Cotswold District Council – written evidence (NER0056)

Evidence Paper submitted on behalf of Cotswold District Council and West Oxfordshire District Council on 11th September 2017

This response has been collated by Melanie Dodd, Biodiversity Officer, as an employee of the district councils.

Rural advocacy and the Commission for Rural Communities
No evidence to submit with regard to questions 1-3.

Natural England
4. How well has Natural England fulfilled the mandate that it currently has? How well do its wide-ranging functions fit together, and does it have the appropriate powers and resources to perform these functions?

a) Natural England (NE) is an important agency and it needs to be well-resourced and have more authority to lead and advocate biodiversity conservation nationally and become more involved locally. NE needs to be the national focus for biodiversity conservation and enhancement, and other related initiatives such as Natural Capital. We need a strong and sufficiently resourced body, which is respected and listened to by all sectors, to champion biodiversity in government.

b) At the local level it is important to recognise that there are some excellent individual NE staff doing valuable work in difficult circumstances, including covering wider geographical areas and therefore being unable to attend relevant partnership meetings or become actively involved in projects.

c) Since the budget cuts and the loss of staff from NE, there have been issues with how the organisation works with partners, particularly local government. There has also been a notable loss of expertise from the organisation.

d) NE does not seem to have sufficient resources to perform its functions highlighted by the increasing reliance on Standing Advice and the lack of appropriate guidance being published.

 e) There has been a lack of clarity over the new European protected species licensing approach with minimal communication before the changes were introduced. Local planning authorities are still expected to consider the 3 derogation tests and apply the Standing Advice this conflicts with the new approach.

f) Local NE teams have a reduced ability to properly engage and support action for biodiversity at the local level, and the relationships built up over the years have been damaged as a result.

g) There has also been a lack of communication with local planning authorities, particularly with regard to their new strategy Conservation 21 (partnership working with local planning authorities does not seem to be a priority) and the introduction of new licensing policies for European protected species. Although there was a public consultation on the EPS licensing policies, the outcome seemed to have been pre-determined, as there were no opportunities for follow-on discussions to even out some of the issues, and there was no feedback on how the comments had been considered.
h) As a relatively new member of staff to a local planning authority in England, it is noticeable that getting to know your local NE team if increasingly difficult when staff members are moving on to new roles within NE or are unable to attend meetings due to an increased workload. This does nothing to improve the public face of the organisation.

5. Are any changes to the remit and responsibilities of Natural England required, either as a result of Brexit or of other significant developments in the period since 2006?

a) With reference to the comments above, these issues need to be adequately addressed in consultation with partner organisations, especially the updates to standing advice, to ensure that NE is an effective body for the purpose of conserving, enhancing and managing the natural environment, otherwise national biodiversity targets are not going to be met.

b) NE must be a strong advocate for biodiversity, valuing the natural environment and ensuring its protection and enhancement at the national level, which is one-step removed from the political agenda. Biodiversity conservation and enhancement is not up for debate, but politics can still create conflict or result in a lack of action at any level – national, regional or local. It must be understood that NE represents the interests of the natural environment before any other agenda, but is willing to work in partnership to secure enhancements that also benefit society and the economy. Politics should understand the importance of the natural environment and let NE do its job. Biodiversity is not necessarily a barrier to development and should be viewed as a positive asset – e.g. Natural Capital.

c) NE should be a custodian for the protection of sites and species, ensuring that their conservation status is enhanced.

d) Changes to the approach to species conservation should be made in partnership with other organisations to ensure that they will be successful, including meaningful consultation with those “at the coal face” rather than imposing these changes without any guidance.

e) NE should be driving the natural capital agenda and a key partner in the production of guidance, e.g. biodiversity net gain. This is currently being driven forward by the private sector and NGOs. For these two key policy areas, NE should be assuming the national strategic role and publicly backing these initiatives.

f) NE needs to improve its public face and work more effectively at the local level.

