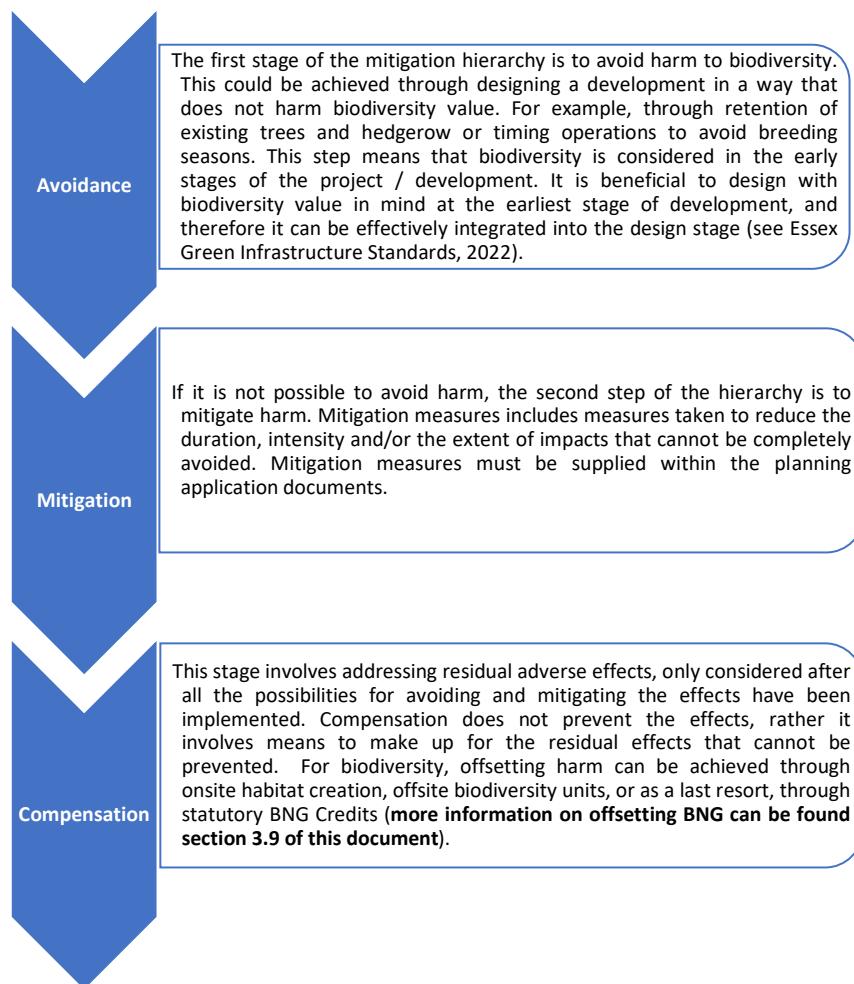
3.1.2.1 BNG, in its initial implementation following January 2024, is a different way of designing a development scheme to leave the natural environment in a better state than it was found. In accordance with the Environment Act 2021, BNG is a means for creating or enhancing wildlife habitats and ecological features through applying the mitigation hierarchy in conjunction with development to deliver improvements for biodiversity. The Council advises applicants to engage with an ecologist at an early stage and facilitate collaboration between the ecologist, landscape consultant and design team at the earliest stage in the design process. It is difficult to retrofit biodiversity net gain so the earlier an applicant engages with an ecologist the easier it is to achieve biodiversity net gain.

3.1.2.2 Delivery of BNG complements policy EC14 in the Council's adopted Local Plan which states the following:

'The Council will encourage proposals for further nature reserves. It will also promote the creation of new wildlife habitats in conjunction with development proposals. In considering planning applications, the Council will take into account the potential for the creation of wildlife habitats. Particularly where these would enhance and complement existing elements of nature conservation on adjoining land.'

3.1.3 Mitigation Hierarchy

3.1.3.1 The Mitigation Hierarchy is the principle that environmental harm resulting from a development should be avoided, mitigated adequately or, as a last resort, compensated for. The mitigation hierarchy must be applied. BNG is additional to existing biodiversity protection.



3.2 The Biodiversity Net Gain Metric

3.2.1 Introduction to the Metric

3.2.1.1 A biodiversity metric calculation should be submitted as part of the planning application. The requirement of schedule 14 (7A) of the Environment Act 2021 is that the development may not begin until a biodiversity gain plan is submitted and approved by the LPA. As part of the gain plan, a metric calculation must be included [that demonstrates a minimum of 10% gain]. Whilst the current legal requirement is for this to be secured through a legal agreement (s106 agreement/conversation covenant), it is recommended that a metric calculation, and evidence for BNG it is submitted as early in the planning process as possible. This will encourage a best practice approach and ensure that development proposal sites have integrated BNG into the design, meaning it is less likely to be refused on grounds of lack of information. Early integration will also help to deliver on-site BNG. The Council's validation checklist requires a Biodiversity Metric calculation to be submitted as part of a planning application.

3.2.1.2 The Biodiversity Metric is a biodiversity accounting tool that can be used for the purposes of calculating BNG. The biodiversity metric is a habitat-based approach used to assess a site's value to wildlife. The metric uses habitat features to calculate a biodiversity value. Habitats should be classified using the UK Habitat classification system. The metric calculates how a development will change the biodiversity value of a site. The metric calculates the value as biodiversity units. The biodiversity metric uses changes in the extent and quality of habitats as a proxy for nature, and calculates the habitat found on a site before and after development. New applicants must use the latest version of the Biodiversity Metric.

3.2.1.3 Four key factors underpin this comparison:

- Habitat size (area or length)
- Condition
- Distinctiveness (based on the type of habitat and its distinguishing features, e.g., consideration of species richness and rarity)
- Strategic Significance (value given to habitats located in optimal locations or which meet local objectives for biodiversity in the as identified within a local plan, strategy, or policy. Once established, identification can be achieved through the Local Nature Recovery Strategy)

3.2.1.4 To use the biodiversity metric calculation tool, applicants will need to know:

- The types of habitats on-site and off-site
- The size of each habitat parcel in hectares
- The length in kilometres if it is linear (rivers and streams, hedgerows and lines of trees)
- The condition of each habitat parcel
- The strategic significance of where biodiversity uplift will be achieved.
- The number of trees and sizes of the trees

3.2.1.5 Post-development biodiversity units are calculated using the above key factors and these additional risk factors: temporal risk (time taken for a created or enhanced habitat to reach target condition); and delivery risk (difficulty in creating or enhancing habitat). Off-site habitat creation also requires the factor spatial risk (distance of habitat creation or enhancement from the development or location of land use change).

3.2.2 Strategic Significance Multiplier

3.2.2.1 Within the metric calculation, there is a multiplier for strategic significance. This means that certain sites, locations, and habitats are given a higher value, and therefore allocated higher biodiversity units based on their strategic significance.

3.2.2.2 High = Where the location has been identified within a local plan, strategy or policy as being ecologically important for the specific habitat type or where that habitat has been identified as being locally ecologically important, this includes Local Wildlife Sites that have gone through the formal adoption process.

3.2.2.3 Medium = Where there is no relevant plan, strategy or policy in place, professional judgement may be used to justify the use of the medium strategic significance category. This judgement should consider the importance of that habitat in providing a linkage between other strategic locations. Ecologist consultants' judgement could be used to determine medium strategic significance, although a robust justification for this will be required.

3.2.2.4 The Local Nature Recovery Strategy (LNRS, once developed, will provide input, and facilitate mapping of sites of strategic significance). Further information available on LNRS in section 4.

3.2.3 How will BNG be demonstrated?

3.2.3.1 Applicants will be required to run a BNG calculation to assess the baseline conditions for the site at the pre-development stage. The latest published Biodiversity Metric must be used, and Defra will nominate the statutory metric in due course. The metric calculation must be conducted by a competent and experienced person [as defined by BS 8683:2021](#). "A competent person is someone who can demonstrate they have acquired through training, qualifications or experience, or a combination of these, the knowledge and skills enable that person to perform specified tasks in completing and reviewing metric calculations". [The Council expects the competent person to be a qualified ecologist](#).

3.2.3.2 The calculation spreadsheet should show the assessment of existing/predevelopment habitat translated into biodiversity units. This will then be contrasted with the proposed post development biodiversity units (reflecting any proposed on or off-site habitat creation and restoration). This difference in Biodiversity Units will be calculated as a percentage therefore representing the change in biodiversity value. The minimum requirement is a 10% gain. The Essex Local Nature Partnership (LNP) supports going for higher than the mandatory 10% BNG requirement and encourages

LPAs to go for 20% BNG in local policy. The Essex LNP have been investigating the provision of a 20% BNG viability study, to evidence and support reasoning behind going for higher than the 10% mandatory requirement. Progress on the LNP's work can be found at: www.essexnaturepartnership.co.uk

3.2.3.3 If it is found that the habitat on site has been degraded since 30 January 2020 so that the habitat is lost prior to the baseline survey, then the site will need to be reassessed using data (aerial imagery and other habitat data) held by the Council from prior to the loss of the habitat. Where there is uncertainty of the habitat loss or disturbance from a proposed scheme or where there is insufficient information, it is recommended to apply a "worst case scenario" approach.

3.2.4 Important considerations when using the Biodiversity Metric

- Additionality - BS8683:2021 – Process for designing and implementing Biodiversity Net Gain and industry best practice guidelines (CIRIA, 2019) require BNG to be 'additional' to any measures or obligations to mitigate a scheme's biodiversity impacts and which would have happened regardless. These obligations are currently interpreted as including impacts on; (i) statutory designated sites, (ii) irreplaceable habitats and (iii) legally protected species.
- Impacts upon irreplaceable habitats cannot be accounted for under the Biodiversity Metric.
- Area based habitats, linear (e.g. hedgerows) and watercourse are all treated separately within the metric. 10% Net Gain is required for all three. For example, you can't have a 7% gain in area habitat and a 3% gain in hedgerows.
- Habitat replacement as part of net gain must also be "like-for-like" or "like-for-better". This links to 'Trading Rules', in line with rule 3 of the Biodiversity Metric 4.0 User Guide.
- The Biodiversity Metric and supporting information is available here: [The Biodiversity Metric 4.0 - JP039 \(naturalengland.org.uk\)](http://The-Biodiversity-Metric-4.0-JP039.naturalengland.org.uk).

3.3 Large/Strategic sites (January 2024)

3.3.1.1 Large or strategic sites are defined as the following:

- For residential: where the number of dwellings to be provided is 10 or more units or the site area is larger than 0.5 hectares.
- For non-residential: where the floor space to be created is 1,000 square metres or greater or where the site is one hectare or larger.

3.3.1.2 For strategic sites, where development may be phased, the Biodiversity Metric must be applied at both outline and full planning permission stage. The Council recognises that design may change between outline and Reserved Matters applications, or in phased developments. Where this occurs, it is important that the BNG calculations for the outline application are updated alongside the design changes so that the Council is able to assess whether the delivery of the required BNG will be achieved. Where the metric has been updated during the planning application process, using the same version of the metric throughout will provide more consistent results.

3.3.1.3 Applications will require BNG consideration for major development registered past January 2024, and minor developments past April 2024. Specific dates for this are not yet confirmed.

3.3.2 Minerals and Waste

3.3.2.1 Minerals and waste sites will also be subject to BNG. The BNG figure, the requirements and format of this is subject to further guidance. For minerals, the government consultation response addresses BNG, and suggests policy would be used to target ecological outcomes rather than percentage targets. The government response also discusses how BNG would apply for Section 73 applications, however, clarity and confirmation of how this will work will be provided in further guidance.

3.3.2.2 As further guidance is released, some information regarding BNG and waste sites will be addressed in this section.

3.4 Small sites (April 2024)

3.4.1.1 Small sites can be defined as:

- (i) For residential: where the number of dwellings to be provided is between one and nine inclusive on a site having an area of less than one hectare, or where the number of dwellings to be provided is not known, a site area of less than 0.5 hectares.
- (ii) For non-residential: where the floor space to be created is less than 1,000 square metres OR where the site area is less than one hectare.

3.4.1.2 The government confirmed that BNG for small sites will not come into force until April 2024. This will allow LPAs, developers, Defra, and other bodies time to adjust and learn from larger sites. Small-scale developments are not exempt in principle from providing biodiversity net gains, although there are some exemptions in relation to size and type of land which are explained below. Most small sites (minor applications) can use the Small Sites Metric.

3.4.2 Small Sites Metric

3.4.2.1 This simplified version of the Biodiversity Metric is designed specifically for small development sites. Small sites are defined as those that meet the following criteria:

- For residential developments, fewer than ten dwelling units (9 or fewer) must be provided on less than one hectare of land.
- The site area is less than 0.5 hectares where the number of dwellings is unknown.
- Any other development type with a site area of less than 0.5 hectares or 5,000 square meters.

3.4.2.2 The Small Site Metric user guide explains how to apply Small Site Metric and determine whether its use is appropriate. Please visit Natural England [The Small Sites Metric](#)

(SSM) to download and utilise the metric. The guide sets out circumstances where the SSM cannot be used:

1. Where habitats not available in the SSM are present
2. Where priority habitats are within the development site (excluding some hedgerows and arable field margins)
3. Where protected species are present on the development site (as protected under the Conservation of Habitats and Species Regulations 2017, but not species under the Wildlife Countryside Act 1981 or the Protection of Badgers Act 1991).
4. Where any offsite interventions are required

3.5 Exemptions to Mandatory BNG

3.5.1.1 Defra has confirmed several exemptions from BNG:

- Householder applications
- Permitted development
- Self-build and custom house building (small scale – with the caveat that this scale is to be defined)
- Development impacting habitat of an area below a ‘de minimis’ threshold of 25 square metres, or 5m for linear habitats such as hedgerows and watercourses
- Existing sealed surfaces (such as tarmac or existing buildings) which would give a zero score on the metric, meaning that these surfaces are effectively exempted from the percentage gain requirement.

3.6 Nationally Significant Infrastructure Projects (2025)

3.6.1.1 It is a requirement of BNG that the biodiversity value of land (terrestrial) and intertidal development affected by a Nationally Significant Infrastructure Project (NSIPs) exceeds the predevelopment biodiversity value by at least 10%. NSIPs are large-scale developments (involving energy, transportation, water, or waste) that require development consent order via the Planning Inspectorate. The government confirmed that BNG requirements will be incorporated into all NSIP projects (terrestrial) from November 2025, and that the government will also develop an approach for marine net gain (section 3.7). The BNG requirements for NSIPs will be outlined in a draft biodiversity gain statement.

3.7 Intertidal Habitats and Marine Net Gain

3.7.1.1 Essex has a vast and ecologically important coastline. The Defra consultation [Government response and summary of responses - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/government-response-and-summary-of-responses-to-the-consultation-on-the-proposal-to-improve-the-biodiversity-value-of-intertidal-habitats) addressed intertidal habitats with the following:

“In response to broad support for the proposal, we will state that all habitats in the intertidal zone, including designated features of protected sites, or a short distance (to be confirmed, but no more than 2 kilometres) above the high-water mark, would be eligible for enhancement for BNG. Any compensation that a development is

delivering in meeting wider statutory protections may be counted towards that development's BNG. This would be subject to any relevant approvals for the enhancement and only permitted where the proposals do not risk harming designated species or features".

3.7.1.2 There is future aspiration for Marine Net Gain, however, the overall approach is still subject to consultation and at a relatively early stage.

3.8 Watercourses

3.8.1.1 Rivers, streams and watercourses are included within biodiversity metric 4. They are linear habitats and as such are treated separately from area-based habitats within the metric. 'Watercourse biodiversity units' are calculated as opposed to 'area habitat biodiversity units'. Area habitats, measured in hectares, generate area habitat biodiversity units and the watercourse habitats, measured in kilometres, generate watercourse biodiversity units. These units are unique and cannot be summed, traded, or converted. To calculate the watercourse biodiversity units of watercourse habitats, biodiversity metric 4 requires data inputs including watercourse habitat type, length, condition, strategic significance, and level of watercourse and riparian encroachment. The watercourse biodiversity units are used to quantify losses and gains of watercourse habitats and cannot be offset by creation or enhancement of area habitat biodiversity units or hedgerow biodiversity units.

3.9 BNG Onsite, Offsite and Statutory Credits

3.9.1.1 Biodiversity units are given for post development biodiversity net gain measures, these can be onsite, offsite, or as a last resort, statutory credits. Onsite units are delivered through habitat creation/enhancement via landscaping/green infrastructure and offsite units are delivered through habitat creation/enhancement, including via habitat banks, with public and private landowners. The latest government guidance for selling units as landowners is available [here](#). As a last resort, where biodiversity net gain cannot be delivered onsite or offsite, statutory credits can be purchased, which fund and deliver through large-scale habitat projects delivering high value habitats which can also provide long-term nature-based solutions.



3.9.1.2 The Biodiversity Net Gain (BNG) Guidance Pack produced by the Essex Local Nature Partnership (LNP) outlines, in detail, the benefits of off-site and on-site BNG. [Guidance on Biodiversity Net Gain \(canva.com\)](#)

3.9.2 Onsite BNG

3.9.2.1 Onsite BNG means all land within the boundary of a project. In a planning context, this usually means within the red line boundary of a planning application. Utilising the National Green Infrastructure Framework, and the Essex GI Standards and Strategy ensures green principles are applied at all stages of the design and application process, this helps to integrate biodiversity within the form of the development, thereby delivering BNG as part of the overall design.

3.9.2.2 If the Biodiversity Metric shows that a minimum of 10% BNG cannot be achieved onsite, the design of the development should be reviewed considering the mitigation hierarchy to avoid harm to biodiversity in the first instance and secondly to consider any further mitigation and enhancements measures that can be made onsite.

3.9.3 Offsite BNG

3.9.3.1 Offsite BNG means interventions on land outside of the onsite boundary.

3.9.3.2 The Metric incentivises habitat creation onsite or within the same LPA or national character area. This is through a “spatial risk multiplier” which means that you generate more biodiversity units if the habitats are created within the LPA or in the same National Character Area (NCA). Conversely, this means that for habitat creation outside of the LPA/NCA, this won’t benefit from the spatial multiplier, and therefore more units would need to be generated.

3.9.3.3 Defra will establish a national register for BNG sites and offset units will only be accepted where they relate to a site on this national register once it is established. A template for the register is currently in development. Once developed, Natural England will operate this.

3.9.3.4 Where offsite BNG is required to deliver all or part of the 10% BNG, applicants are encouraged to purchase offsite units from BNG sites that are identified as a priority for nature improvement in the LNRS. BNG can be delivered on more than one offsite location, or as a combination of onsite and offsite enhancement measures. For example, if 10 biodiversity units are required to produce a minimum 10% uplift, and the site can deliver 8 of these units within the redline boundary, the remaining 2 units can be delivered offsite. This must be set out in the biodiversity gain plan and will be monitored in the same way as if all of the BNG was produced offsite.

