

**Rochford New Local Plan:  
Spatial Options Consultation 2021**

Topic Paper 1: Biodiversity

Temporary Cover

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**Advisory Note**

The National Planning Policy Framework (NPPF) was subject to a formal revision in July 2021, just before these papers were published. As a consequence, paragraph numbers and other references to the 2019 NPPF made in this document may no longer relate exactly to the latest version of the NPPF.

The principles set out in referenced paragraphs have not been subject to extensive change and references made are therefore still considered to be accurate reflections of national policy.

## 1 What is this topic paper about?

- 1.1 Rochford District Council is preparing a new Local Plan that will cover the period up to 2040. As a comprehensive and up to date evidence base is essential for plan preparation, the Council has prepared a range of technical studies, both in house and through external consultants, to support this process.
- 1.2 To help summarise the key topics that the new Local Plan will need to address, a series of ‘topic papers’ have been prepared to explain the national policy and legislative context for key topics and to set out how those key topics relate to local challenges and opportunities. These topic papers will be published alongside the Spatial Options consultation paper, allowing interested parties to understand these key topics in greater detail than what is contained in the consultation paper alone.

## 2 Introduction

- 2.1 This topic paper has been prepared to assess the national and local policy context for biodiversity and nature to consider what should be incorporated into the new Local Plan, covering the period up to 2040.
- 2.2 It covers a broad range of biodiversity issues and summarises the latest available evidence relating to these matters. It also suggests how the Local Plan should deal with any important issues.

## 3 National Planning Policy

- 3.1 Local planning authorities are required to address various requirements set out in national policy and legislation in preparing their local plans, including the National Planning Policy Framework (NPPF, February 2019) and supporting National Planning Practice Guidance (NPPG).
- 3.2 At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.
- 3.3 The NPPF and accompanying NPPG sets out a number of biodiversity and natural issues that Local Planning Authorities must take into account in the preparation of their Local Plans. The biodiversity issues relevant to plan-making include the following:

National Planning Policy Framework (NPPF)
Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for (inter alia) the <b>conservation and enhancement of the natural, built and historic environment</b> , including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation (Paragraph 20)
Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate. (Paragraph 170)

Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries. (Paragraph 171)

- To protect and enhance biodiversity and geodiversity, plans should:
- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and
  - b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity. (Paragraph 174)

- The following should be given the same protection as habitats sites:#
- a) potential Special Protection Areas and possible Special Areas of Conservation;
  - b) listed or proposed Ramsar sites; and
  - c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.
- (Paragraph 176)

The presumption in favour of sustainable development does not apply where 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), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

(Paragraph 177)

### National Planning Practice Guidance (NPPF)

[Section 40 of the Natural Environment and Rural Communities Act 2006](#) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by government in its [25 Year Environment Plan](#).

Guidance on the law concerning designated sites and protected species is published separately because its application is wider than planning. In applying this, the aim should be to fulfil statutory obligations in a way that minimises delays and burdens.

Development plans and planning decisions have the potential to affect biodiversity or geodiversity outside as well as inside relevant designated areas.

Planning authorities and neighbourhood planning bodies can work collaboratively with other partners, including [Local Nature Partnerships](#), to develop and deliver a strategic approach to protecting and improving the natural environment based on local priorities and evidence. Equally, they need to consider the opportunities that individual development proposals may provide to conserve and enhance biodiversity and geodiversity, and contribute to habitat connectivity in the wider area (including as part of the Nature Recovery Network).

In this context, it is useful to consider:

- the latest government policies that are relevant, including the commitments in the [25 Year Environment Plan](#);
- the contents of existing up-to-date plans and strategies for biodiversity and nature recovery;
- the potential effects of a development on the habitats or species on the [Natural Environment and Rural Communities Act 2006 section 41 list](#);
- whether an ecological survey is appropriate;
- opportunities to restore or enhance local ecological networks, including those that contribute to the wider Nature Recovery Network;
- how to secure net gains for biodiversity as part of green infrastructure provision; and
- opportunities to work strategically in order to streamline development decisions: for example, by establishing a 'zone of influence' around protected sites.

Locally designated 'Local Wildlife Sites' and 'Local Geological Sites' are areas of substantive nature conservation value and make an important contribution to ecological networks and nature's recovery. They can also provide wider benefits including public access (where agreed), climate mitigation and helping to tackle air pollution. They can be in rural, urban or coastal locations, can vary considerably in size, and may comprise a number of separate sites.

National planning policy expects plans to identify and map these sites, and to include policies that not only secure their protection from harm or loss but also help to enhance them and their connection to wider ecological networks.

Local planning authorities can take a lead in establishing and maintaining partnerships and systems to identify, manage, enhance and safeguard local sites. The positive engagement and co-operation of land owners and their representative bodies can contribute significantly to the success of these partnerships.

All local sites partnerships need to use clear and locally defined site selection criteria with measurable thresholds. For example, where a particular habitat is especially scarce, it may be appropriate to adopt a lower threshold for selection than would be appropriate for other natural areas so that a suitable range of sites is protected. Selection criteria need to be developed with reference to the standard criteria in the following question, with all sites that meet the relevant criteria (informed by detailed ecological surveys and expertise) then being selected.

Planning authorities need to consider the potential impacts of development on protected and priority species, and the scope to avoid or mitigate any impacts when considering site allocations or planning applications. [Guidance on the law affecting Habitats Sites, protected species and SSSIs](#).