6. Do the arrangements and provisions for enabling and managing access to the countryside remain appropriate? How effective has Natural England – and other partners – been in promoting better access?

a) Access to the countryside seems to have been one of the top priorities for Natural England over recent years. However, a lot of work is also being done by local authorities. Access needs to be well-managed and resourced.

b) Without adequate funding, increased access could lead to detrimental impacts on biodiversity.

c) Promotion of access needs to run alongside an education programme to raise awareness of the countryside code, etc.
Sustainability and biodiversity

7. Is the duty to ‘have regard’ to biodiversity, which is contained within the Act, well understood by those bodies to whom it applies? Is any further work required to raise awareness of the duty?

   a) Biodiversity conservation and enhancement has not become a mainstream issue in the work of local authorities despite the duty to ‘have regard’ for biodiversity in all functions.
   b) The term ‘have regard’ is too vague and it is unclear what this means in practice.
   c) There is little incentive for local authorities, with limited resources, to implement the duty to a significant degree – no reward for doing well (and spending money on it that could be allocated elsewhere) and no ‘punishment’ for those that have not embraced the duty.
   d) The duty was initially useful in raising awareness of the importance of biodiversity and demonstrating to decision makers why it should be considered as part of the local authority’s agenda, but this has decreased over time, particularly when there is no satisfactory reply to the question “what is the risk if we don’t have regard for biodiversity?”
   e) Most biodiversity-related work is still either carried out by or referred to the local authority Biodiversity Officer/Ecologist rather than being seen as an issue for all departments to consider. Corporate plans might refer to conserving the natural environment, but there are very few examples of specific actions relating to biodiversity.
   f) Further work to raise awareness of the duty and to get local authorities in England to do more for biodiversity at the highest level is required. A lot of good work is being carried out at the officer level (e.g. Biodiversity Officer comments on planning applications) or in partnership with other organisations and groups such as the Wildlife Trusts, Cotswold Conservation Board (AONB), Cotswold Water Park Trust, Wild Oxfordshire, TOE2 (Oxfordshire) and others, but there is still not much emphasis on biodiversity at the corporate level or by councillors (i.e. the decision-makers). The emphasis should be that all decisions should consider biodiversity impacts (positive or negative) and all projects should include a contribution towards biodiversity conservation or enhancement.
   g) The guidance produced by DEFRA does not appear to have been adequately promoted and no follow-up monitoring was undertaken. Considering the duty is 11 years old, it has not become an integral part of the decision making process.

8. What has been the practical impact of the 2006 duty? Is any modification to the duty required as a result of developments in our understanding of the value of ecosystems and biodiversity since 2006?

   a) Many local authorities were initially forced to “sit up” and recognise the impact of their work on biodiversity, particularly through land management and promoting awareness of local wildlife, however, with budget cuts in recent years, the positive contribution made in the early years of the duty has slipped. For example, the management of council-owned land to increase its biodiversity value and the good work of local communities and volunteers have not been maintained. Land management for biodiversity is a long term requirement and political short-termism can be a problem.
b) The duty was used as a reason for employing biodiversity officers, particularly in Wales.

c) Political buy-in from all parties for a long-term strategy is necessary. The introduction of related funding (e.g. the Nature Fund in Wales in response to the State of Nature report) and corporate accountability would significantly improve the impact of the duty.

d) The duty should be updated and made stronger to reflect ecosystem services and Natural Capital, or at least these new approaches should be included in updated guidance.

e) Biodiversity is not an entity on its own; it has a major impact on the economy and social cohesion, and has been shown to be vital for good mental and physical health.

f) There still seems to be a misunderstanding or a preconception that enhancing biodiversity would cost more, e.g. by changing the management of grasslands, rather than as a cost benefit. Recent work on payments for ecosystem services, pollinator action plans and other initiatives needs to be used to encourage and support local authorities to invest in new approaches and to see the long term benefits. Green infrastructure is also a related topic that has become a big issue for local authorities, featuring in the emerging Cotswold and West Oxfordshire District local plans. Biodiversity accounting is also an important step forward and further work is necessary to ensure that developments contribute towards a net gain in biodiversity.