3.9.3.5 Where BNG cannot be delivered onsite and offsite BNG is required, to ensure BNG is kept as local to the development site as possible, the Council's preferred offsite BNG provision is in the following order:

- Within the ward of the development site;
- Within an adjoining ward of the development site, within the local authority boundary;
- Within the local authority boundary;
- Within an adjoining ward of the development site, in a neighbouring local authority;
- Within an adjoining local authority;
- As a last resort beyond the local authority and neighbouring authorities.

3.9.3.6 Offsite biodiversity gains must be maintained for at least 30 years after the completion of the works to create or enhance the habitat. To count towards a development's net gain requirements, the site must be secured through a Section 106 Agreement, conservation covenant or planning obligation to ensure the habitats are maintained, even if the land is sold.

3.9.4 BNG Statutory Credits

3.9.4.1 Government will establish a national BNG statutory credit scheme for circumstances where applicants cannot secure 10% BNG onsite or through offsite units. This is a last resort, BNG should be secured locally and onsite wherever possible. This is because as well as delivering BNG locally, improving the quality of green space in Essex is an excellent way of improving the quality of places and the wellbeing of residents, contributing to stronger social and economic outcomes.

3.9.4.2 The money raised through statutory credits will be reinvested into biodiversity habitat creation schemes. Defra have released indicative pricing for statutory credits available to view [here](#). The price is set by Defra, based on habitat type and two credits must be purchased for every unit required.

3.9.4.3 This price will be higher than the cost of equivalent offsite unit on the market, this should encourage use of the mitigation hierarchy and ensure statutory credits are used as a last resort; meaning that all on-site and off-site options should be sought before considering use of the statutory credit scheme to achieve BNG. Developers

wishing to use statutory credits will have to provide evidence for this³. Natural England will sell statutory credits on behalf of the Secretary of State. An accessible and user-friendly digital sales platform is currently being developed and tested.

3.10 BNG good practice principles

3.10.1.1 Applicants should follow the ten principles set out in the table, below, which are taken from the CIEEM (Chartered Institute of Ecology and Environmental Management), IEMA and CIRIA document: [Biodiversity net gain. Good practice principles for development, a practical guide](#). These are high level principles that should be applied to every site.

Principle	Notes
1. Apply the Mitigation Hierarchy	Do everything possible to first avoid and then minimise impacts on biodiversity. Only as a last resort, and in agreement with external decision-makers where possible, compensate for losses that cannot be avoided. If compensating for losses within the development footprint is not possible or does not generate the most benefits for nature conservation, then offset biodiversity losses by gains elsewhere.
2. Avoid losing biodiversity that cannot be compensated for	Avoid impacts on irreplaceable biodiversity – these impacts cannot be offset to achieve no net loss or net gain.
3. Be inclusive and equitable	Engage stakeholders early, and involve them in designing, implementing, monitoring, and evaluating the approach to BNG. Achieve net gain in partnership with stakeholders where possible and share the benefits fairly among stakeholders.
4. Address risks	Mitigate difficulty, uncertainty, and other risks to achieving net gain. Apply well-accepted ways to add contingency when calculating biodiversity losses and gains in order to account for any remaining risks, as well as to compensate for the time between the losses occurring and the gains being fully realised.
5. Make a measurable Net Gain contribution	Achieve a measurable, overall gain for biodiversity and the services ecosystems provide while directly contributing towards nature conservation priorities.
6. Achieve the best outcomes for biodiversity	Achieve the best outcomes for biodiversity by using robust, credible evidence and local knowledge to make clearly justified choices when: - Delivering compensation that is ecologically equivalent in type, amount and condition, and that accounts for the location and timing of biodiversity losses; - Compensating for losses of one type of biodiversity by providing a different type that delivers greater benefits for nature conservation; - Achieving BNG locally to the development while also contributing towards nature conservation priorities at local, regional and national levels; - Enhancing existing or creating new habitat; and Enhancing

³ <https://www.gov.uk/guidance/understanding-biodiversity-net-gain>

Principle	Notes
	ecological connectivity by creating more, bigger, better and joined areas for biodiversity.
7. Be additional	Achieve nature conservation outcomes that demonstrably exceed existing obligations (i.e., doesn't deliver something that would occur anyway).
8. Create a Net Gain legacy	Ensure BNG generates long-term benefits by: - Engaging stakeholders and jointly agreeing practical solutions that secure net gain in perpetuity; - Planning for adaptive management and securing dedicated funding for long-term management; - Designing net gain for biodiversity to be resilient to external factors, especially climate change; - Mitigating risks from other land uses; - Avoiding displacing harmful activities from one location to another; and - Supporting local-level management of BNG activities.
9. Optimise sustainability	Prioritise BNG and, where possible, optimise the wider environmental benefits for a sustainable society and economy.
10. Be transparent	Communicate all BNG activities in a transparent and timely manner, sharing the learning with all stakeholders.

3.10.2 The Urban Greening Factor

3.10.2.1 Brownfield sites are defined as “Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.” This definition has been provided by National Planning Policy Framework [National Planning Policy Framework - Annex 2: Glossary - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/national-planning-policy-framework-annex-2-glossary-guidance).

3.10.2.2 For Brownfield sites and sites with low ecological value [or a BNG metric calculation with a low baseline]. The Urban Greening Factor can be consulted to establish best practice. The Urban Greening Factor (UGF) is a planning tool to improve the provision of Green Infrastructure (GI) particularly in urban areas. It can be used to increase urban greening and contribute to Biodiversity Net Gain. While it is not a statutory requirement, utilisation of the UGF can significantly contribute to place making, nature recovery, biodiversity enhancement, and connectivity to larger green infrastructure networks within proximity to the development site. This will help to deliver a tangible gain in biodiversity. More information can be found within the [National Green Infrastructure Framework Standards](https://www.gov.uk/government/publications/national-green-infrastructure-framework-standards) (2023).

3.10.3 Irreplaceable habitats

3.10.3.1 National Planning Policy Guidance 2019, implies that “any protected sites and areas (statutory or non-statutory) can be considered as comprised of irreplaceable [natural] habitats, for which biodiversity net gain proposals should not undermine their strict protection.” DEFRA will provide updated definition of “irreplaceable habitats” as stated February 2023. The Defra consultation states that “Secondary legislation will also be used to disapply the 10% measurable net gain requirement for irreplaceable habitats” ... “The biodiversity gain objective (part 1 of the Environment Act 2021) is to be replaced with a requirement for appropriate compensation relative to the baseline habitat type”. The loss of irreplaceable habitats cannot be compensated for by gains elsewhere and so they are excluded from biodiversity net gain calculations. Natural England is currently developing guidance which will set out the definition and a definitive list of irreplaceable habitats in England.

3.10.3.2 Any proposals that are likely to result in impacts on irreplaceable habitat should be accompanied by detailed survey information and clear evidence to support the exceptional reasons that justify such a loss. Compensation strategies should include contribution to the enhancement and management of the habitat.

3.10.3.3 Any impacts to irreplaceable habitats will require significant, bespoke compensation beyond the BNG metric and will also require further consultation with Natural England. Impacts should be avoided as much as possible using the mitigation hierarchy.

3.10.4 Stacking and Additionality

Stacking

3.10.4.1 It is possible to stack land used for biodiversity unit creation, with other nature markets. This means that the same parcel of land that is used for other nature markets can also be used for BNG. For BNG, the landowner must prove that the units created are in addition to those that are created for another nature market. More information on stacking is available [here](#).

Additionality

3.10.4.2 If you’re creating or enhancing habitat as part of your development, you may be able to count this towards your BNG.

3.10.4.3 You can still do this if the habitat required for your development is to:

- comply with a statutory obligation or policy, for example green infrastructure, environmental impact assessment (EIA) compensation or sustainable drainage
- provide river basin management plan (RBMP) mitigation and enhancement measures

- provide mitigation or compensation for protected species or sites, for example nutrient mitigation.

3.10.4.4 If you're also providing off-site mitigation and compensation for protected sites and species, this may count towards your BNG. You should do at least 10% of your BNG through other activities, for example, on-site habitat creation and enhancement. For example, if a development has a baseline score of 10 biodiversity units and needs to achieve a score of 11 units, at least 1 unit should come from separate activities (such as an onsite habitat or the wider market for biodiversity units).

3.10.4.5 If you're using off-site units, you need to legally secure these for at least 30 years. You must register them before they can count towards your BNG.

3.10.4.6 You should not count habitat creation or enhancements towards your BNG if you're already required to do this for:

- restocking conditions relating to a tree felling licence or a restocking notice
- marine licensing
- remediation under the environmental damage regulations

3.11 Conservation Covenants and Section 106 Agreements

3.11.1.1 BNG will be secured through legal agreement, either through a Section 106 (s106) Agreement or through a conservation covenant.

3.11.1.2 S106 agreements are legal agreements between local planning authorities and developers/landowners as part of the planning permission granting process. Suggested baseline wording for a s106 agreement to secure BNG is available in appendix A. It is important to note that each s106 must be tailored to each individual application.

3.11.1.3 A conservation covenant is an agreement between a landowner and a responsible body. These came into being as a means of securing conservation outcomes in September 2022. The latest advice on conservation covenants is available [here](#). Councils and other bodies with a conservation interest can apply to Defra to become a responsible body.

3.11.1.4 It must be stated that it will not be required to have both a conservation covenant and a s106 in place to secure a site – just one of those two options.

3.12 Management and Maintenance

3.12.1 Biodiversity Gain Plans

3.12.1.1 The requirement of schedule 14 (7A) of the Environment Act 2021 is that the development may not begin until a biodiversity gain plan is submitted and approved

by the LPA. Developers must clearly demonstrate how net gains will be secured when submitting a planning application via inclusion of a metric calculation for both the pre-development baseline and post-development projection (see section 3.2). A well-thought-out Biodiversity Gain Plan must be submitted by developers, to and approved in writing by the local planning authority. As well as being incorporated into the planning application, these plans must be integral to the proposed scheme or design.

3.12.1.2 Biodiversity Gain Plans set out the key ecological considerations relevant to the development proposals, the biodiversity management principles for new habitat creation areas and the enhancements that are likely to be achieved. The Environment Act sets out that the biodiversity gain plan should cover:

- How adverse impacts on habitats have been minimised.
- The pre-development biodiversity value of the onsite habitat.
- The post-development biodiversity value of the onsite habitat.
- The biodiversity value of any offsite habitat provided in relation to the development.
- Any statutory biodiversity credits purchased; plus
- Any further requirements as set out in secondary legislation.

3.12.2 Monitoring and Stewardship

3.12.2.1 Biodiversity Gain Plans must also set out how BNG will be monitored to ensure its establishment and achievement of 10% uplift over the 30-year period. This will require commitment to managing the site, through effective stewardship and maintenance.

Monitoring reports are required to be submitted to the LPA, and the reports must be checked, and enforcement action taken as required.

Deleted: The developer must also submit m

3.12.2.2 Natural England are developing a standard habitat management and monitoring plan template, which the Council will require applicants to use. Monitoring requirements for BNG will be site specific and should be set out within the legal agreement which secures the BNG (conservation covenant or planning obligation). The body responsible for monitoring must be nominated, and this could be the developer, consultant, landowner, management company or habitat provider [or other, as indicated within the legal agreement].

3.12.2.3 It is the councils preference that a developer pays the council to undertake the monitoring on their behalf. The costs associated with this monitoring would be included within a legal agreement. If, however, the developer wishes to undertake their own monitoring, the council will seek a monitoring fee through a legal agreement to enable an ecologist appointed by the council to review the monitoring reports submitted.

3.12.2.4 The LPA will check monitoring reports for onsite BNG and carry out any enforcement action if required. They will also monitor the delivery of BNG across the LPA boundary at the strategic level. The template can be found in appendix A and should be submitted with proposals where onsite BNG will be delivered. As more guidance is

Deleted: will be included

Deleted: the

Deleted: once available

released, a template register, for councils to keep a record of and monitor on site BNG sites, will be explored.

3.13 Summary of Planning application expectations

3.13.1.1 The Environment Act 2021 [schedule 14 \(7a\)](#) states that “grants of planning permission in England are to be subject to a condition to secure that the biodiversity gain objective is met”. Paragraph 2(1) states “the biodiversity gain objective is met in relation to development for which planning permission is granted if the biodiversity value attributable to the development exceeds the pre-development biodiversity value of the onsite habitat by at least the relevant percentage [10%+]”. The general condition paragraph 13(2) is that a biodiversity gain plan must be submitted and approved by the local planning authority. This plan must include a metric calculation demonstrating how a minimum of 10% gain will be delivered.

3.13.1.2 Therefore, development should only be permitted for major developments where a BNG of **a minimum of 10%** is demonstrated [through a metric calculation] and secured in perpetuity for at least 30 years. Planning applications need to be submitted with the following (the following list of requirements are to be confirmed as further guidance is released):

- A Biodiversity Metric calculation (the current Biodiversity Metric published by DEFRA), completed by a competent person (as defined by BS 8683:2021) and which clearly indicates the percentage change in biodiversity value from the baseline to the post development units. The metric calculation must be undertaken pre-development before any site clearance or habitat management work has been completed.
- A biodiversity gain plan^[11], which must include as a minimum:
 - information not captured in the biodiversity metric tool such as species factors and habitat management and monitoring plans.
 - how the 10-biodiversity net gain good practice principles have been followed.
 - how wider benefits to biodiversity have been incorporated into the development.
 - Including the aforementioned metric calculation.
- Details of how the biodiversity net gains will be managed and maintained for a period of at least 30 years.
- GIS layers pre and post development.
- Any offsite habitats created or enhanced are well located to maximise opportunities for local nature recovery.

3.13.1.3 Development Management Officers, in consultation with specialist Officers or ecology consultants, will review the information submitted in relation to BNG, including the biodiversity metric calculations. The Council will be looking for evidence of sound ecological principles and good outcomes for nature and not just the percentage BNG. The Council will challenge proposed habitat interventions when proposed habitats are

too small to be ecologically functional; or are unlikely to be deliverable given the site characteristics; or conflict with national guidance on BNG.

3.13.1.4 For applications where the baseline biodiversity value is negligible/zero, it is recommended to calculate any biodiversity unit gains as a numerical unit value as opposed to a percentage.

3.13.1.5 Where external expertise is required to review and validate the biodiversity gain plan or other ecological reports submitted with the application, which may be the case for larger or complex applications, applicants must reimburse the Council. Arrangements for this will be discussed at the pre-application stage and may subsequently be secured through a Planning Performance Agreement for major applications.

^[1] The biodiversity gain plan is referred to in the Environment Act. Where the Government has published a template, this should be used.

Deleted: may be requested to

3.14 BNG Process Flow Charts

3.14.1.1 Essex Planning Authorities are currently awaiting secondary legislation to be released by Defra and so the process flow charts below have been based on the information we currently have about the BNG planning process for both developers and LPAs.

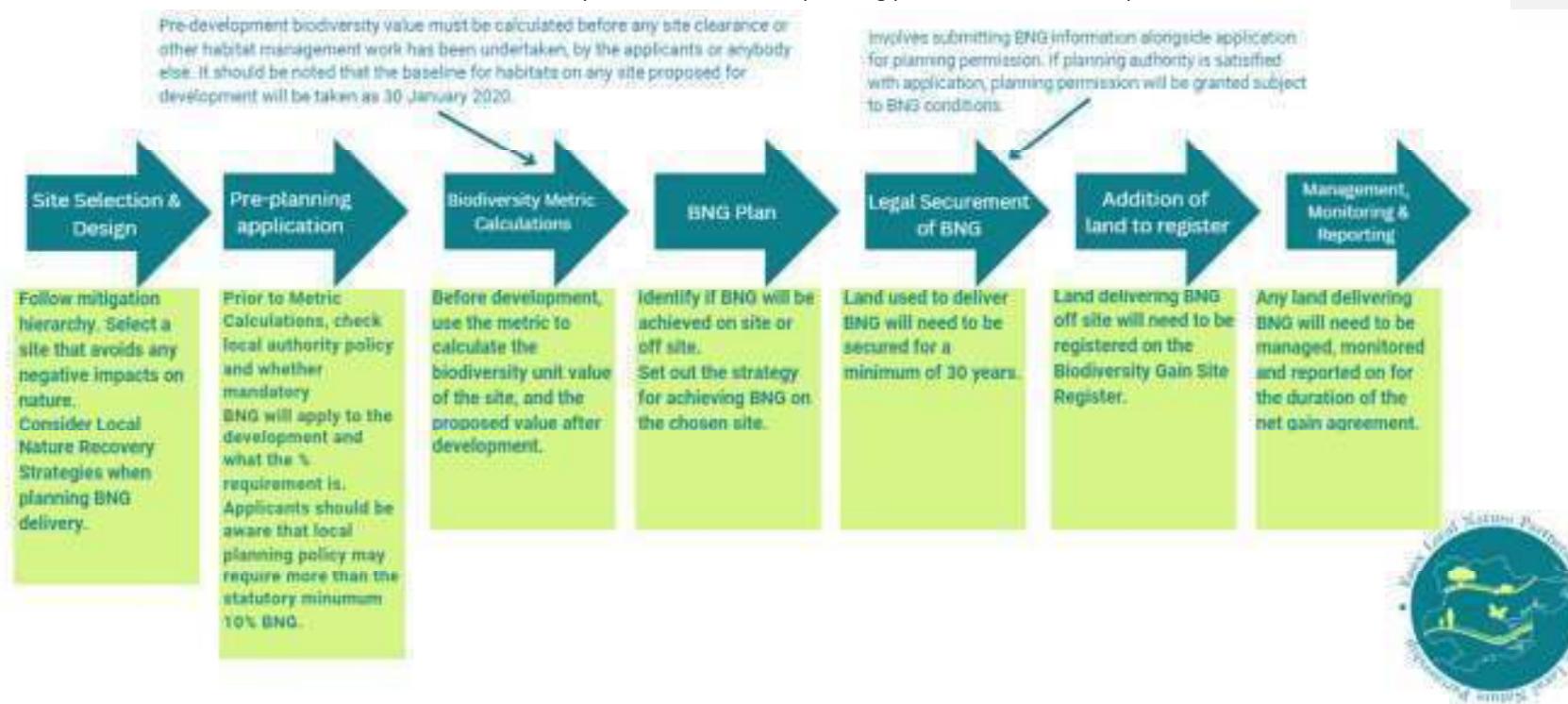


Figure 1. "How does BNG work?" flow diagram. Featured in the BNG Guidance pack created by the BNG working group within the Essex Local Nature Partnership. The flow diagram begins at "Site Selection & Design" and ends at "Management, Monitoring and Reporting."

