

ECONOMY AND INFRASTRUCTURE COMMITTEE

BULLETIN ITEM

Subject: 'Developing With Nature' – NatureScot Draft Guidance

Date: 2 February 2022

ECO: Infrastructure, Environment & Economy

1. Purpose/Executive Summary

- 1.1 This Bulletin outlines new draft NatureScot guidance 'Developing With Nature' which supports the nature and biodiversity policies in the draft National Planning Framework 4 (NPF4), and specifically the requirement for development to enhance biodiversity. The guidance is currently out for consultation with a closing date of 4 March 2022. The consultation can be accessed via this link: www.nature.scot/doc/consultation-developing-nature-guidance.

2. Background

- 2.1 In conjunction with the draft NPF4, NatureScot prepared and published draft guidance 'Developing With Nature'. The guidance is intended to inform understanding of the intended approach set out in the draft NPF4, policy 3(e) around securing positive effects for biodiversity. This policy signals a significant shift in emphasis and places the nature crisis, along with the climate emergency, at heart of planning policy.
- 2.2 The draft guidance is aimed at both developers and Local Authorities and helps explain the changes under NPF4 while providing practical examples developers can use. In the introduction it clarifies that this is in addition to applying the mitigation hierarchy and is not simply 'instead of' current biodiversity mitigation.
- 2.3 This draft guidance applies to any development not requiring EIA except 'householder development' or aquaculture, however these developments are still encouraged to apply the same principles. 'Householder development' is defined as development within the curtilage of a single dwelling that require planning permission such as a conservatory or extension.

3 The Draft Guidance

- 3.1 The main body of the guidance includes examples of a number of measures that can be included in development to enhance nature. Many of these measures can be retrofitted to existing development, but for new developments should be planned and included at as early a stage as possible. There are 23 suggested measures in the draft guidance that can provide biodiversity benefits.

The guidance is clear that they are general measures that will apply to a wide range of situations. Measures targeted at rare species or site-specific situations, will require specialist input. For example, a development in Strathspey may be expected to include measures to improve habitat or manage access to benefit capercaillie, but this is likely to require specialist input and is not covered in the draft guidance.

- 3.2 Each measure in the guidance includes information on benefits, key requirements, future management and complementary measures that would work together, with links to further information. The measures are grouped into categories, and range in size, scale and cost. Many of the measures are scalable, depending on the development site and size and nature of the development. The guidance also encourages developers to engage at an early stage with planning authorities. It sets out information that should be included in any planning application to assist in determination by the planning authority and suggests linking to local priorities outlined in the Local Biodiversity Action Plan. The guidance concludes by outlining it is up to each local authority to determine the scale of enhancement appropriate to each application.

4. Implications

- 4.1 At this stage, our view is that the draft guidance can be supported, and the advice provided will assist in implementing the requirements of NPF4. There remain, however, a number of questions and concerns, including the following:-
- Both NPF4 and the draft guidance present resource implications for the planning authority, specifically with regard to necessary expertise to assess planning applications to ensure developments deliver required biodiversity enhancements, and in ensuring compliance of agreed biodiversity measures. There is concern that the Council is currently not resourced to deliver on the requirements of NPF4 and this draft guidance.
 - The guidance does not include a standard metric for measuring the level of biodiversity enhancement required, nor does it suggest what level should be required. There is concern that there is scope to apply the draft guidance differently and inconsistently both across planning applications and also between different local authority areas, potentially leading to legal challenge. Discussion on the merits of a more standardised process (as is currently used in the English planning system, for example) are still being debated but at this juncture it seems Scottish Government do not believe this to be the correct approach in Scotland.

5. Next Steps

- 5.1 Officers need to have comments finalised for the consultation deadline on 4 March 2022. To help inform our position there will be ongoing discussion and dialogue between the environment and planning teams. Additionally, council officers will attend a Scottish Local Planning Authority event convened to discuss NPF4 and Developing With Nature guidance; a Heads of Planning workshop which includes a presentation on the guidance by NatureScot and; an NPF4 focused Local Biodiversity Action Plan Officer Network meeting.
- 5.2 There will also be an opportunity for Members to discuss the draft Developing with Nature guidance with officers and provide their views at the NPF4 Workshop on Friday 25 February.

5.3 In line with the committee report on NPF4, the submission will be finalised by the ECO Infrastructure, Environment and Economy, which may include further consultation with the Chair of the Environment and Infrastructure Committee ahead of the pre-election purdah period.

Designation: Executive Chief Officer Infrastructure, Environment & Economy

Date: 20 January 2022

Author: Nathan McLaughlan, Biodiversity Partnership Officer
Andrew Puls, Acting Environment Manager