

Louise St John Howe
Programme Officer
PO Services
PO Box 10965
Sudbury
Suffolk
CO10 3BF

15/01/2018

Dear Louise

Herts and Middlesex Wildlife Trust hearing statement regarding the Welwyn and Hatfield Draft Local Plan

Answers to the inspector's questions that are covered by HMWT's original representations are below.

79. Does the policy ensure that that new development will contribute towards achieving net gains to biodiversity?

No. The ecological element of the draft local plan has much to commend it, but lacks reference to the tools that are required to translate its aspirations into reality and therefore make it effective. The obligation that planning deliver net gain to biodiversity is established in NPPF and has recently been reiterated and enhanced by the gov't's 25 year vision for the environment ([A Green Future: Our 25 Year Plan to Improve the Environment 2018 p34](#)). For the concept of net gain to be meaningful, this local plan should specify that impacts on biodiversity must be measured (as stated in the 25 year vision) and define the standard mechanism by which they should be measured. The standard and most effective tool for biodiversity impact assessment of habitats is the DEFRA metric. Explicit reference to the calculator derived from this metric (the Biodiversity Impact Calculator, Environment Bank 2015, as amended, or similar locally approved metric) must be included in this document to ensure that fair, consistent, objective and transparent calculations of ecological impacts are provided in support of development. If this mechanism is not specified it will lead to dispute, uncertainty, inconsistency and ultimately net loss of biodiversity. HMWT suggest that the wording in their original representation be incorporated into the local plan to make it more effective.

105. To achieve measurable net gains to biodiversity should applicants be encouraged to use expert ecological and landscape consultants when preparing material to support planning applications?

Yes. The use of expert ecological professionals in support of planning applications is a requirement expressed in the British Standard 'BS 42020:2013 Biodiversity – Code of practise for planning and development'. Only suitably qualified individuals should gather and submit this information, to the standard detailed in BS 42020. The requirement to operate to this standard is set out in 12.17 of the local plan.

106. In achieving a net overall gain to biodiversity, shouldn't compensatory habitat replacement be on site as well as off-site?

Yes. The biodiversity impact calculator is essentially a biodiversity accounting device. Once a baseline ecological unit score has been generated, the developer (in conjunction with the ecological consultant) will then demonstrate how that



Herts and Middlesex

**Grebe House
St Michael's Street
St Albans
Hertfordshire
AL3 4SN**

Tel: (01727) 858901
Email: info@hmwt.org
www.hertswildlifetrust.org.uk

Chief Executive: Lesley Davies



Hertfordshire & Middlesex Wildlife Trust Limited is registered in England No 816710 at the above address and is registered as a charity under Registration No 239863. VAT No 366 9276 06

President
Sir Simon A Bowes Lyon, KCVO

score is exceeded by the development – to deliver measurable net gain. This can be provided either on or offsite so the policy should reflect this in order to be clear and effective.

107. Should the policy define measures by which the impact of development on habitats and biodiversity can be effectively measured and assessed?

Yes. If impacts on biodiversity are not objectively measured they become subjective and underestimated, rendering the local plan ineffective in delivering real, quantifiable net gain to biodiversity. This is not consistent or fair. Stipulating the mechanism by which they should be measured (BIC or locally approved metric) will ensure objective, consistent and transparent planning decisions that deliver tangible and measurable net gain. The figures generated by the calculator can then be adapted to provide meaningful data on the AMR target for policy SADM 16.

108. Should the policy refer to the biodiversity impact calculator?

Yes. If it does not refer to the calculator the impact on habitats cannot be meaningfully assessed or monitored. Inclusion of the calculator means that developers are clear in what they have to provide, an established, consistent, objective and fair mechanism is used to determine net gain, planning decisions are transparent and based on data not opinion and the performance of the council against the net gain target can be efficiently and accurately measured. If no calculator is specified there is huge temptation to undervalue wildlife habitats. Research undertaken by the Environment Bank showed that where a net gain calculation is not undertaken, habitat is routinely undervalued and net loss is the result (Biodiversity Accounting and Compensation. Rutland County Case Studies, Environment Bank 2017¹).

The report into the DEFRA biodiversity offsetting pilot (http://randd.defra.gov.uk/Document.aspx?Document=12535_WC1051_Volume_1_Final_Report.pdf) (DEFRA project code WC 1051, 2014 p.4) concluded:

'Where the metric was used, stakeholders felt that it was largely beneficial: providing a quantified, consistent, transparent and relatively simple process that accounted for a wider range of biodiversity impacts than current practice. There were numerous examples across the pilots where the use of the metric was considered to have led to improvements in the nature and extent of on-site mitigation and compensation'.

This conclusion is telling because, by implication, it infers that no net loss or net gain was not being delivered before the metric was applied i.e. that the LPA's involved were failing to deliver no net loss without the metric. This should be reason enough to justify inclusion of the metric to assess net gain in this and all other local plans. Without stipulating the metric, net loss is the routine result of planning applications.