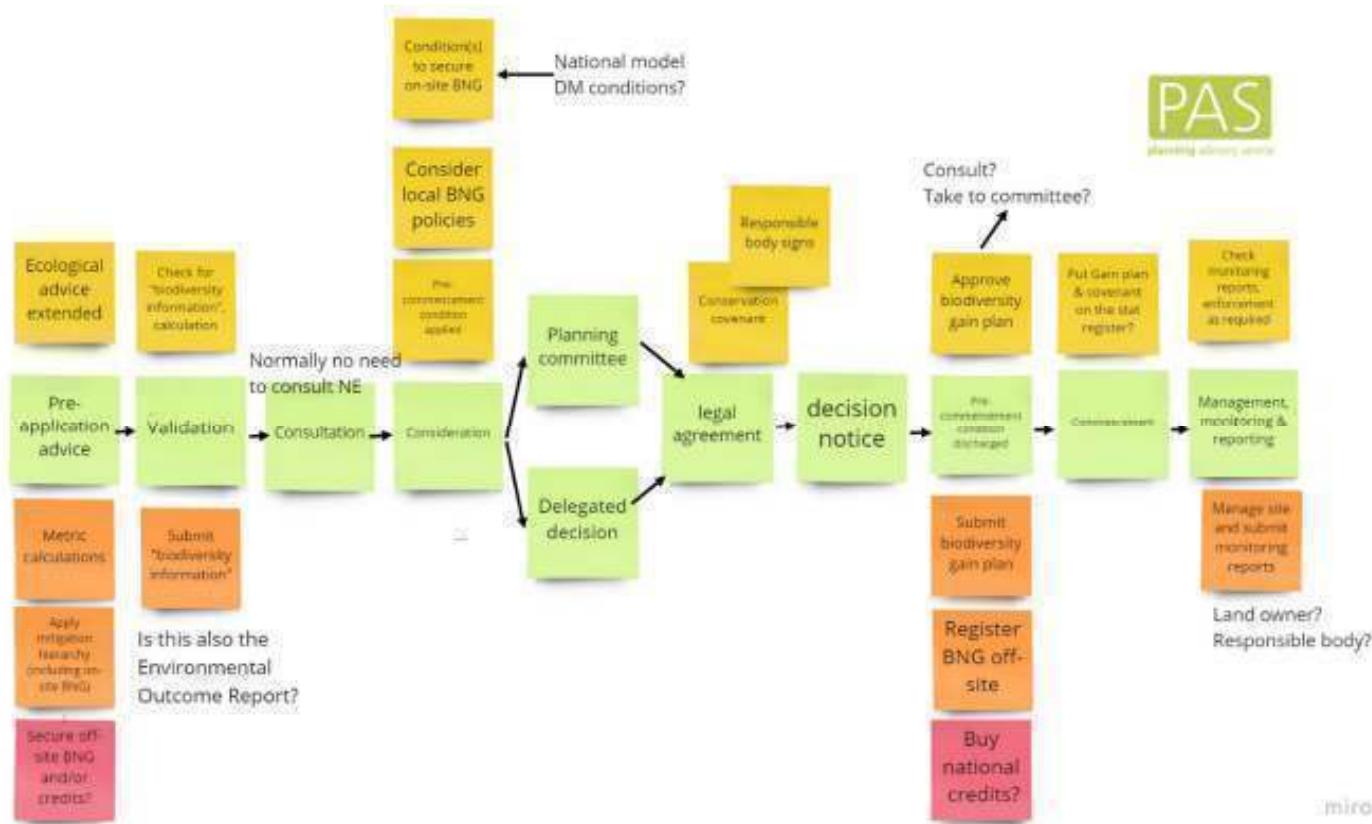


Figure 2. PAS flow diagram of planning application process with biodiversity net gain (once mandatory) based on current understanding (Yellow = LPA Activities, Orange / Red = developer activities). <https://www.local.gov.uk/pas/topics/environment/biodiversity-net-gain-local-authorities/biodiversity-net-gain-development>

The BNG Best Practice Process Flow produced by Future Homes Hub and PAS should also be consulted for reference by developers and LPAs:
https://irp.cdn-website.com/bddb2d99/files/uploaded/0180_862%20BNG%20BestPracticeProcessFlow-Option4CRev2023-04-21.pdf

3.14.1.2 The following link provides CIEEMS BNG and ecological impact assessment process in development projects diagram: <https://cieem.net/wp-content/uploads/2021/07/CIEEM-BNG-Report-and-Audit-templates2.pdf>

3.14.1.3 The following elements are important to consider as key parts of the process for Local Planning Authorities:

Pre-Application / Baseline Stage

- Habitat survey:
 - All habitat info in UK Habitat classification system (not JNCC Phase 1 Habitat Survey or translation from)
 - Habitat condition assessments
 - Digitised habitat data to produce detailed and clear GIS maps and BNG data
- Preliminary Ecological Appraisal Report (PEAR)
- Protected species surveys
- BNG Feasibility Report with Baseline Habitat Plan
- Ecological Constraints and Opportunities Plan

Decision-Making / Planning Application Stage

- Ecological Impact Assessment
- BNG Design Stage Report:
 - Full metric (in Excel, not a printout of headline results)
 - Full habitat condition assessment data (assessment sheets or equivalent evidence/notes)
 - Baseline Habitat Plan
 - Proposed Habitats Plan
 - BNG Implementation Plan
 - Steps taken to minimise adverse biodiversity impacts / mitigation hierarchy followed
 - Off-site gain details

Implementation / Post Planning Stage

- Biodiversity Gain Plan (can be submitted with application, must be submitted before commencement)
- Implement all other biodiversity measures - EPS licences, habitat/species mitigation etc.
- Habitat restoration/enhancement/creation
- (Habitat) Management and Monitoring Plan (HMMP)
- BNG Audit Report at project completion stage

4. Local Nature Recovery

4.1 Biodiversity Net Gain and Local Nature Recovery Strategy (LNRS)

4.1.1.1 Local Nature Recovery Strategies (LNRS') are a system of spatial strategies for nature and environmental improvement required by law under the Environment Act 2021. The main purpose of the LNRS is to identify locations to create or improve habitat most likely to provide the greatest benefit for nature and the wider environment. The LNRS will set out habitats, and the species they support, that are priorities for habitat creation and enhancement measures in the strategy area.

4.1.1.2 Essex County Council (ECC) have been appointed as the responsible authority to deliver the Essex LNRS on behalf of Greater Essex. 48 LNRSs together will cover the whole of England, with no gaps and no overlaps. This lays the foundation of the England wide National Recovery Network (NRN).

4.1.1.3 The Environment Act 2021 establishes two mechanisms to support the delivery of LNRS: mandatory BNG and a strengthened biodiversity duty on public authorities. Mandatory BNG is one of the key mechanisms to support the implementation of the LNRS. The LNRS will identify where action to achieve net gain will have the most impact for nature recovery and will encourage action in these locations through the way net gain is calculated. The LNRS will be used to target offsite BNG so that it contributes to the NRN. The LNRS can be used to determine the 'strategic significance' score that is part of the biodiversity metric calculation. The 'strategic significance' score is a landscape scale factor, which gives additional unit value to habitats that are located in preferred locations for biodiversity and other environmental objectives. In summary, the biodiversity metric will favour sites that have been highlighted as opportunities within the LNRS.

4.1.1.4 The development of the LNRS in Essex will be a collaborative effort, bringing together partners from all sectors to support the delivery of a strategy that truly reflects the priorities for nature in Essex, and the local level knowledge needed to produce the strategy. ECC are working with multiple partners from across the public, private and voluntary sectors, to create the strategy. Landowners and Farmers are critical to the development of the LNRS, as they will be able to identify potential opportunity areas for nature recovery and off-site BNG delivery.

4.1.1.5 The LNRS will be reviewed and republished, approx. every 3-10 years. The need for a review will be announced by Secretary of State, this means that all LNRSs across England will be updated at the same time. When the LNRS is updated, it should present what actions for nature have been undertaken and map where actions have been taken, since the strategy was last published. To do this, the Responsible Authority (Essex County Council) will use sources of information including the biodiversity gain site register, to show where BNG has been delivered off-site in Essex, since the last LNRS review.

4.2 Local Nature Recovery Strategy (LNRS) and Planning

4.2.1.1 Public authorities who operate in England must consider what they can do to conserve and enhance biodiversity in England. This is the strengthened 'biodiversity duty' that the Environment Act 2021 introduced. This means that, as a public authority, each Council must:

- Consider what they can do to conserve and enhance biodiversity
- Agree policies and specific objectives based on their consideration
- Act to deliver their policies and objectives

4.2.1.2 Once the LNRS is published, public authorities will need to understand how they can contribute to them. LNRS guidance, released by DEFRA March 2023, states that all public authorities should have regard to relevant LNRS' under the strengthened biodiversity duty. The government will be providing separate guidance to explain what this means in practice. The expectation is that the LNRS will be used to help inform how and where BNG should be delivered, i.e., which habitats are appropriate in which locations.

4.2.1.3 There will be an interim period between BNG becoming a legal requirement in January 2024, and the creation of the LNRS. Local authorities are advised to use local strategies to inform offsite BNG targeting prior to the implementation of the LNRS, such as green space strategies and biodiversity opportunity mapping. The availability and type of strategies available varies locally according to what activity and policy making has been taken forward by local authorities, non-governmental organisations, and other agencies.

4.2.1.4 The Biodiversity Metric 4.0 User Guide states that if an LNRS has not been published, the relevant consenting body or planning authority may specify alternative plans, policies or strategies to use. Alternative plans, policies or strategies must specify suitable locations for habitat retention, habitat creation and or enhancements, and might, for example, be:

- Local Plans and Neighbourhood plans
- LPA Local Ecological Networks
- Tree Strategies
- Area of Outstanding Natural Beauty Management Plans
- Biodiversity Action Plans (BAPs)
- Species and protected sites conservation strategies
- Woodland strategies
- GI Strategies
- River Basin Management Plans
- Catchment Plans and Catchment Planning Systems
- Shoreline management plans
- Estuary Strategies

4.2.1.5 If no alternative is specified, agreement should be sought from the consenting body or LPA when determining strategic significance.

5. Delivery of BNG in combination with other planning matters

5.1.1.1 When BNG Delivery is considered in combination with the delivery of other key themes, this will help to achieve multiple benefits across the LPA for people, and for nature. For example:

- Green Infrastructure – use of the National GI Framework and Essex GI Standards can help developers to utilise best practice GI, which will also contribute towards improved biodiversity (and therefore BNG).
- Sustainable Drainage Systems
- Economic Development
- Health and Wellbeing
- Housing and Development
- Accessibility to Green Space
- Active travel
- Energy

6. Biodiversity Net Gain Summary

6.1.1.1 BNG is about enhancing existing habitats and creating new habitats – species will come if the habitat is right. Biodiversity units are not a full representation of ecological value but are used to provide a quantification of a loss, no net loss, or a net gain in biodiversity as a result of development. All proposals must follow the mitigation hierarchy: avoid, mitigate, and compensate in addition to the requirement to deliver a minimum of 10% BNG. Proposals should demonstrate biodiversity enhancement by delivering wider benefits in addition to the units, such as delivering species enhancements and by delivering the aims of the LNRS.

For further information please contact planningpolicy@castlepoint.gov.uk

7. Appendices

7.1 Appendix A – Further Guidance

Biodiversity Gain Plan Template

[The latest biodiversity gain plan template and guidance documents can be found online through this link - www.gov.uk/government/publications/biodiversity-gain-plan](http://www.gov.uk/government/publications/biodiversity-gain-plan)

Habitat management and monitoring plan

[The latest guidance for habitat management and monitoring plans can be found here - Creating a habitat management and monitoring plan for biodiversity net gain - GOV.UK \(www.gov.uk\)](#)

Templates for this can be found here - Habitat Management and Monitoring Plan Template - JP055 (naturalengland.org.uk)

The following documents are due to be released by the government in [due course](#). This appendix will be updated once they have been completed:

- Natural England Template Offsite Register
 - Adapted to provide an onsite register for facilitating Local Councils approach to monitoring onsite BNG

7.2 Appendix B – Section 106 and planning condition template examples

The Planning Advisory Service (PAS) has provided some online templates for example BNG planning conditions and Section 106 templates. These can be found here - [Biodiversity Net Gain in Development Management](#) | Local Government Association

Deleted: November 2024

Deleted: <#>Biodiversity Gain Plan Template¶ Natural England Template Monitoring Plan¶

Deleted: -

Deleted: Suggested s106 Policy Wording – from Buckinghamshire Council.

Offsite RNG

- 60. Prior to Commencement of for written approval the Offsite not be Commenced until th approved in writing by the C
- 61. The Owners shall thereaft with the timings set out in t
- 62. The Second Owners covenant accordance with the approx (30) years and at no cost t permitted to be carried ou interfere with implements management of the Offsite Plan such as to achieve an limited to) achieving the tal the Tyler Grange Report.

Onsite BNG

63. Prior to Commencement of for written approval the Ons not be Commenced until th approved in writing by the C
64. The Owners shall not Occ otherwise in accordance wit set out in the approved Onsi
65. The Onsite BNG Measures is the approved Onsite BNG M no cost to the Council and carried out which would im BNG Management Plan such not limited to) achieving the in the Tyler Grange Report.

Deleted:

7.3 Appendix C - Delivery of BNG through other planning matters – further detail.

7.3.1 Green Infrastructure

The delivery of good quality, accessible Green Infrastructure (GI) provides multiple benefits; one being supporting biodiversity. The co-delivery of BNG and GI through policy is complementary. Through ensuring BNG delivers not only benefits for biodiversity, but more widely through the multifunctionality of GI, BNG can deliver socioeconomic benefits simultaneously.

Useful Resources:

- The Essex Green Infrastructure Standards: [Essex Green Infrastructure Standards | Essex Design Guide](#)
- The Essex Green Infrastructure Strategy: [Plans and strategies: Essex green infrastructure strategy - Essex County Council](#)
- The National Green Infrastructure Framework: [Green Infrastructure Home \(naturalengland.org.uk\)](#)
- The London Urban Greening for Biodiversity Net Gain: A Design Guide: [urban_greening_and_bng_design_guide_march_2021.pdf \(london.gov.uk\)](#)

7.3.2 Sustainable Drainage Systems (SuDS)

SuDS plans can increase their biodiversity value by adding nature-based solutions and native species planting into their design.

The local flora and fauna should serve as a reference for drainage designers and developers as they take into account the entire ecosystem and provide connectivity between habitats both on and off the development site. This can be achieved through SuDS features such as Water Attenuation Ponds, Rain Gardens, Tree Pits, Green Roofs, Planters, and Swales.

Used appropriately alongside other stormwater management or smart technologies, they can help deliver holistic designs that truly connect and restore biodiversity. Refer to the SuDS design guide for further information [available here: <https://www.essexdesignguide.co.uk/suds>]

7.3.3 Economic Development

The co-benefits of BNG delivery with economic development are varied. BNG provides a green finance mechanism for habitat restoration and an income through habitat management for landowners, but also the subsequent economic benefits through creation of jobs for maintenance of assets in the local area. The enhancement of habitats through BNG also increases the natural capital and economic ecosystem service benefits e.g. cooling effects of vegetation and canopy cover reducing the need for cooling in summer, leading to the reduction of energy bills for building occupiers. https://naturalengland.blog.gov.uk/wp-content/uploads/sites/183/2022/04/BNG-Brochure_Final_Compressed-002.pdf

7.3.4 Health and Wellbeing

It is recognised that access to high quality nature and green spaces has a positive impact on health and wellbeing. Through requirements in health and wellbeing policies, strategies and for health impact assessments, there is an opportunity for the delivery of BNG to support in enhancing a local community's health and wellbeing through the provision of multifunctional green spaces e.g., supporting active lifestyles, air purification, ecotherapy.

More information on the delivery of health and well-being can be found in Chapter 8.6 Health and Wellbeing: [Essex Green Infrastructure Strategy \(placeservices.co.uk\)](https://placeservices.co.uk). There is also further information within the 10 principles of Active Design, Principle 5. Network of multifunctional open space: [Active Design | Sport England](https://www.sportengland.org/active-design). Also see the [Essex Design Guide webpages](https://essexdesignguide.com/), where extensive information is available on health and wellbeing.

7.3.5 Housing and Development

"BNG can create more attractive places in which to live and work, contributing towards place-making. BNG can finance investment in new or existing green infrastructure and nature-based solutions, enhancing the resilience of our towns, cities, coasts and infrastructure." <https://naturalengland.blog.gov.uk/wp-content/uploads/sites/183/2022/04/BNG-Brochure-Final-Compressed-002.pdf> The creation of more attractive, green developments aligns with the Government's 'Building Beautiful Places Plan' and incorporation of 'beauty' within the NPPF (2021).

Places rich in biodiversity can be part of the place-making process. Designing with biodiversity in mind, at the earliest possible stage can lead to beautiful, biodiverse places. This can contribute to the desirability of an area.

7.3.6 Accessibility to Green Space

BNG can help to deliver further accessibility to biodiversity and green space, especially in deprived areas.

"BNG can finance investment in new or existing green infrastructure and nature-based solutions, enhancing the resilience of our towns, cities, coasts and infrastructure." <https://naturalengland.blog.gov.uk/wp-content/uploads/sites/183/2022/04/BNG-Brochure-Final-Compressed-002.pdf>

Policy requirements for BNG delivery sites to also provide recreational facilities, and vice versa, can help to maximise the environmental and socioeconomic benefits of green space in communities. Onsite multifunctional green spaces providing both BNG and recreation can also help to reduce the impact of new development on existing surrounding green spaces and protected areas e.g., through reducing visitor recreational pressure. BNG delivery can help to deliver nature recovery networks and provide connectivity. It can also bring nature to people and designing green space with accessibility in mind can contribute to community well-being.

7.3.7 Energy

Through the delivery of renewable energy schemes, there is also an opportunity to deliver BNG. Wind and solar farms in particular, if managed correctly, could be considered GI assets delivering both energy and biodiversity enhancements, along with other benefits. In addition,

the cooling effects of green and blue spaces contribute not only to climate change adaptation and mitigation, but also to reducing cooling costs in the summer ([UK natural capital - Office for National Statistics \(ons.gov.uk\)](#)) more information about delivery can be found here: [Bio-Solar Farms | Essex Design Guide](#) or here: [Essex Green Infrastructure Strategy \(placeservices.co.uk\)](#) in chapter 8.5.