9. How does the English duty to ‘have regard’ to biodiversity compare to the Scottish duty to ‘further’ biodiversity and the enhanced biodiversity duty introduced in Wales in 2016?

a) The English duty is much weaker and does not have the same level of political support.

b) In Wales, the new duty has provided a level of scrutiny in the delivery of biodiversity conservation and enhancement within local authorities, requiring them to produce “Forward Plans” and to report on implementation of these every 3 years (first report due in 2019). It also specifically refers to enhancement.

c) The importance of biodiversity to people has been recognised and promoted nationally by the Welsh Government, particularly with regard to public health and wellbeing and through the publication of their Nature Recovery Plan. This process ensures that biodiversity is viewed as a priority across all government sectors and raises the profile of biodiversity within local authorities.

d) Reporting on progress inspires local authorities to take a more active role and to develop their strategies for considering biodiversity at all levels and in all departments.

e) Biodiversity conservation and enhancement needs to be a mainstream consideration and should be an important action with corporate plans to make any real difference.

f) What can actually be achieved is restricted by the limited amount of resources to accompany the duty and a funding mechanism should be introduced to raise its profile and ensure effective delivery on the ground. Real benefits could be realised if there were funding available to push local authorities in the right direction.

g) The term “further” seems to be more proactive, but it is still too ambiguous and vague.

h) Clear guidance is required to explain what Government expect from the duty, which should include a reporting and award scheme.
i) No matter what words are used, the need for sufficient resources is the limiting factor.

The changing context since 2006

10. Will the structures established by the Act be sufficient to ensure appropriate protection for nature and environmental standards following Brexit? Are any modifications or changes to the structures established by the Act required to address the implications of Brexit?

11. Are there any further parts of the Act which are currently in force that need to be reconsidered as a result of developments since 2006?

a) In recent years there has been a shift in priority to enable development, particularly housing, and biodiversity has become even less valued than in 2006 despite the findings of the State of Nature reports. For development to happen regardless of the consequences for the natural environment goes against the 2006 duty and environmental standards should be increased. This is at odds with other policies such as net gain and natural capital, and new initiatives such as natural flood management and natural health service. Recognition of the role that the natural environment plays in our lives is essential and it needs to be included in political debate.

b) Development should be delivering a net gain in biodiversity in the near future and Brexit could be a real opportunity to make these changes.

c) There needs to be strong provision for habitats and species previously protected by EU Directives and those charged with overseeing and ensuring this protection.

d) The natural environment should be viewed as an integral part of growth, but instead it is still seen as a barrier. It must be recognised that people want nature, value it and want access to it; in fact, people need nature and this must be a higher priority than at present.

e) Sustainable development needs to be effective for the economy, society and the natural environment.

f) A better solution is required that brings all these issues together rather than competing against each other.

g) Local Nature Partnerships should be given stronger weight and increased resources to deliver biodiversity net gain in conjunction with the Local Enterprise Partnerships. The focus and drive for the LNP has faltered in some areas and this needs to be rejuvenated to ensure biodiversity is a key component of economic initiatives. The Gloucestershire LNP has a good relationship with the LEP and there have been a number of joint initiatives. Specific funding for LNP through Government would be a way of demonstrating the importance of biodiversity to the economy.

h) Any new environmental legislation to replace the EU Directives must ensure strong provision for protected species and habitats, and the role of NE and others involved in enforcing this legislation. Governance will be a key issue and there must be sufficient structures in place to ensure enforcement and scrutiny, which are currently provided by the European Commission and the Court of Justice of the EU. The general public need to understand the process and realise the need for this governance.

i) Education is an important way of fostering an understanding of the natural environment amongst children and adults; as well as TV programmes such as Springwatch and Autumnwatch, etc, the national curriculum should ensure that all
children get to experience the natural environment and re-connect with nature. This should not be a token gesture and outdoor learning should be well-resourced so that all children get the opportunity to participate. This would also contribute towards reducing obesity.

j) All initiatives relating to the natural environment such as those relating to green infrastructure and climate change adaptation should include biodiversity objectives as a standard requirement.

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