Specifying the requirement to use the calculator will also give clarity to developers who will then benefit from a clearer, faster, predictable and more objective decision making process. The biodiversity offsetting pilot report also found that application of the metric speeded up planning decisions (p4).

109. Should minimum dimensions for wildlife buffer strips be stipulated in the plan?

Yes. This will reduce dispute thus speeding up planning decisions, provide clarity to developers regarding the constraints applying to sites and result in better,

more connected and permeable solutions for biodiversity. Natural England stipulate 15m as the minimum requirement for buffering ancient woodland and veteran trees in their planning guidance (<https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences>). If hedgerows are to develop to their full ecological potential, mature trees are an essential component of this as detailed in this Natural England guidance (<http://www.cfeonline.org.uk/hedgerow-trees/>). Therefore it is logical to enable some component trees to develop to their full ecological potential by providing a 15m complimentary buffer to hedgerows. Stipulating 15m buffers in the local plan to both these priority habitats will enable ecological gain and permeability within development as well as clarifying the design parameters of green infrastructure for the developer.

The Environment Agency in their national guidance and their representations on this document (EA reference: NE/2010/109708/OT-01/PO1-L01) stipulate that *'a minimum of an 8 metre buffer (from the top of bank) of natural (not mown) vegetation is to be established alongside all watercourses'*. HMWT contend that this buffer, whilst representing a minimum, would achieve greater functionality, and consistency with those of other priority habitats if also expanded to 15m. The wider a movement corridor is, the greater its value as a wildlife reservoir. This is true for a host of different species from birds to invertebrates and is supported by numerous research papers.

In their written representation for Brierley Hill Area Action Plan <http://blackcountrycorestrategy.dudley.gov.uk/EasysiteWeb/getresource.axd?AssetID=12355&type=full&servicetype=Attachment> Natural England state in answer to the question *'What is the evidence base for the location and width of the various wildlife corridors within the AAP?'* :

'Natural England recommends generally 30 metre width as a minimum. There is no evidence base as such however, this is based on an eco-tone approach which uses known ecological science of trees and other vegetation to determine what width of habitat would self-sustain a healthy wildlife corridor for the benefit of flora and fauna.' This stated NE endorsement for a habitat corridor width is broadly consistent with the requirement for a 15m buffer on each side of a priority habitat.

Without specifying minimum buffer strip distances, the policy becomes ineffective because suggested distances will be regularly eroded and challenged by developers – as is currently the case. Stipulating a minimum distance of 15m will avoid this.

110. Are the requirements for protected species surveys and any required mitigation, adequately covered?

No. It should be made much clearer when a protected species survey will be required, what information should be submitted i.e. a survey identifying presence, impact of development and solutions, together with answers to the 3 tests of a European Protected Species Mitigation Licence if required. The requirement for the LPA to have regard to the answers to the 3 tests is a legal duty established by (R (on the application of Simon Woolley) v Cheshire East Borough Council). This clarified that planning authorities are legally obligated to have regard to the requirements of the EC Habitats Directive and apply the 3 tests applied by Natural England in the context of licensing (as per the Conservation of Habitat and Species Regulations 2017) when deciding whether to grant planning permission where species protected by European Law may be harmed.

If this information is not supplied it leads to unnecessary delay, the impression that individuals are being unfairly singled out for survey, and potential challenge of planning decisions. The plan would be much more effective if the requirement for this information was made more clearly in the document by the insertion of the following phrase: *'Protected species are a material consideration in planning decisions. Where there is a reasonable likelihood of the presence of protected species, appropriate surveys by suitably qualified individuals to nationally accepted standards will be required to show how the proposals can proceed without negative impacting on their populations. Mitigation or compensation measures must be definitively stated and illustrated on plans. If a European Protected Species Mitigation License is required, answers to the 3 tests of the license must be supplied to enable the LPA to discharge its duty under the Conservation of Habitats and Species Regulations 2017.'*

111. Should the policy require surveys and assessments, of the potential harm to protected species, where there is a reasonable likelihood of their presence and demonstration that their populations will not be diminished with or without appropriate mitigation?

Yes. ODPM circular 06/05 is explicit in stating that this is the case in paragraphs 98 and 99. This Local Plan would be much more effective if the requirement for survey and mitigation/compensation was made more clearly as detailed in the response to 110.

In answering the questions posed by the Inspector HMWT has sought to increase the effectiveness of the plan in critical areas. At present it fails to provide sufficient definition as to what mechanisms, tools and standards will be required to be applied to ensure that measurable net gain to biodiversity is achieved.

If you have any questions regarding these responses to the Inspectors questions please do not hesitate to get in touch.

Yours sincerely

Matt Dodds

Matt Dodds BA (Hons), MSc, MCIEEM
Senior Planning & Biodiversity Officer

Herts & Middlesex Wildlife Trust
Grebe House
St Michael's Street
St Albans
Hertfordshire
AL3 4SN

Tel: (01727) 858901 ext. 236

Protecting **Wildlife** for the Future

Appendix

1. Biodiversity Accounting and Compensation. Rutland County Case Studies, Environment Bank, 2017