7.4 Appendix D - Additional Considerations

Additional considerations in regard to Biodiversity Gain Plans which could affect deliverability:

- Ecological function (edge effects/fragmentation/soil type) - multiple small vs. single large wildflower area, linear/roadside grassland, maintaining plant species richness.
- Location and long-term management of features – e.g., long grass = change in condition/not distinctiveness, cutting regime matches habitat type. Landscape Management Plans and Habitat Management and Monitor Plans need to reflect the same aims and objectives.
- Amenity vs biodiversity - will habitat deliver for biodiversity given proximity to development and potential disturbance from lighting and recreational use e.g., ponds/hedgerows/grassland within housing developments, consider discrete areas specifically for biodiversity?
- Forecasting size class of newly planted urban trees - should be categorised as 'small' (<30m diameter) unless evidence is provided to justify input of larger size classes

Biodiversity Net Gain (BNG) Supplementary Planning Document (SPD)

Consultation Plan

What are we consulting on?

Public consultation of the following documents will be undertaken in accordance with the Council's adopted [Statement of Community Involvement](#) and the statutory and legal requirements set out in the Town and Country Planning Regulations 2012 and the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended):

- Biodiversity Net Gain (BNG) Supplementary Planning Document (SPD)
- Strategic Environmental Assessment ([SEA](#)) and [Habitats Regulations Assessment \(HRA\)](#) Screening Report on the Biodiversity Net Gain Supplementary Planning Document

When will the consultation occur and for how long?

It is assumed that if the Council's Cabinet approve the BNG SPD for public consultation, which is due to be considered on [20th December](#) 2023, consultation will commence [in January 2024](#).

Prior to adoption of an SPD the Council is required to consult for a minimum of four weeks on the proposed documents.

Deleted: 15th November

Deleted: later

Deleted: November 2023

Deleted: Consultation will therefore close prior to the Christmas 2023 period.

How will the consultation be promoted?

The following actions will be undertaken to promote the consultation:

- Organisations the Council have a statutory duty to contact, and those organisations and individuals on the planning policy and Castle Point Plan engagement database, will be directly consulted. This will be by email in the first instance to minimise printing and postage costs. There will be some people that will be notified by post as no email has been supplied in the past.
- Due to the technical nature of the BNG SPD, organisations or individuals in the planning and development sector, infrastructure providers and those who are likely to be directly affected by the proposals will be consulted directly. Planning and Building Control records will therefore be used to write directly to those businesses that are involved in the construction sector of Castle Point to notify them of the proposals. This will be by email in the first instance to minimise printing and postage costs.
- The consultation will be promoted on the Council's website and consultation portal.
- A press release will be issued.
- The consultation will be promoted on the Council's social media platforms (Twitter, Facebook and LinkedIn).
- Consultation materials including electronic response forms will be available on the Council's consultation portal.
- Consultation materials will be available to view at the Council offices and local libraires.

Who and how can individuals or organisations respond to the consultation?

Representations can be submitted by any individual or organisation in response to this consultation. This can be achieved by completing an on-line Survey on the Council's 'Citizen Space' website. A hard copy of this Survey can be requested, from the Planning Policy section of the Planning department. Alternatively, representations can be made by:

Email: planningpolicy@castlepoint.gov.uk

Post: Planning Policy, Castle Point Borough Council Offices, Kiln Road, Thundersley, Benfleet SS7 1TF

Or deposited to the Council Offices and the four libraries in the borough (Canvey Island, Hadleigh, South Benfleet and Tarpots).

What comments are being sought?

Comments are being sought on the contents of the BNG SPD and whether consultees believe it to be effective in obtaining and delivering BNG.

Comments are also being sought on the outcomes of the Strategic Environmental Assessment ([SEA](#) and [Habitats Regulations Assessment \(HRA\)](#) Screening Report.



Appendix 3

NOTES OF ENVIRONMENT POLICY & SCRUTINY COMMITTEE

BIODIVERSITY NET GAIN (BNG) &

SUPPLEMENTARY PLANNING DOCUMENT (SPD)

20TH NOVEMBER 2023

PRESENT: Councillors Thomas (Chair), Ainsley, Edwards, Howlett and Lillis

Councillor Fuller, Cabinet Member for Environment

Officers: Amanda Parrott - Planning Policy, Maria Hennessey - Senior Planning Policy Officer & Loretta Hill – Civic Governance (Notes)

ALSO PRESENT: Cllrs Isaacs, Jones, and Palmer

APOLOGIES: Councillors Campagna, J.A Payne, Mrs J. Payne, J. Thornton, and Walter

1. MEMBERS INTERESTS

There were none.

2. BIODIVERSITY NET GAIN

The Committee considered the report providing the draft Biodiversity Net Gain (BNG) Supplementary Planning Document (SPD). The report provided points for discussion with the committee about BNG and if the proposed BNG SPD in its current form should proceed to public consultation.

The Environment Policy and Scrutiny Committee had been commissioned to review the contents of the report, and make recommendations to the Cabinet on:

- The approval of the Draft Biodiversity Net Gain (BNG) Supplementary Planning Document (SPD) as set out in Appendix 1 for public consultation in accordance with the consultation plan (Appendix 2).

The Senior Planning & Policy Officer made a presentation to the committee on the report.

Biodiversity Net Gain

"Biodiversity Net Gain (BNG) is an approach to development, land and marine management that leaves biodiversity in a measurably better state than before the development took place." - Natural England

"BNG is additional to existing habitat and species protections. Intended to reinforce the mitigation hierarchy, BNG aims to create new habitats as well as enhance existing habitats, ensuring the ecological connectivity they provide for wildlife is retained and improved." - Natural England

It is a new tool that can measure Net Gain demonstrating robustly the value and enforcing it. It is not there to prevent development, where there is less impact it is there to ensure biodiversity is provided.

Supplementary Planning Document

SPDs should build upon and provide more detailed advice or guidance on policies in an adopted local plan. As they do not form part of the development plan, they cannot introduce new planning policies into the development plan or in their own right. They are, however, a material consideration in decision making. They should not add unnecessary financial burdens on development.

The guidance has been through Central Government Consultation and Scrutiny.

Castle Point Plan

The Environment Act 2021 enshrines a minimum 10% BNG into law from November 2023 (now delayed until January 2024) for major sites and April 2024 for minor development sites, this therefore precedes the planned adoption of the Castle Point Plan.

As there is no Local Plan at present this is guidance in the meantime.

National Planning Policy Framework (NPPF), 2021 and Environment Act, 2021

The concept of BNG was introduced in the first iteration of the NPPF (2012). This was advanced by the Environment Act, 2021, which brings mandatory BNG into law. This means that all new developments will be required to deliver a minimum 10% increase in biodiversity. Local Planning Authorities have the discretion to go beyond 10% and require a higher percentage BNG if they so choose.

This was due to become mandatory for major sites in November 2023, however the government released in October 2023 that this is to be delayed to January 2024. BNG is due to be mandatory for small sites in April 2024. This will be a condition of planning permission in England as per section 98 of the Environment Act 2021 for relevant developments.

Agreements

Section 106 agreements and conservation covenants are the delivery vehicles for BNG, both of these have implications for the Council's legal team or appointed external team. They are legally binding on all parties to the agreement.

The draft template for Section 106 Agreements within the appendix of the BNG SPD will be reviewed by the Council's legal team before it is taken for approval for public consultation through Cabinet.

Following the presentation members of the Environment PSC were invited to ask questions, matters identified were answered and addressed.

Members Questions and Discussion:

1. What will we get for the 10% BNG. This was explained at the Members training session last week and is set out in the metrics under Planning Requirements and Legislation. Measures are maintained for 30 years.
2. What would happen, regarding planning decisions (NPPF) for BNG, if it was felt development was not economical and applications were refused. It was explained that our Ecologist, Hamish Jackson, Senior Ecological Consultant at Essex County Council, Place Services, will be able to support and assist us as required. There will also be agreements in place. Should applications go to appeal then these would be investigated.
3. The Chairman asked, as a recommendation to Cabinet that 10% is not a target but the minimum as we want to aim higher.
4. A Member queried whether this would be presented to Cabinet before Natural England updates are provided. The documents presented are updated, the metric is updated.
5. A Member stated that it is important that all of Planning and everyone responsible for this fully understand it.
6. Members were concerned at the moving of habitats 'Off-site', potentially out of the Borough and expressed their dissatisfaction at the possibility of moving them out of Essex. During discussion members also raised concern as to risk factors and annihilation of wildlife. Members felt it was important that checks are carried out as to where habitats are moved to and that pesticides have not used on the land.
7. Members asked for clarification and understanding of habitat banks and the management of it.

Following this there was discussion surrounding Brownfield sites, landbanks/owners and who scrutinises this? A covenant would have to be signed and we as an authority would be responsible for the scrutiny of this, also Essex County Council, RSPB, Essex Wildlife Trust, it would be up to the responsible body to check.

Members discussed deprivation from biodiversity and used Jotmans as an example. It was explained that the purpose is to enhance biodiversity and is not about public access. .

A Member asked whether this would be a biodiversity Policy or in a Plan. This will be in the local plan, but as we do not have one at present, this is guidance for now.

Cllr Lillis presented to the committee a list of questions to be addressed (due to the quantity, these have been added as Appendix 1 to these notes)*. The questions were all answered and resolved during the meeting.

The following responses to Cllr Lillis' questions are included :

4.3.3 Ecologists work for Castle Point and not for the applicant. We cannot tell applicants who they can/can't use.

Competent Persons terminology: members would like an appropriate qualified person, with suitable qualifications.

4.3.6 This is done through the application process and would go to DMC. Members asked for this to a recommendation.

4.4.1 Members agreed to look at a higher-level threshold.

7.2 £53k has been spent understanding land habitats and wildlife with Essex County Council. Social media and the website will be used. Engagement needs to be made with those who put in plans. Members expressed concern that some people may struggle to understand the metrics and that it is important that work is kept local.

8.1 This is mandatory.

2.2.1.1 Appendix 1 document; An emergency has not been declared. Wording to be changed.

2.2.2 The benefits have been made clear but what about the negatives. It feels one-sided. Members also discussed on this point that net loss hasn't been taken account of and housing and infrastructure. It was recommended questions relating to this be taken to the local plan board.

3.2.2 This could be done but we don't know what they are right now.

3.10.3 This is the mitigation hierarchy.

3.11.1.1 We have adopted development guidance.

3.12.2.2 Members recommended the Ecologist signs this off. Hamish Jackson from Essex County Council.

3.12.2.3 Templates will be provided once available.

3.12.1.1 Perpetuity to be taken out, as it is not written correctly. The length of 30 years to be increased to 60 years. This was agreed as a recommendation.

3.13.1.3 This will be reported to Scrutiny and may be something to add to the constitution.

3.13.1.4 Members discussed all applications going to Cabinet and raised concern surrounding scrutiny of applications and that we do not have yet have competent people. It was suggested quarterly reporting can be provided during the first year. Currently any applications that come in will go through Hamish as we do not yet have our own competent person. Members agreed to the recommendation that all applications go through

Hamish until we have qualified competent persons in place. BNG sign a declaration to say they are competent and that they report to the institution.

3.13.1.5 The wording to change from 'may be' to 'will be'. This has been noted as a recommendation.

Additional comments and questions:

Members concerns regarding subsoil were to be added to the list of recommendations.

Members agreed to incorporate additional recommendations to those previously set out in the report.

Next Steps

Dependent on the outcome of the Environment Policy and Scrutiny Committee, the BNG SPD is scheduled to go to Cabinet in December for approval for public consultation to commence.

Assuming the BNG SPD is approved for public consultation, this would commence later in November for a period of four weeks, ending before the Christmas period.

Larger applications will be required to achieve BNG from January 2024 and officers have been working with applicants on larger schemes to ensure that BNG is incorporated into their proposals already to ensure a smooth transition.

Following public consultation, officers will prepare a final BNG SPD, with the aim of taking it for adoption to Council in March. This will ensure a BNG SPD is adopted prior to the implementation for BNG for all major and minor schemes in April 2024.

It has been made clear that further legislation and guidance from the government is still being released at this time and more guidance is expected to be published by the end of November. Due to the tight timescales, it is anticipated that the timetable mentioned above continues and the latest information and guidance is fed into the latest BNG SPD where appropriate. Any major changes to the draft BNG SPD from information or guidance from the government and/or the consultation process will be reported to Council for Member's to consider at that time.

Conclusion

BNG will become mandatory for all relevant planning applications from April 2024 as a consequence of the Environment Act 2021.

The BNG SPD provides clear guidance to all relevant stakeholders about what the Council will expect from them in regard to BNG. This will help to improve the transition towards mandatory BNG. It also ensures that good quality planning applications are submitted that incorporate BNG into the design of the scheme from the outset, leading to developments that implement high quality BNG.

It is proposed that the Environment Policy and Scrutiny Committee recommend the BNG SPD is taken to Cabinet for approval to consult on its contents.

As new legislation and guidance is released by the government prior to the adoption of the BNG SPD, this will be reported to Council.

The Chairman thanked everyone for their questions and members agreed thorough scrutiny had been given to this. Thanks were also given to the officers for all the work they had put in to presenting BNG to the committee.

A copy of the presentation will be circulated to all members of the Committee along with Notes following the meeting and for those that were not present.

Decision:

The Committee recommended that the BNG SPD subject to amendments detailed below and identified at the meeting be presented to Cabinet for approval for consultation:

Recommendations to Appendix One – Draft Biodiversity Net Gain Supplementary Planning Document

- Paragraph 2.2.1.2 – remove reference to a 'climate and ecological crisis' as the Council has not declared a climate emergency.
- Paragraph 2.3.1.1 – reword this paragraph to be grammatically correct.
- Section 3.2.3 – Where the document references a 'competent person' further information should be included about the level of qualifications.
- Paragraph 3.13.1.5 – Amend the wording in the first sentence to ensure applicants reimburse the council where external expertise is required.
- Appendix one to be updated with the latest Biodiversity Gain Plan template released by Natural England.
- Where BNG cannot be secured on-site the document should list the preferred order of off-site BNG provision in the following order:
 - Within the ward of the development site
 - Within an adjoining ward of the development site, within the local authority boundary
 - Within the local authority boundary
 - Within an adjoining ward of the development site, in a neighbouring local authority
 - Within an adjoining local authority
 - As a last resort beyond the local authority and neighbouring authorities
- Investigate whether the Council can request developers to pay for an ecologist, chosen by the Council to undertake the monitoring.

Recommendations to Appendix Two – Consultation Plan

- Amend the proposed dates in the document as PSC was delayed by one month. Approval of Cabinet in December 2023 and consultation to commence in January 2024.

Recommendations to the Castle Point Plan Board

- The Environment PSC support a higher minimum threshold above the mandatory 10% for BNG. This should be investigated through the work on the Castle Point Plan and whether this could be obtained and included in policies. This could include an adjusted level for urban sites.
- For note, the Environment PSC want to maximise BNG on urban areas.
- Investigate whether the Council can require BNG sites to be secured for an additional 30 years for enjoyment after they have been fully developed, as defined in their management plan in the legal agreement.
- Investigate how to include wildlife corridors into policies that can be delivered in a meaningful way.
- Look at ways to maximise planning gain through the use of a dynamic assessment tool which adjusts the different policy levers for infrastructure, passive house, BNG and affordable housing based on viability.

Further recommendations

- Officers to investigate if applications that seek statutory credits rather than on or off-site BNG could be required to go to the Council's Development Management Committee.
- Requested that where an external ecologist, employed by the council is assessing a BNG metric calculation, they should sign a declaration that they have no conflict of interest on that particular development.
- Officers to report on the outcomes of the consultation to the Environment PSC, if the committee deem that another Environment PSC is required following the consultation then this will be undertaken. If another PSC is not required, then a report will be made to Cabinet to recommend adoption.
- Officers to consider how to report to members on the implementation of BNG in a meaningful way. This could include quarterly progress reports on net change on biodiversity.
- All BNG planning applications should be reviewed by an externally employed ecologist until the council have an in-house competent person to assess BNG metrics and delivery of BNG.
- Officers to check that where there is off-site BNG no pesticides are used on fields.

*Appendix 1 – not included for Cabinet.



Castle Point Borough Council

Biodiversity Net Gain (BNG)
Supplementary Planning Document (SPD)

**Strategic Environmental Assessment (SEA) and
Habitats Regulations Assessment (HRA)**

Screening Report

December 2023

Contents

1. Introduction	3
2. Background	3
2.1. Strategic Environmental Assessment (SEA)	3
2.2. Habitats Regulations Assessment (HRA).....	3
3. SEA Screening.....	4
4. Significance of effects on the environment.....	5
5. HRA Screening.....	6
5.1. Special Protection Areas (SPAs)	7
5.2. Special Areas of Conservation (SACs)	7
5.3. Ramsar Sites (Wetlands of International Importance)	8
6. Conclusions	8
6.1. SEA Screening Outcome.....	8
6.2. HRA Screening Outcome.....	8

1. Introduction

This Screening Report is an assessment of whether or not the Biodiversity Net Gain (BNG) Supplementary Planning Document (SPD) requires a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations and whether or not it requires a Habitats Regulations Assessment (HRA) in accordance with Article 6(3) and (4) of the EU Habitats Directive and with Regulation 61 of the Conservation of Habitats and Species Regulations 2017.

Supplementary Planning Documents (SPDs) build upon and provide more detailed advice or guidance on policies in an adopted local plan. As they do not form part of the development plan, they cannot introduce new planning policies. This SPD sets out how BNG is expected to be implemented and managed.

A SEA is required if an SPD is deemed to have a likely significant effect on the environment. The Planning Practice Guidance recognises that SEA may be required when preparing an SPD in exceptional circumstances. (Paragraph: [008 Reference ID: 61-008-20190315](#))

A HRA is required when it is deemed that likely significant effects may occur on protected habitats sites (also known as European sites and Natura 2000 sites) as a result of the implementation of a plan or project. This document provides screening to see whether an appropriate assessment is required.

In accordance with the Environmental Assessment of Plans and Programme Regulations, Natural England, Historic England, and the Environment Agency will be consulted on this SEA and HRA screening report.

2. Background

2.1. Strategic Environmental Assessment (SEA)

The Strategic Environmental Assessment (SEA) Directive (2001/42/EC) on the assessment of the effects of certain plans and programmes requires an environmental assessment to be made of certain plans or programmes. The objective of SEA, as defined in government's guidance on strategic environmental assessment, is 'to provide for a high level of protection of the environment and contribute to the integration of environmental considerations into the preparation and adoption of plans....with a view to promoting sustainable development' (Article 1). The SEA Directive has been transposed into UK law through the [Environmental Assessment of Plans and Programmes Regulations 2004](#).

2.2. Habitats Regulations Assessment (HRA)

Under the provisions of the EU Habitats Directive and translated into English law by the Habitats Regulations ([The Conservation of Habitats and Species \(Amendment\) Regulations 2017](#)), a competent authority must carry out an appropriate assessment of whether a plan or project will significantly affect the integrity of any habitats site, in terms of impacting the site's conservation objectives, if the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of that site.

HRA screening considers whether a plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects).

3. SEA Screening

SEA is a tool used at the plan-making stage to assess the likely effects of the plan when judged against reasonable alternatives. A SEA will only be required when preparing an SPD in exceptional circumstances, it is necessary to prepare a screening opinion to be satisfied that a SEA is not required. This document sets out that screening opinion based on the scope of, and detail contained within the SPD.

Table 1: Establishing the need for a SEA

SEA Requirement	Comments
Is the plan: (a) subject to preparation or adoption by an authority at national, regional or local level; or (b) prepared by an authority for adoption, through a legislative procedure by Parliament or Government; and, in either case, (c) required by legislative, regulatory or administrative provisions?	Yes, the SPD is subject to preparation and adoption at local level. There are legislative and regulatory provisions in place for SPDs. SPDs would be considered as falling within the category of 'administrative provision'
Is the plan (a) prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use, and does it (b) sets the framework for future development consent of projects listed in Annex I or II to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive 97/11/EC(9)?	Yes, the SPD is prepared for town and country planning purposes and contributes to wider frameworks for future development consent of projects listed in Annex I or II to Council Directive 85/337/EEC (urban development projects).
Does the plan (a) determine the use of a small area at local level; or (b) is a minor modification to a plan or programme of the description set out in either of those paragraphs?	Neither - The SPD builds upon and provides further guidance on the implementation of the Environment Act 2021.
Has it been determined that the plan requires an assessment pursuant to Article 6 or 7 of the Habitats Directive?	No, HRA is not required. The SPD does not include any allocations for development of any kind, there will therefore be no likely significant effects alone or in combination on habitats sites. See HRA section.
Is the plan or programme likely to have significant environmental effects?	No, the SPD is not considered to have likely significant environmental effects and any environmental effects will be positive – see the next section.

4. Significance of effects on the environment

To decide whether a SPD might have significant environmental effects, its potential scope should be assessed against the criteria set out in Schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004, or Annex II of the SEA Directive 2001/42/EC.

When deciding on whether the proposals are likely to have significant environmental effects, the local planning authority should consult the statutory consultation bodies. Where the local planning authority determines that the plan is unlikely to have significant environmental effects (and, accordingly, does not require an environmental assessment), it should prepare a statement of its reasons for the determination.

The following table explores the potential scope of the SPD against the criteria set out in Schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004.

Table 2: Schedule 1 Criteria for Determining the Likely Significance of Effects on the Environment

SEA Requirement	Comments
1. The characteristics of plans and programmes, having regard, in particular, to -	
(a) the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources;	The SPD provides guidance for development proposals within the borough of Castle Point. SPDs cannot introduce new policy. The SPD provides further guidance around the application of the Environment Act 2021. The SPD is relevant to the entire administrative area of Castle Point Borough Council. The degree to which the plan or programme sets a framework for projects and other activities is low.
(b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;	The SPD will not form part of the development plan. It builds upon the adopted Local Plan and will influence planning applications. The degree to which it influences other plans and programme is moderate.
(c) the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;	The SPD will promote sustainable development by providing a summary of guidance and legislation related to BNG implementation and management, which will enhance biodiversity throughout the local area.
(d) environmental problems relevant to the plan or programme; and	The SPD will help prevent biodiversity decline and enhance habitats. There are no environmental problems relevant to this SPD.
(e) the relevance of the plan or programme for the implementation of Community legislation on the environment (for example, plans and programmes linked to waste management or water protection).	The content of the SPD is not in conflict with those relevant planning documents within the wider district and county area related to waste management or water protection.
2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to -	
(a) the probability, duration, frequency and reversibility of the effects;	The SPD is not allocating any sites for development and is providing guidance for the application of the Environment Act 2021. Through this legislation planning applications

	will be required to provide BNG and the probability, duration, frequency and reversibility of the effects to development proposals will be assessed in detail at that stage. The SPD provides more information for applicants on how to do this effectively.
(b) the cumulative nature of the effects;	There are no cumulative effects.
(c) the transboundary nature of the effects;	There are no transboundary effects; this plan applies to the administrative area of the Castle Point borough only.
(d) the risks to human health or the environment (for example, due to accidents);	The SPD poses no risk to human health.
(e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);	The SPD applies to the administrative area of the Castle Point borough only.
(f) the value and vulnerability of the area likely to be affected due to – (i) special natural characteristics or cultural heritage; (ii) exceeded environmental quality standards or limit values; or (iii) intensive land-use; and	The SPD covers the administrative area of Castle Point borough. There are multiple nationally designated nature conservation sites and listed buildings of architectural merit. As no development is proposed through the SPD, none of these are likely to be affected by the SPD.
(g) the effects on areas or landscapes which have a recognised national, Community or international protection status.	The SPD covers the administrative area of the Castle Point borough only which has no nationally recognised landscapes. The Benfleet and Southend Marshes SPA and Ramsar site is nationally designated and falls within the borough. As no development is proposed through the SPD, the landscape is not likely to be affected by the SPD.

5. HRA Screening

Under the provisions of the EU Habitats Directive and translated into English law by the Habitats Regulations (The Conservation of Habitats and Species (Amendment) Regulations 2017), a competent authority must carry out an assessment of whether a plan or project will significantly affect the integrity of any European Site, in terms of impacting the site's conservation objectives. Habitats Regulations Assessment (HRA) as required by Regulation 63 of The Conservation of Habitats and Species Regulations 2017. Regulation 63 states that,

63.—(1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—

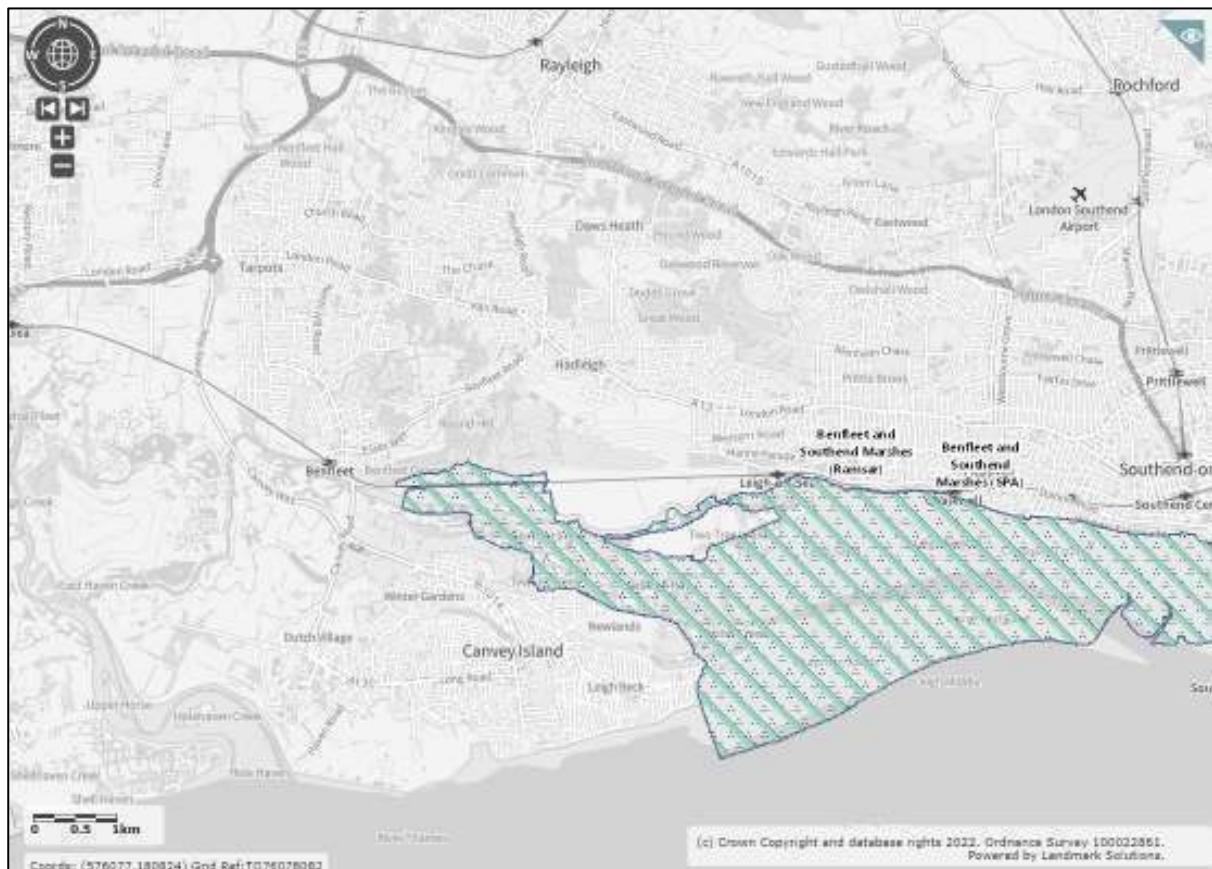
(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives.

HRA is the first stage of the process and involves a screening assessment of the impacts of a land use proposal against the conservation objectives of Habitats (European) sites to establish whether likely significant effects would arise. Specifically, it is to ascertain whether or not a proposal (either alone or in combination with other proposals) could have an adverse effect on the integrity of the Habitat site.

Habitats (European) sites are also known as Natura 2000 sites and are made up of Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar sites, definitions of these sites are found below. Within the Castle Point borough, the Benfleet and Southend Marshes is a Special Protection Area (SPA) and a Ramsar site, which can be seen in the map below.

Map 1: Benfleet and Southend Marshes SPA and Ramsar site



Source (Natural England Magic Map - <https://magic.defra.gov.uk/MagicMap.aspx>)

5.1. Special Protection Areas (SPAs)

SPAs are areas which have been identified as being of international importance for the breeding, feeding, wintering or the migration of rare and vulnerable species of birds found within EU countries. SPAs are sites that are designated under the Birds Directive.

5.2. Special Areas of Conservation (SACs)

SACs are areas designated to protect habitat types that are in danger of disappearance, have a small natural range, or are highly characteristic of the region; and to protect species that are endangered, vulnerable, rare, or endemic. SACs are sites that are designated under the Habitats Directive.

5.3. Ramsar Sites (Wetlands of International Importance)

Ramsar Sites are designated to protect the biological and physical features of wetlands, especially for waterfowl habitats. Ramsar sites often overlap with SACs and SPAs and UK planning policy determines that they should be accorded the same importance when developments are proposed.

6. Conclusions

6.1. SEA Screening Outcome

The BNG SPD provides further guidance around the application of the Environment Act 2021 and mandatory BNG. The SPD will result in positive, long-term effects in relation to biodiversity protection and enhancement. However, none of these effects will be significant. Therefore, Castle Point Borough Council has concluded that the BNG SPD will not require an assessment of the significant environmental effects of the plan under the SEA Directive and Environmental Assessment Regulations.

The SPD can therefore be screened out for its requirement of Strategic Environmental Assessment in line with the requirements of Directive 2001/42/EC.

6.2. HRA Screening Outcome

The BNG SPD provides further guidance around the application of BNG and does not allocate land for development. The SPD will result in positive, long-term effects in relation to biodiversity protection and enhancement. It is considered that the BNG SPD would not cause significant effects that could cause an adverse effect on the integrity of Habitat Sites, either alone or combination with other plans or projects. Therefore it is not considered that a full HRA is required for the BNG SPD.

It is also important to acknowledge that the BNG SPD will not take the place of the duties of the Council under the Habitats Regulations and Habitats Directive. In particular, it will not replace screening or appropriate assessment which will still be required where relevant.

The requirement for the SPD to undertake further assessment under the Habitats Regulations 2017 is therefore not considered necessary and as a result can be screened out.

AGENDA ITEM NO. 5

CABINET

20th December 2023

Subject: **Essex Parking Guidance Consultation 2023**

Cabinet Member: **Councillor W. Gibson - Strategic Planning**

1. Purpose of Report

To note and endorse the response issued on behalf of the Council to the consultation undertaken on the draft Essex Parking Guidance.

2. Links to Council's Priorities and Objectives

The parking provision impacts on the Corporate Plan objectives - Economy and Growth, Place and Environment.

3. Recommendations

The Cabinet notes and endorses the response issued on behalf of the Council to the consultation undertaken on the draft Essex Parking Guidance at Appendix 2.

4. Background

- 4.1 The Council approved the adoption of the 2009 Essex Parking Standards as a Supplementary Planning Document in January 2010. These have been applied in the consideration of planning applications across the borough since.
- 4.2 However, since 2009 patterns of private vehicle ownership have changed. Private vehicle ownership has increased and in 2021 stood at 1.45 cars per household in Castle Point. Since that time the number of cars per household has begun to decline due to a slower uptake in driving amongst young people. However, as Castle Point has an older than average population this downward trend is not being felt as much locally. As part of the growth in private vehicle ownership has been a growth in the number of vans being parked at residential addresses due to the increase in home delivery services. These vehicles have a larger footprint than cars.
- 4.3 There have also been changes in the technologies and designs of cars since 2009 which mean we now need to think about the size of parking bays, the types of vehicles we are making provision for, and the need to ensure that

appropriate charging is provided for the different types of electric vehicles in use.

- 4.4 Separate to this national policy in relation to parking has changed, so that adequate parking is provided both at home and at destinations to reduce on street parking stress. This marks a shift to the policies in place nationally in 2009.
- 4.5 To this end, an update to the Essex Parking Standards has been prepared. The draft Essex Parking Guidance was published for consultation at the end of October, with responses sought by early December. To broaden engagement within Castle Point, information about this consultation was shared with the mailing list for the Castle Point Plan on two occasions and has been publicised on social media channels. Initial reports from Essex County Council who are hosting the consultation indicate that residents from the SS7 and SS8 postcode areas have been participating.
- 4.6 This report is related to the Council's own response to the consultation. The Council's Constitution allows for responses to external consultations to be responded to by the Director for Place and Communities in consultation with the Leader of the Council. This has been done to meet the consultation deadline. However, with the development of the Castle Point Plan and the need to address car parking in that plan, it is appropriate to report to Cabinet on the response and take any additional views from Councillors. In addition, the level of car parking is an issue for the Development Management Committee.

Parking within Development in Castle Point

- 4.7 Parking within development proposals has become a key issue in the determination of planning applications over the last 12 months. Work has therefore been undertaken to understand the level of parking normally permitted within developments since the current parking standards were adopted in 2009.
- 4.8 The details of the review are included at **Appendix 1**. The key finding from the work relates to the level of parking normally permitted in relation to flatted developments.
- 4.9 The 2009 Parking Standards require residential units comprising of 1 bedroom a minimum of 1 parking space to be provided. Meanwhile residential units comprising of two or more bedrooms require a minimum of 2 parking spaces to be provided, with every residential unit requiring 0.25 parking spaces for visitation. Deviation from these standards is permitted as follows:

'For main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development. Main urban areas are defined as those having frequent and extensive public transport and cycling and walking links, accessing education, healthcare, food shopping and employment' (Essex County Council, 2009, 2.5.1.).

- 4.10 The review found that typically flatted developments were in urban areas with good access to public transport. This has given rise to an average of 1.0026

car parking spaces per flat permitted since 2009, regardless of the size of the flat. Lower levels of parking have been approved by Inspectors on appeal.

4.11 There is therefore an existing precedent for 'one for one' car parking provision for flats in Castle Point. This precedent does not extend to other forms of residential development.

Proposed Parking Standards – Essex Parking Guidance

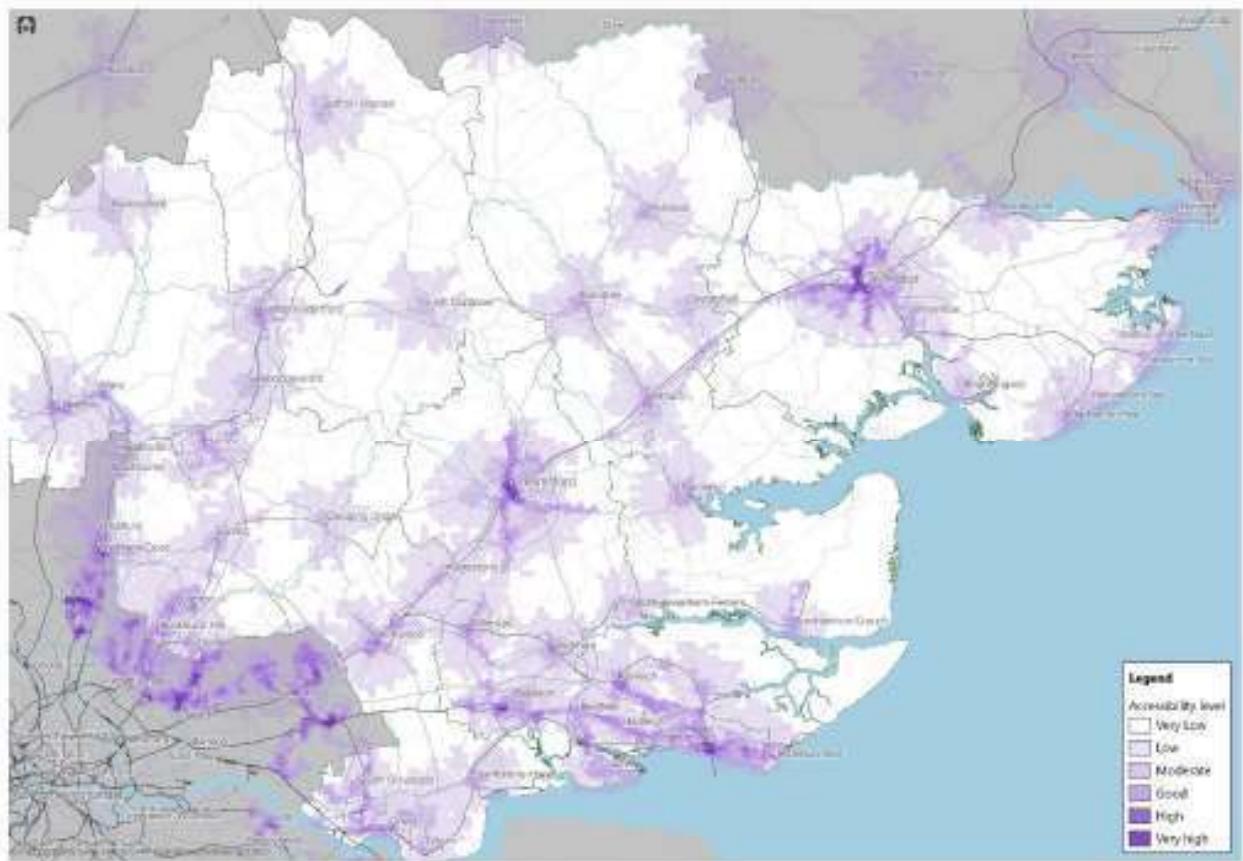
4.12 The proposed parking standards for commercial developments are unchanged but are expressed as a minimum rather than a maximum to reflect a change in national policy in the National Planning Policy Framework.

4.13 For residential development there have been some modest changes to accommodate an approach whereby the level of parking required should be determined based on the proximity of development to public transport and services. To this end, it introduces different levels of parking requirements for those developments in areas with high accessibility levels compared to those in low accessibility areas.

4.14 This approach is similar to that used in greater London – known as the PTAL or Passenger Transport Accessibility Level. <https://tfl.gov.uk/info-for/urban-planning-and-construction/planning-with-webcat/webcat>

4.15 Throughout Essex an assessment was undertaken of how each part of the County can be accessed by public transport. As expected, urban areas had the highest level of accessibility, with transport hubs, town centres and linear routes having the highest levels within urban areas. In Castle Point, as the map overleaf illustrates, the highest levels of accessibility are along the A13, near Benfleet Station and the High Road, central Canvey and Rayleigh Weir.

4.16 The County is divided into three types of zones: High, Medium and Low Accessibility and different standards are applied to each zone, as set out in the table following.



Proposed Vehicle Parking Standards – Residential

Development Type		High Accessibility			Moderate Accessibility			Low Accessibility		
		Vehicle	Powered Two Wheel	Disabled	Vehicle	Powered Two Wheel	Disabled	Vehicle	Powered Two Wheel	Disabled
Class C3 Residential Dwellings	1-bedroom	1 maximum + 0.25 unallocated	Large, flatted developments to provide PTW parking area(s) based on need. For unallocated/visitor provision: 1 space + 1 space per 20 car spaces for first 100 car spaces, then 1 space per 30 car spaces over 100 car spaces	N/A if parking is in curtilage of dwelling. Large, flatted developments to provide a minimum of 5% of car parking provision or actually need whichever is the greater.	1 + 0.25 unallocated	N/A For unallocated/visitor provision: 1 space + 1 space per 20 car spaces for first 100 car spaces, then 1 space per 30 car spaces over 100 car spaces	N/A if parking is in curtilage of dwelling	1 + 0.25 unallocated	N/A For unallocated/visitor provision: 1 space + 1 space per 20 car spaces for first 100 car spaces, then 1 space per 30 car spaces over 100 car spaces	N/A if parking is in curtilage of dwelling
	2-bedroom	1 maximum + 0.25 unallocated		2 + 0.25 unallocated	2 + 0.25 unallocated					
	3-bedroom	1 maximum + 0.25 unallocated		2 + 0.25 unallocated	2 + 0.25 unallocated					
	4+ - bedroom	1 maximum + 0.25 unallocated		2 + 0.25 unallocated	3 + 0.25 unallocated					

- 4.17 As the mapping covers the whole county, it is by necessity at a low resolution which has implications for a compact area such as Castle Point. Consequently, there are areas on the London Road which have over 10 buses an hour which are not considered to be high accessibility, and which would have to provide higher levels of parking than is the case under the locally set precedent.
- 4.18 To this end, the response to the consultation, as set out in Appendix 2 highlights this divergence between local precedent and the emerging guidance and seeks for additional higher resolution mapping to be undertaken for Castle Point to understand how the updated parking standards would apply in the borough.
- 4.19 In addition to introducing revised parking standards, the proposed guidance also allows for the consideration of on-street parking stress where proposed parking levels are below standard. This is an important consideration in respect of road safety for both drivers and for those walking and cycling and the response set out in Appendix 2 highlights this.

Other Proposed Updated to the Parking Guidance

- 4.20 In addition to introducing updated parking standards linked to accessibility, the parking guidance has also been updated to:
 - Remove arbitrary maximum parking values
 - Ensure compliance with national policy
 - Reflect an improved evidence base
 - Include updated guidance on electric charging
 - Align cycle parking requirements with updated national guidance
- 4.21 As appropriate, the consultation response at Appendix 2 comments on these changes.
- 4.22 Additionally there is a new 'part 2' to the parking guidance which covers Garden Communities and Large-Scale Developments. This section is not relevant to Castle Point.

Implications for Castle Point

- 4.23 Currently, the Council applies the 2009 Essex Parking Standards when considering planning applications. It is the aspiration that the new guidance applies across Essex, but the decision to adopt the guidance lies with this Council. If the Council does adopt them, they will replace the 2009 standards. The Council will need to take a decision as to whether to adopt the update, or whether to produce its own standards. It will not be possible to retain the 2009 standards as they are not consistent with national policy in parts and will no longer have the support of the highway authority who have been heavily involved in the preparation of the 2023 update.

4.24 Currently, the 2009 Essex Parking Standards are adopted as Supplementary Planning Guidance by the Council. The Levelling Up and Regeneration Act removes Supplementary Planning Documents from the system. To this end, policies related to parking will need to be incorporated into the Castle Point Plan as it is prepared. This matter will therefore need to be considered by the Castle Point Plan Board in due course. Essex County Council have agreed to share the responses arising from residents with SS7 and SS8 postcodes to the consultation in order to inform considerations.

5. Corporate Implications

(a) Financial Implications

There are no direct costs associated with responding to this consultation. However, the request for accessibility mapping at a higher resolution may have to be met by the Council. There is sufficient capacity within the budget for the Castle Point Plan for this to be met within existing resources.

(b) Legal Implications

There are no legal implications associated with this report.

(c) Human Resources and Equality Implications

Human Resources

There are no human resource implications arising from this report.

Equality Implications

The parking standards include standards for disabled car parking provision, and for the provision of parking for mobility vehicles.

(d) IT and Asset Management Implications

There are no IT or asset management implications associated with this report.

6. Background Papers

As highlighted in the report

Report Author:

Amanda Parrott – Assistant Director Climate and Growth
Jamie Whitby – Planning and Enforcement Officer

Appendix 1: Review of Parking for Developments in Castle Point

Introduction

The East of England had the fourth highest level of car and van ownership in 2020 out of all English regions, with the average household owning 1.35 vehicles, this is an increase of 7% from 2003 when the region average was 1.26 vehicles per household (Yurday, 2022). In 2021, Castle Point had an average car ownership level of more than 1.45 vehicles per household (Office for National Statistics, 2023). Motor traffic, because of an increase in private car ownership and use, has drastically increased resulting in a greater need to provide adequate levels of parking facilities for all new developments.

Castle Point Borough Council has historically adopted parking standards prepared by Essex County Council on behalf of Essex Planning Officers Association. These standards stipulate an appropriate level of parking required for different kinds of development and form the basis of assessments undertaken when determining if a proposed development is providing with an adequate supply of on-site parking facilities.

National Planning Policy Framework

The National Planning Policy Framework (NPPF) outlines the Government's planning policies and how they should be applied. This framework was first published on 27th March 2012 and has been revised five times since first publication, with the latest update being published on 5th September 2023. (Department for Levelling Up, Housing and Communities, 2023, p.4; GOV.UK, 2023).

The current framework requires that when creating policies relating to parking for residential and non-residential developments, the following should be accounted for (Department for Levelling Up, Housing and Communities, 2023, p.31):

- a) the accessibility of the development;
- b) the type, mix and use of development;
- c) the availability of and opportunities for public transport;
- d) local car ownership levels; and
- e) the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.

Essex Parking Standards 2001

The Council has been using the Essex Parking Standards to guide their decisions since 2001. The Council previously using the 2001 Essex Parking Standards as an informal support document to the parking standards outlined in the 1998 Castle Point Local Plan. These standards were based on the Town & Country Planning (Use Classes) Order 1987, requiring parking bays of some 5.5m by 2.4m and garages to

measure 5.0m by 2.5m (Essex Planning Officers Association, 2001). This is worthy of note as while an updated standard (2009) has since been adopted the old parking standards can still influence the assessment of parking facilities for a development.

While these standards no longer apply for new developments, development within sites that have previously been accepted with these former standards may be influenced by such. An example of this would be if a dwelling has a garage approved measuring 5.0m by 2.5m under this previous standard and it remained unaltered, were a development to be proposed for this site (i.e. to convert the dwelling into flats) and the garage remain unaltered, it would still count as providing a parking facility, even though it does not meet the current standards, as it is still used for the proposed purpose it was approved for.

It should be highlighted that while bay/garage size can be influenced by this previous standard, the quantity of parking facilities required per development cannot.

Essex Parking Standards 2009

With an increase of both average vehicle size and private vehicle usage, the parking standards were amended by Essex County Council on behalf of Essex Planning Officers Association in 2009, with the aim to create new parking standards that better reflected the requirements within the county.

The parking provision sizes were increased from that of the 2001 standards. The current 2009 standards require parking bays of some 5.5m by 2.9m (with some variation depending on parking layout) and garages to measure 7.0m by 3.0m.

These standards stipulate that for residential units comprising of 1 bedroom a minimum of 1 parking space should be provided, and residential units comprising of two or more bedrooms a minimum of 2 parking spaces be provided, with every residential unit requiring 0.25 parking spaces for visitation (Essex County Council, 2009). These standards come with a level of deviation with the standards stating:

'For main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development. Main urban areas are defined as those having frequent and extensive public transport and cycling and walking links, accessing education, healthcare, food shopping and employment' (Essex County Council, 2009, 2.5.1.).

Castle Point Borough Council officially adopted this updated version of the Essex Parking Standards on the 1st of June 2010, following a period of consultation with residents. The Council has referenced the 2009 standards since consultation commenced in January 2010.

Approved Parking for Flats in the Castle Point Borough

Due to the extent of Green Belt within the borough, and through wanting to maximise efficient use of urban space, the majority of flats in Castle Point are built within '*main urban*' areas, meaning the site of the proposed development meets the requirements outlined above, allowing for a reduction in the parking standards to be implemented. This is a result of urban areas in the borough being relatively densely arranged, resulting in a proposed development site being more likely to be in the vicinity of the public transport network, shopping facilities, and employment opportunities.

Of the approved applications relevant to this report, almost all are considered to have been approved with lower parking facilities than that stipulated in the standards for Use Class C3: Dwellinghouses, with approved flats having an average of 1.0026 parking facilities per residential unit.

Between 1st January 2009, and 18th October 2023, there were 226 applications relevant to this report of which 117 were approved. The average number of bedrooms for these approved flats is 1.6783. Meanwhile the average quantity of parking facilities for these approved applications was 1.0026 spaces per flat is found. This means that since 1 January 2009, the Council has consistently determined that one car parking space per flat is acceptable for all flats, not just one-bedroom flats. This provides a local precedent.

These decisions were made either by officers under delegated powers or the Development Management Committee. The Development Management Committee decisions are generally consistent with those of officers when it comes to car parking. In most cases the deviation from the parking standards for larger flats has been justified based on accessibility to good public transport links, and amenities. Combined, this precedent alongside site accessibility has meant that the council now struggles to uphold a refusal based on the strict application of the 2009 Parking Standards where 1-for-1 parking is provided and a refusal for permission is appealed.

Appeals Against Decisions Made in Relation to Parking Provisions for Flats

Table 2: Appealed decisions for flatted developments refused on parking grounds.

Applications Refused	Applications Refused on Parking Grounds	Applications Refused on Parking Grounds andAppealed	Applications Refused on Parking Grounds,Appealed, and Allowed
110	43	14	8

22 refused applications related to flats were appealed in the period from 2009 to 2023. Of these 14 related to applications that proposed the construction of flats within the

borough where officers and/or members believed that the development would have been provided with poor parking provisions. 8 of these decisions were overturned by an Inspector with the development being allowed to proceed.

It is worthy of note that no allowed appeal decisions have been identified in which an Inspector has directly related an overturned decision on a parking precedent set on within the borough. Although, many inspectors refer to the flexibility of the parking standards, using this to justify why they believe lower levels of parking should be deemed acceptable, where it has been refused upon by officers and/or members.

The inspector for the first allowed appeal (CPT/498/12/FUL – APP/M1520/A/12/2189566), in which 4 flats were proposed resulting in 9 parking spaces being required with 4 proposed to be provided, highlights the fact that the proposal had been refused on the grounds increased reliance on on-street parking would result in a decrease in highway safety. Dismissing this as a refusal reason as:-

‘the standards may be applied with a degree of flexibility bearing in mind that the site is within an urban area and is on a public transport route’;

‘It is also reasonable to assume that the limitation on on-site parking would be a factor taken into account by would-be purchasers of the flats’; and

‘alternatives [for on-street parking facilities] are Fenwick Way and Meppel Avenue opposite the school. I observed that on-street parking occurs on both of those roads without causing any highway safety problem and any addition on-street parking arising from the development, should it occur, would make but a marginal difference’ (Wride, 2013).

Similar reasoning was provided by Inspectors for the seven allowed appeal cases that followed relating to parking provisions for flat development within the given period. These comments collectively have and will continue to provide precedent for future appeal decisions, and consequently shape the approach the planning department now takes in relation to parking for flats within the borough. This is particularly the case where proposals are in accessible locations such as on bus routes, are near the station or are close to a cluster of amenities.

Inspector reasonings are seen to set a standard on how future appeals are likely to be viewed and challenged, as once an Inspector has stated development is reasonable for a given reason, any future development within similar context is likely to be assessed in the same way. Therefore, officers and members should consider these viewpoints when making decisions as it is likely if a development is to be appealed future inspectors will apply the same logic.

The Future of Parking in the Castle Point Borough

An update to the parking standards has been prepared for the purposes of consultation. The 2023 draft Essex Parking Guidance retains the existing bay and garage size requirements but proposes changes to the way the quantity of parking spaces required is calculated. Rather than having a flat rate, parking requirements would be set having regard to the sites accessibility. **Figure 1a** shows accessibility mapping for Essex County. **Figure 1b** shows accessibility mapping for the Castle Point area.

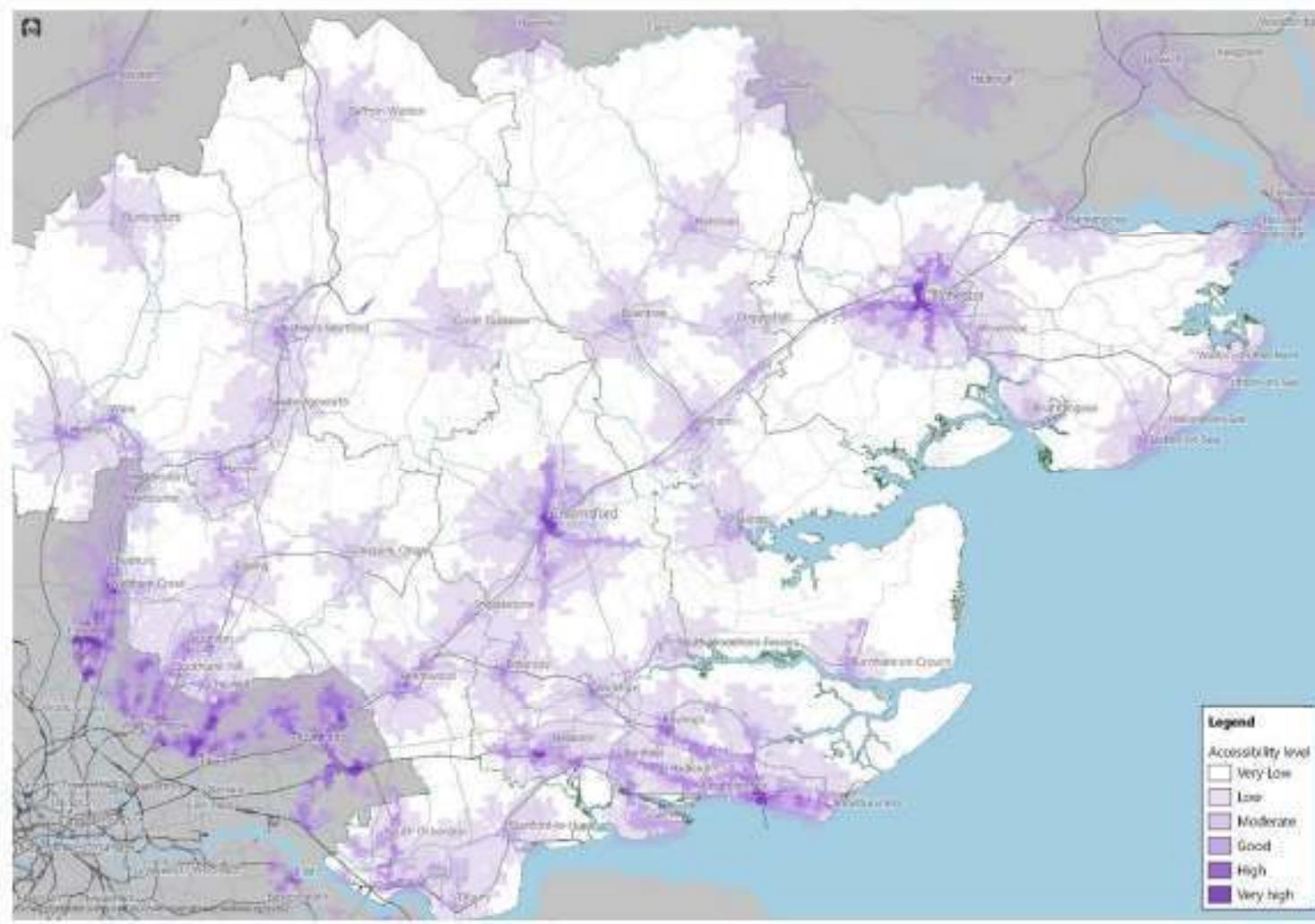


Figure 1a: Accessibility levels through Essex (Essex Planning Officers Association, 2023, p.12).

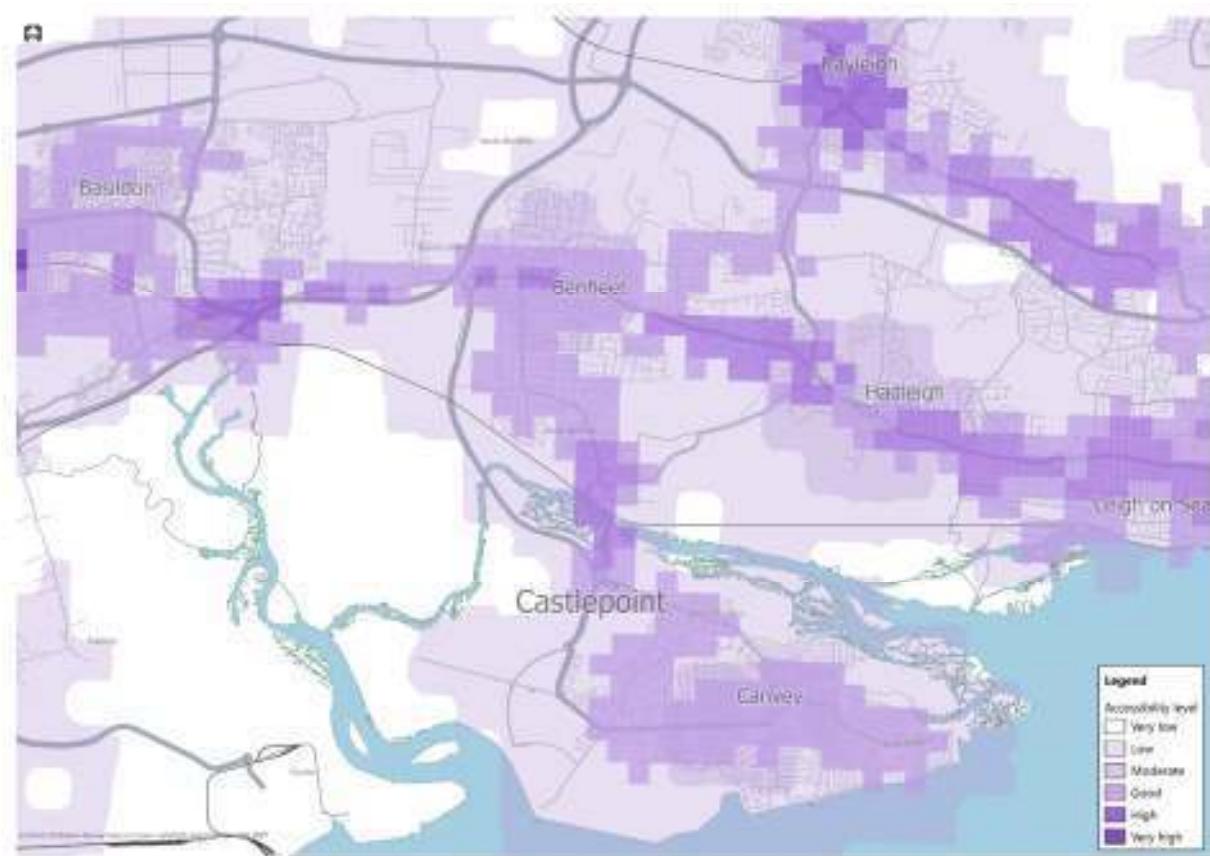


Figure 1b: Castle Point Borough on the Accessibility levels maps (Essex Planning Officers Association, 2023, Appendix A).

In order to determine the levels of parking required for dwellings in areas of differing accessibility, three sub-categories of accessibility have been identified as set out in **Table 3**.

Table 3: Accessibility Levels in the draft Essex Parking Guidance (Essex Planning Officers Association, 2023, p.13).

Accessibility Level	
High Accessibility	Very High High
Moderate Accessibility	Good Moderate
Low Accessibility	Low Very Low

Based on the mapping in **Figure 1b**, most of Castle Point would be low or moderate accessibility, except for Tarpots Corner, Benfleet High Road/High Street, Kiln Road and Hadleigh High Street/London Road. However, the precise extent of any area for the accessibility assessment is hard to distinguish to the low resolution of the mapping.

Table 4: Vehicle Parking Standards – Residential (Essex Planning Officers Association, 2023, p.86)

Development Type		High Accessibility			Moderate Accessibility			Low Accessibility		
		Vehicle	PTW	Disabled	Vehicle	PTW	Disability	Vehicle	PTW	Disabled
Class C3 Residential Dwellings	1-bedroom	1 maximum + 0.25 unallocated	Large, flatted developments to provide PTW parking area(s) based on need. For unallocated/visitor provision: 1 space + 1 space per 20 car spaces for first 100 car spaces, then 1 space per 30 car spaces over 100 car spaces	N/A if parking is in curtilage of dwelling. Large, flatted developments to provide a minimum of 5% of car parking provision or actually need whichever is the greater.	1 + 0.25 unallocated	N/A For unallocated/visitor provision: 1 space + 1 space per 20 car spaces for first 100 car spaces, then 1 space per 30 car spaces over 100 car spaces	N/A if parking is in curtilage of dwelling.	1 + 0.25 unallocated	N/A For unallocated/visitor provision: 1 space + 1 space per 20 car spaces for first 100 car spaces, then 1 space per 30 car spaces over 100 car spaces	N/A if parking is in curtilage of dwelling.
	2-bedroom	1 maximum + 0.25 unallocated		2 + 0.25 unallocated	2 + 0.25 unallocated					
	3-bedroom	1 maximum + 0.25 unallocated		2 + 0.25 unallocated	2 + 0.25 unallocated					
	4+ - bedroom	1 maximum + 0.25 unallocated		2 + 0.25 unallocated	3 + 0.25 unallocated					

*PTW – Powered Two Wheeled

The above table, **Table 4**, shows that under the proposed new standards except for the high accessibility areas listed above, some flats would be required to provide a higher level of parking than is currently achieved. This is contrary to the precedent that has been set locally in relation to flats. This may be due to misperceptions in relation to accessibility. However, it could alternatively be due to the resolution of the mapping failing to pick up higher accessibility areas in other parts of the borough. Improved, higher resolution mapping may help to clarify this matter.

Meanwhile in the high accessibility areas, the current one-for-one parking provision being achieved will be maintained by the proposed standards. This would however also extend to any houses proposed. Again, higher resolution mapping would act to limit the extent to which residential side streets are identified as being highly accessible, limiting the scope to which this could extend beyond the main road network.

Like the current adopted parking standards, the proposed are set to allow for reduced parking provisions in highly accessible areas. However, unlike the current standards it highlights the importance of minimising the impact of overflow car parking onto the street:-

'There must be no unplanned overflow of parking from the development site as a result of insufficient on-site parking provision and developers will be expected to fund mitigation measures to ensure that this is enforceable. A developer will be required to demonstrate the forecast parking accumulation requirements and design for all parking to be provided on site.'

'High parking stress can affect highway safety, the free flow of traffic, amenity, access by emergency services, public transport services, refuse collections and deliveries. Developments in locations where parking stress already exists or is expected to develop, and whose parking requirements could aggravate matters, will be expected to undertake a parking survey to ascertain current parking stress levels and identify potential mitigating measures, aggravating features and sensitive receptors.' (Essex Planning Officers Association, 2023, 2.29-30)

The proposed guidance therefore provides scope to consider the parking requirements of an application site in relation to the local area in which it is based and any parking issues that may already exist. This is an important difference from the guidance that is currently applies and provides the Council with the opportunity to seek additional mitigations in areas where there are high levels of parking stress.

In addition to dealing with parking for cars, the parking standards also set out requirements in relation to improved provision of electric vehicle (EV) charging facilities. Currently there is no reference to the provision of EV charging facilities in this guidance. The proposed guidance sets to stipulate that one slow charging facility be

implemented per house. For flats the requirement is one slow charging point per flat for schemes with less than 10 parking spaces. For flatted schemes providing more than 10 parking spaces the requirement is 1 slow charging point per flat, with passive charging provision for all remaining parking spaces.

The proposal for the parking guidance also takes a stronger approach to the provision of cycling parking, with a new standard set for these. This additional emphasis reflects national guidance which promotes active modes of travel.

The current standards require 1 secure covered space per dwelling, where there is no garage or secure area is provided within the curtilage. The proposed new standards would require 1 secure, covered space per bedroom where no garage or secure area is provided within the curtilage. Additionally, 1 visitor space is also proposed for every eight dwellings.

This standard also means to future proof developments through recommending that:-

'In order to accommodate all potential users of cycle parking and facilitate the parking of non-standard bicycles, it is recommended that, where possible, a minimum of 20% of the total cycle parking spaces are designed with non-standard bicycles in mind. This allows for the safe and secure parking of adapted and cargo bicycles.' (Essex Planning Officers Association, 2023, 3.6)

With the guidance providing example of various types of cycle to be considered:-

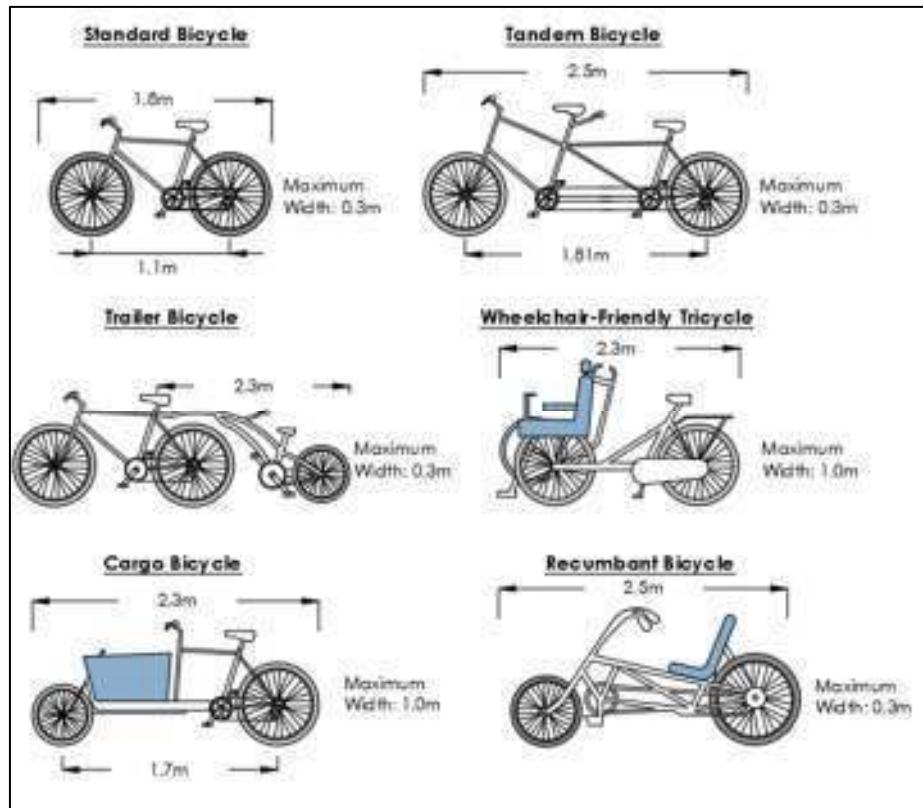


Figure 2: Types of cycle to be accommodated (Essex Planning Officers Association, 2023, p.30).

Conclusion

A precedent has been established locally whereby one-for-one parking is acceptable for flatted development schemes. This is regardless of the size of the flat. This is because most of the flatted development schemes in Castle Point are in accessible locations with access to public transport and services.

Where appeals have considered parking matters in relation to flats, Inspectors have given weight to flexibility and the location of sites within urban areas. This emphasis by Inspectors has played a crucial role in shaping the approach the planning department takes.

The proposed updated Essex Parking Guidance also places an emphasis on accessibility. The revised standards take a more location-based approach to parking requirements than is applied currently. This shift aims to tailor parking requirements to the accessibility of different areas. However, the resolution of the mapping currently available makes it difficult to judge how this will be applied on the ground.

The emphasis on accessibility is balanced within the proposed guidance with a consideration of parking stress. This will enable the Council to seek additional mitigation in areas where there are existing parking issues.

Appendix

Table 5a: Number of bedrooms in flats approved by Castle Point Borough Council between 1st January 2009 and 18th October 2023.

Decided By	Number of Bedrooms Per Flat			Total
	1	2	3+	
Officers	184	145	4	333
Committee	113	325	34	472
Planning Authority	297	470	38	805

Table 5b: Average number of parking spaces per flat approved by Castle Point Borough Council between 1st January 2009 and 18th October 2023.

Decided By	Average number of Parking Facilities Per Flat
Officers	0.9262
Committee	1.1618
Planning Authority	1.0026

Appendix 2: Response to Consultation on the Draft Essex Parking Guidance 2023

Castle Point Borough Council has considered the proposals set out in the draft Essex Parking Guidance 2023, and generally welcomes the efforts that have been made in updating the guidance to reflect current circumstances around parking provision. We would however wish to make the following observations:

- 1) The mapping that has been used to inform the accessibility-based standards is of an insufficient resolution for a compact area such as Castle Point to inform effective decision making. As an example, parts of the A13 have only a moderate accessibility score despite being on a high frequency bus route. The Council would wish to see higher resolution mapping of accessibility to enable the use of accessibility-based standards. We would be happy to explore this matter with you separately if this is a concern unique to Castle Point, as we believe there would be wider benefits to this mapping beyond its use for car parking considerations.
- 2) Generally, the parking standards proposed, based on accessibility, are acceptable as they lower the level of provision in those areas where accessibility is higher. We have recently undertaken our own analysis around flatted developments. Such developments in Castle Point are predominantly in the urban areas close to bus routes and town centres. Our findings showed that since 2009 1.0026 parking spaces per flat had been provided on approved flatted developments, regardless of the size of the flats in question. This indicates one-for-one parking on flats is the standard normally expected. It is however considered that the application of this standard to houses may be more challenging, as this is more likely to give rise to on-street parking demand.
- 3) It is noted that the proposed parking standards require an additional third parking space for houses of 4 bedrooms or more in low accessibility areas. In some areas this could potentially undermine the potential for accessibility to be improved by enabling greater reliance on cars. It may be preferable to link the provision of a third space, or not, to whether there are plans to improve public and active travel modes within the low accessibility area in which a development is proposed.
- 4) The Council welcomes the inclusion of the consideration of parking stress in relation to the level of parking that may be required within a development where below standard levels of parking are proposed. It is important from the perspective of road, pedestrian and cycling safety that excessive on street parking is avoided in instances where the standards are not being met. However, some additional guidance on how to assess and measure on street parking stress would be welcomed in this regard.
- 5) The Council notes and welcomes the proposals to increase the provision of bicycle storage/parking as part of development proposals. It is however

important that the design and location of such storage complements the development and is sufficiently accessible to be usable.

CABINET

20th December 2023

Subject: **Corporate Performance Scorecard Quarter 2 2023/24**

Cabinet Member: **Councillor Mountford - Resources**

1. Purpose of Report

1.1 To set out the performance figures for the Corporate Performance Scorecard for Q2 2023/24

2. Links to Council's priorities and objectives

2.1 The scorecard is explicitly linked to the Council's priorities.

3. Recommendations

3.1 That Cabinet notes the report and continues to monitor performance.

4. Background

4.1 The corporate scorecard reports on performance indicators for important service outcomes that are relevant to the Council's priorities.

4.2 The indicators and targets for the corporate performance scorecard for 2023/24 were approved by Cabinet in September 2023.

5. Report

5.1 Summary of performance

5.1.1 Appendix 1 sets out the performance achieved by the Council against the measures in the scorecard, together with trend data and commentary on performance.

5.1.2 Of the 28 indicators reported, 22 are at or above target, a further 3 are near target and 2 indicators are below target. The finance indicator has a target of no variance but includes multiple components. Trend in performance shows that there is improving performance in 12 indicators, declining performance for 4 indicators and performance levels maintained for 6 indicators. There was no trend for 6 indicators because either they are new indicators or have a changed methodology which does not allow for comparison with historical data.

5.1.3 Performance is set out against the four priorities in the Corporate Plan as follows:

Economy & Growth

The indicators under this priority area are annual indicators and will be included in the Q4 2023/24 report.

People

The Homelessness performance indicator is split into two parts and looks at the success rate of the homelessness team in preventing and relieving homelessness. At the end of Q1 2023/24, the service secured accommodation for just under 7 out of every 10 households to whom the Council owed a Prevention duty and just under 5 out of 10 households owed a Relief duty. Prevention performance is on target and maintained when compared with same time last year. Relief performance is above target and maintained when compared with same time last year. Performance reported is to the end of Q1 2023/24 as Government-produced statistical tables are not yet available. A verbal update will be given to Cabinet if these are updated in advance of the day of the meeting.

Satisfaction with Leisure Services is measured by a Net Promoter Score which can range from -100 (where everybody is a detractor and would not recommend the service) to +100 (where everybody is a promoter and would recommend the service). Both Waterside Farm and Runnymede Leisure Centres scored well over the quarter (75 and 73, respectively), on target at Waterside Farm and just below target at Runnymede. Improvements since the last quarter include additional resource put in place to improve cleanliness standards in busy periods (across both sites) and completion of maintenance works at Runnymede. These improvements have led to improved scores. Leisure facilities score around 40-45 for Net Promoter Score.

The number of leisure memberships at the end of the quarter was 4,380, on track to meet the annual target, and 300 more memberships than at the same time last year. A new indicator for the 2023/24 financial year is leisure membership attrition rates for the two centres. This was 5.4% at Runnymede Leisure Centre and 6.0% at Waterside Farm Leisure Centre, both better than the target. The number of swimming programme participants was 1,669 at the end of the quarter, on target to reach 1,800 participants by the end of the year.

98% of rated food premises (471 out of 481) were classified as 'broadly compliant' with food regulations, having been awarded 3 stars or above on the Food Hygiene Ratings Scheme.

Place

Tenant satisfaction with repairs and maintenance is reported monthly by the Council's contractor. All jobs are rated out of 10 with anything below 7.5 considered as dissatisfied. Over the quarter, satisfaction was 97% which is on target, and higher than the same period last year. For void turnaround times, at 21.8 days, performance has improved since the previous quarter and is close to the target. Some properties returned over the quarter were in very bad condition and it has taken longer than usual to get these ready for re-letting.

Performance data on planning performance comes from official Government statistics. The percentage of planning applications processed within target times has two measures – one for major and one for non-major applications – and gives a longer-term view of performance, looking over a rolling two-year period.

Performance determining major applications was 30%, a drop since the same period last year, and below government set minimum standards. There were just 10 major application decisions over two years to end September 2023; such small numbers can cause significant fluctuations in percentages. Of the 10, one major application was determined within the 13-week target period. Seven applications were subject to a Planning Performance Agreement (PPA), Extension of Time (EoT) or an Environmental Impact Assessment (EIA), of which two were determined within the agreed time. Performance has been impacted by the loss of experienced members of the planning team (over 50%), who have been replaced by interim staff in lieu of recruiting permanent, experienced replacements.

To aid in rectifying this identified issue, a bid was submitted in September for additional funding under the Government's new Planning Skills Delivery Fund scheme, to help address the current backlog of applications. The outcome of this funding bid was expected in October, although the Council is still awaiting notification, as are other Councils who have also applied for the same funding. The Planning Department are currently engaging with the Planning Advisory Service (PAS) and are actively working to secure a permanent resolution to this dip in performance.

Performance for non-major applications was 77%, which is a drop since the same period last year but above government-set minimum standards.

Environment

The total recycling and composting rate at the end of the quarter was 51.67% (interim calculation, subject to change) which is above target and a slight improvement in performance compared to last year. Dry recycling was 20% and composting (inc. food waste) was 32%. The amount of residual household waste was 217kg per household at the end of the quarter, similar to the amount at the same time last year and expected to be similar to last year by year-end. The recycling contamination rate was 14.3%, an improvement from the last quarter and on target.

Performance on street cleanliness is reported against an inspection regime for the new contract which went live on 1 March 2023. The new regime uses local knowledge and service requests to inspect those streets at higher risk of being unsatisfactory and so the target has been changed to reflect this. At the end of the quarter, 10.9% of streets inspected were deemed unsatisfactory, which is on target.

No defaults were served in relation to highway grass verge cutting. The number of service requests was higher than at the same time last year, although there was a significant decrease from Q1.

98% of fly tips were removed within one working day over the quarter, on target and unchanged when compared with the same period last year. Further analysis

included in Appendix 2 suggests policy decisions on recycling centres has impacted on fly tipping levels in the Borough.

Enablers

The First Contact team continue to deal with queries effectively; 95% of calls received were dealt with at the first point of contact without the need to transfer to the back office. This is above target and maintains a consistently high level of performance.

The number of subscribers to the wheeled bin garden waste collection service was 14,701 at the end of the quarter, which is an increase on the same period last year and has met the year-end target to reach 14,700 subscribers.

The sickness absence indicator has been split between short-term and long-term (4 calendar weeks or more). At 4.6 days, short-term absence is better than the target, an improvement from the previous quarter and lower than at the same time last year. Long-term sickness absence is 5.5 days, off target although has improved since the previous quarter.

The Council is keen to encourage members of the public and businesses to transact with the Council online. The “channel shift” indicators cover the numbers signed up to the e-billing service for council tax and business rates and a measure of council tax and business rates transactions using online forms. The number of customers who signed up to the e-billing service was 10,021 which is above target and is higher than for the same period last year. Up to the end of Q2 2023/24, there were 3,985 council tax and business rates transactions conducted using e-forms available on the Council’s website, on target to reach the target of 6,000 by the end of the year.

The average time to process housing benefit claims is split into new claims and change of circumstances. For new claims, processing times have improved when compared with the same period last year and performance at 16 days is better than target. Change of circumstances over the quarter were processed in 5 days, better than target and faster than over the same period last year.

At the end of Q2, there was a 5.6% revenue underspend and 17.4% capital underspend forecast in the General Fund (GF), and a 16.2% revenue overspend forecast in the Housing Revenue Account (HRA). No overspend or underspend was forecast for the HRA capital budgets. Explanation of the variances is contained within the [Financial Update report](#) presented to Cabinet in November (Agenda Item 7).

6. Corporate Implications

a. Financial implications

The are no direct financial implications arising from this report.

b. Legal implications

There are no direct legal implications arising from this report.

c. Human resources and equality

There are no direct human resource or equality implications arising from this report.

d. Timescale for implementation and risk factors

Monitoring of the Corporate Performance Scorecard is ongoing throughout the year.

7. Background Papers: None

Report Author: Ben Brook bbrook@castlepoint.gov.uk

Corporate Performance Scorecard

Quarter 2 2023/24

Appendix 1



Economy and Growth

Annual indicators (reported at Q4):

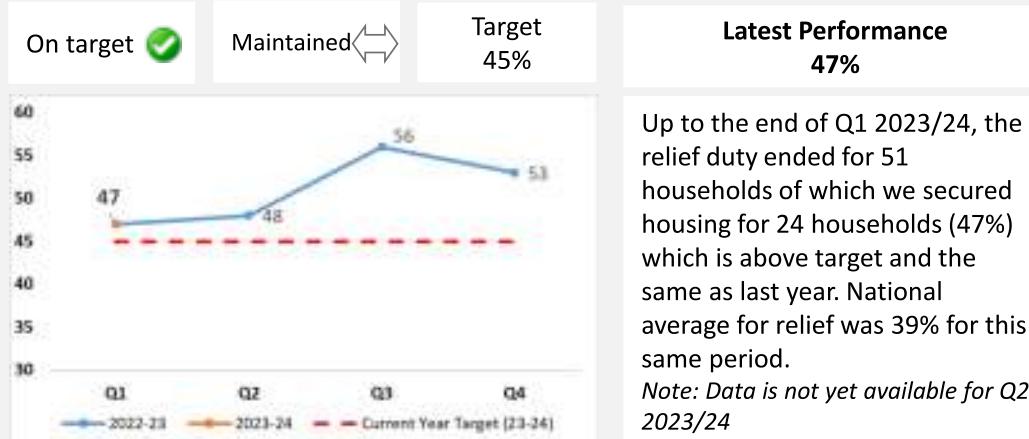
- E&G001: Gross Value Added (GVA) per head
- E&G002: Businesses operating in Castle Point: a) Number of businesses
b) Births c) One year survival rate
- E&G003: Average workplace-based earnings per week
- E&G004: Average resident earnings per week
- E&G005: Percentage of the working-age population with NVQ Level 4+
- E&G006: Number of apprenticeship starts in the Borough

People

HOT021a: Percentage of homelessness *prevention* duties which ended during the quarter with a successful outcome



HOT021b: Percentage of homelessness *relief* duties which ended during the quarter with a successful outcome



L001a: Leisure satisfaction – Net Promoter Score (NPS) Waterside Farm



L001b: Leisure satisfaction – Net Promoter Score (NPS) Runnymede



People

L003a: Leisure Memberships



Latest Performance 4,380

At the end of Q2 2023/24, there were 4,380 leisure members, an increase on the number of members at the same time last year and on target to reach 4,400 members by the year-end (allowing for the usual drop in memberships in Q3 in the lead up to Christmas)

L003b: Leisure Memberships – attrition rate



Latest Performance RLC 5.4%; WFLC 6.0%

The leisure membership attrition rate over Q2 2023/24, was 5.4% at Runnymede Leisure Centre and 6.0% at Waterside Farm Leisure Centre, which is better than target in both for both centres.

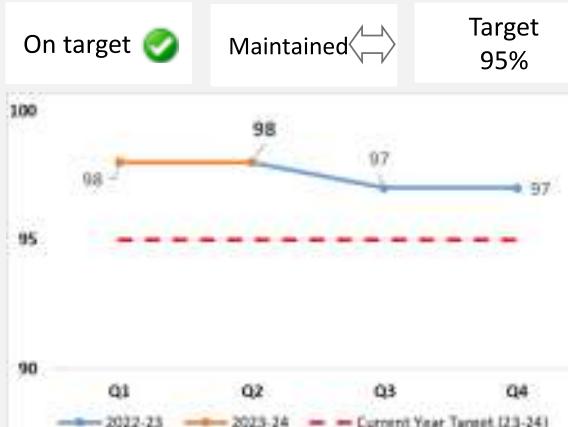
Swimming programme participants



Latest Performance 1,669

The number of participants in the swimming programme at the end of Q2 2023/24 was 1,669 on target to reach 1,800 participants by the year-end.

EH002: Percentage of food premises that are awarded a score of at least 3 on the food hygiene rating scheme



Latest Performance 98%

471 out of 481 rated premises were classified as 'broadly compliant' with food regulations, having been awarded 3* or above on the Food Hygiene Ratings Scheme.

Performance is maintained when compared with the same period last year and above target.

People

Annual indicators (reported at Q4):

- PE001: Percentage of people who agree that there is a strong sense of community in their local area
- PE003: Proportion of people participating in physical activity
- LCT13: Proportion of people who feel safe after dark
- PE006 (NEW): Life Satisfaction Score

Place

HOS001: Overall tenant satisfaction with repairs and maintenance



Latest Performance 97%

All jobs are rated out of 10 with anything below 7.5 considered as dissatisfied.

At the end of Q2 2023/24, satisfaction was 97% which is on target and an improvement on the same period last year.

HOS006: Average Void Turnaround Time



Latest Performance 21.8 days

Performance is close to target and has improved since the previous quarter.

This quarter has seen the return of some properties in very bad condition which has taken longer than usual to get ready for re-letting.

DC007: Percentage of planning applications processed within target time limits for major applications



Latest Performance 30%

Performance is shown on a two-yearly rolling basis to the end of September 2023. Performance determining major applications is 30%, a drop since the same period last year, and below government set minimum standards. The main report provides more detailed commentary.

DC008: Percentage of planning applications processed within target time limits for non-major applications



Latest Performance 77%

Performance is shown on a two-yearly rolling basis to the end of September 2023. Performance determining non-major applications is 77%, a drop since the same period last year, although still above government set minimum standards.

Place

Annual indicators (reported at Q4):

PP003: Number of new affordable homes in the Borough

PP004: Number of new homes built in the Borough

Environment

OPS004&OPS005: Percentage of Household Waste Recycled or Composted (inc. food waste)



The total recycling and composting rate at the end of Q2 2023/24 is 51.67 % which is above target and an improvement on performance compared with last year. Recycling was 20% and Composting (inc. food waste) was just under 32%.

Note: Figures presented are on a year-to-date basis and are early calculations which may be subject to change.

NEW: Residual household waste (kg)



At the end of the first two quarters in 2023/24, the amount of residual waste per household was 217kg, the same as in 2022/23 and expected to be similar to the amount of residual household waste at year end in 2022/23 (436kg per household).

NEW: Recycling contamination rate



The recycling contamination rate at the end of Q2 2023/24 was 14.3%, which is on target.

SS002: Percentage of streets inspected which are deemed to be unsatisfactory using Code of Practice for Litter and Refuse methodology



Under the new street cleansing contract, our inspection regime is more targeted at those areas that have a higher level of litter. Performance for Q2 2023/24 is on target. Split and scavenged household waste is the biggest contributor to street litter.

Note: Performance for 2022/23 is included for reference but is not comparable.

Environment

SS014: Number of default notices served in relation to highway grass verge cutting



Over Q2 2023/24, there were no highways grass cutting service failures that required the serving of defaults.

Performance remains on target.

SS013: Number of service requests received in relation to highway grass verge cutting



The number of service requests in Q2 2023/24 was 15, on target although higher than over the same period last year.

The trend since Q1 is expected as the number of service requests drop in the summer months due to decreased growth.

SS003: Percentage of fly tips removed within one working day



98% of fly tips were removed within one working day, on target although declining performance when compared with the same period last year. The contractor is served with default notices for those fly tips not collected in time.

Analysis in Appendix 2 suggests policy decisions on recycling centres has impacted on fly tipping levels in the Borough.

Annual indicators (reported at Q4):

- OPS002: Satisfaction with maintaining parks and open spaces
- OPS003: Satisfaction with household waste collection, including recycling and composting
- SS001: Satisfaction with Council's efforts to keep public land clear of litter and refuse
- EH013: Amount of CO2 produced from the Council's buildings and operations

Enablers

FC001: Percentage of calls taken from customers by First Contact that are dealt with without the need to transfer to the back office



Latest Performance
95%

The First Contact team continue to deal with queries effectively; 95% of calls received were dealt with at the first point of contact without the need to transfer to the back office.

OPS016: Number of wheeled bin garden waste subscribers



Latest Performance
14,701

The number of subscribers to the wheeled bin garden waste collection service was 14,701 at the end of Q2 2023/24, which is an increase on the same period last year and has met the target to have 14,700 subscribers by year-end. The number of new subscribers in Q3 and Q4 is minimal and so do not expect any significant further increase this year.

CORP1a: Average number of days sickness absence per FTE staff for all Council Services (rolling year) short term



Latest Performance
4.6 days

Sickness absence is reported on a rolling year basis.

Short-term sickness absence at Q2 2023/24 is 4.6 days, an improvement on Q1, and lower than at the same time last year.

CORP 1b: Average number of days sickness absence per FTE staff for all Council Services (rolling year) long term



Latest Performance
5.5 days

Sickness absence is reported on a rolling year basis. Long-term sickness is defined as 4 calendar weeks or more.

Long-term sickness absence is 5.5 days which is off target and, whilst improving since Q1, is higher than at the same time last year.

Enablers

REV006: Channel shift to online services: take up of e-billing for Council Tax and Business Rates



Latest Performance 10,021

The number of customers signed up to the e-billing service at the end of the quarter is 10,021 which is higher than at same period last year.

Performance is on target to achieve 10,500 customers by the year-end.

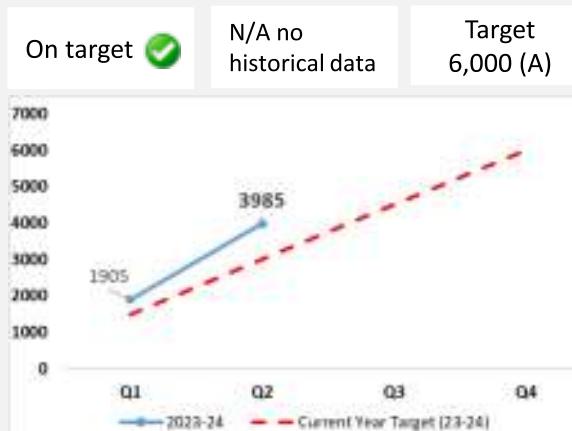
BEN001: Average time to process benefits claims: new claims



Latest Performance 16 days

The average time to process new benefits claims is 16 days at the end of Q2 2023/24, better than target, an improvement since last quarter and also when compared with the same period last year.

REV011: Channel shift to online services: use of online forms for Council Tax and Business Rates transactions



Latest Performance 3,985

Up to the end of Q2 2023/24, there were 3,985 Council Tax and Business Rates transactions conducted using e-forms available on the Council's website, on target to reach the target of 6,000 by the end of the year.

This is a new indicator for 2023/24 so no historic data available to report.

BEN002: Average time to process benefits claims: change of circumstances



Latest Performance 5 days

Performance times processing change of circumstances has improved when compared with the same period last year and is better than target.

Enablers

NEW: Finance measures Forecast outturn against budget (shown as % variance) for:

a) General Fund – Revenue b) HRA – Revenue c) General Fund – Capital d) HRA - Capital

Target - No variance	Commentary
a) General Fund – Revenue -5.6% (underspend)	Explanation of the variances is contained within the Financial Update report presented to Cabinet in November (Agenda Item 7).
b) HRA – Revenue 16.2% (overspend)	
c) General Fund – Capital -17.4% (underspend)	
d) HRA – Capital 0.00%	

Annual indicators (reported at Q4):

ENA001: Overall satisfaction with the Council

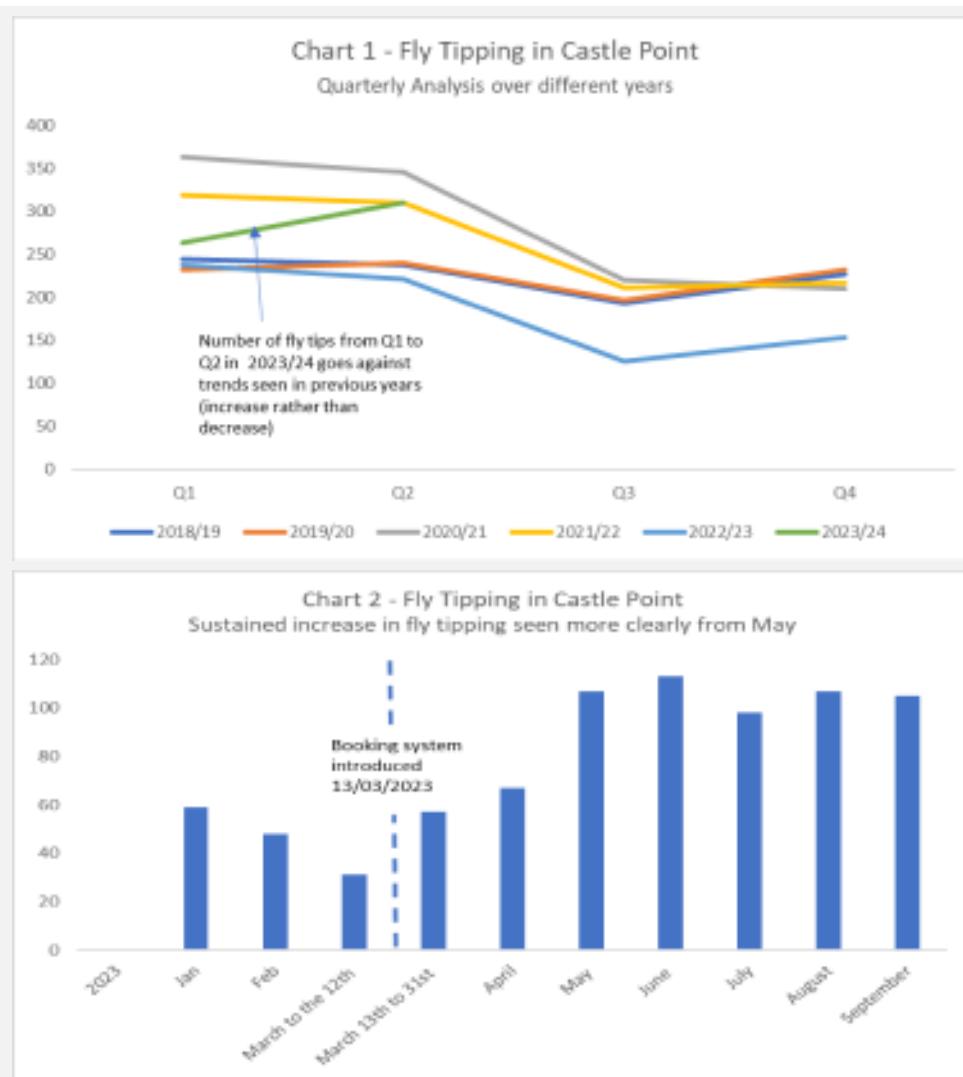
Corporate Performance Scorecard

Quarter 2 2023/24

Appendix 2 – Fly-tipping
analysis



Environment – Fly-tipping analysis



Data analysis

- There has been an increase in fly-tipping from Q1 to Q2 of 2023/24 which is against trends seen in previous years (Chart 1);
- The requirement to book to use the recycling centres was introduced mid-March 2023 and although it looked like there was a moderate immediate impact (in the latter half of March and in April), the more sustained higher levels of fly-tipping started to be seen from May 2023 (Chart 2);

Contextual analysis

- In terms of land types, *highways* and *council land* are where the highest number of fly tips occur, generally around 90% to 97% of the overall figure per month
- In terms of waste type, *black bags – household* and *Other household waste* are the most prevalent waste types fly tipped, generally around 67% to 72% of the overall figure per month
- In terms of size of waste, *car boot load or less* and *small van load* are the most prevalent fly tip sizes, generally around 71% to 79% of the overall figure per month
- The percentages relating to land, type of waste and size of waste fly-tipped is unchanged since mid-March 2023 but the number of fly-tips has increased, suggesting that the requirement to book to use recycling centres has had a direct impact on the increase in fly-tipping in Castle Point

Action taken

- It is not yet clear whether the increase in fly-tipping is due to fewer households or fewer trade persons using the recycling centres and, therefore, recycling centre usage figures have been requested from Essex County Council
- The Leader of Castle Point Borough Council has written to Essex County Council to raise these points and concerns