Natural England has issued standing advice on protected species. A protected species mitigation licence from Natural England may be required before any work can start.

Natural England is working with local partners to develop strategic mitigation approaches to address the impacts of development on certain protected species such as great crested newts.

Plans, and particularly those containing strategic policies, can be used to set out a suitable approach to both biodiversity and wider environmental net gain, how it will be achieved, and which areas present the best opportunities to deliver gains. Such areas could include those identified in: natural capital plans; local biodiversity opportunity or ecological network maps; local green infrastructure strategies; strategic flood risk assessments; water cycle studies; air quality management plans; river basin management plans; and strategic protected species licensing areas. Consideration may also be given to local sites including where communities could benefit from improved access to nature.

The National Planning Policy Framework encourages net gains for biodiversity to be sought through planning policies and decisions. Biodiversity net gain delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development. Biodiversity net gain can be achieved on-site, off-site or through a combination of on-site and off-site measures. It may help local authorities to meet their duty under Section 40 of the Natural Environment and Rural Communities Act 2006.

Planning conditions or obligations can, in appropriate circumstances, be used to require that a planning permission provides for works that will measurably increase biodiversity. An applicant may also propose measures to achieve biodiversity net gain through a unilateral undertaking. The work involved may, for example, involve creating new habitats, enhancing existing habitats, providing green roofs, green walls, street trees or sustainable drainage systems. Relatively small features can often achieve important benefits for wildlife, such as incorporating 'swift bricks' and bat boxes in developments and providing safe routes for hedgehogs between different areas of habitat.

Benefits could be achieved entirely on-site or by using off-site gains where necessary. Off-site measures can sometimes be secured from 'habitat banks', which comprise areas of enhanced or created habitats which generate biodiversity unit 'credits'.

Care needs to be taken to ensure that any benefits promised will lead to genuine and demonstrable gains for biodiversity. Discussions with local wildlife organisations can help to identify appropriate solutions, and tools such as the Defra [biodiversity metric](#) can be used to assess whether a biodiversity net gain outcome is expected to be achieved. Planning authorities need to make sure that any evidence and rationale supplied by applicants are supported by the appropriate scientific expertise and local wildlife knowledge.

When assessing opportunities and proposals to secure biodiversity net gain, the local planning authority will need to have regard to all relevant policies, especially those on open space, health, green infrastructure, Green Belt and landscape. It will also be important to consider whether provisions for biodiversity net gain will be resilient to future pressures from further development or climate change, and supported by appropriate maintenance arrangements.

(The NPPF goes on to provide further useful information in the practical application of biodiversity net gain)

3.4 Above national policy there is a diverse legislative framework governing the protection of species and habitats. These include:

- The Town and Country Planning Act 1990 which provides the overall planning law framework for England
- the Natural Environment and Rural Communities Act 2006 which places a duty on public bodies to conserve biodiversity
- the Conservation of Habitats and Species Regulations 2017, which set specific requirements for local planning authorities to undertake assessments of the impacts of plans and projects on protected habitats and species
- the draft Environment Bill, a proposed piece of legislation which, if enacted, would set a range of new requirements on local planning authorities relating to biodiversity and the wider natural environment

3.5 Because of this legislative framework, many proposals affecting protected species and habitats may require wider permissions beyond just planning permission, including specific licenses from Natural England.

## 4 What is biodiversity?

4.1 In the planning context, the issue of biodiversity is most common referred to in the context of protected habitats and species.

4.2 Biodiversity can be defined as “the variety of plant and animal life in the world or in a particular habitat, a high level of which is usually considered to be important and desirable.”

4.3 As is recognised by the NPPF, biodiversity is an issue that exists at different levels of a hierarchy. Table 1 below illustrates the types of protected habitats that exist and the level at which they are designated. Habitats at the top of the hierarchy are those that



are afforded the strongest legal protections, although even those lower in the hierarchy can still be afforded strong protections.

**Table 1 – Hierarchy of Habitats Sites**

Category	Type	Details
<b>Sites of International Importance</b>	Ramsar Sites	Listed under the Convention of Wetlands of International Importance 1971
	Special Protection Areas (SPAs)	Classified under the EU Directive on the Conservation of Wildbirds 1979, now transposed into UK law
	Special Areas of Conservation (SACs)	Classified under the EU Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora 1992, now transposed into UK law
	Biosphere Reserves	Designated by the United Nations
<b>Sites of National Importance</b>	National Nature Reserves / Marine Nature Reserves	Declared under Section 19 of the National Parks and Access to the Countryside Act 1949 or Section 35 of the Wildlife and Countryside Act 1981
	Sites of Special Scientific Interest (SSSIs)	Notified under Section 28 of the Wildlife and Countryside Act 1981
<b>Sites of Local Importance</b>	Local Nature Reserves	Designated by local authorities under Section 21 of the National Parks and Access to the Countryside Act 1949
	Local Wildlife Sites and Local Geological Sites	Non-statutory sites identified against a criteria by local authorities typically through their plan-making process

4.4 Biodiversity is an issue that is also relevant beyond the boundary of identified sites. There is a strong role for planning to ensure that development does not adversely impact on biodiversity wherever possible.

4.5 Local Plans must be accompanied by a Habitat Regulations Assessment (HRA). HRA refers to several distinct stages of Assessment which must be undertaken in accordance with the Conservation of Habitats and Species Regulations 2017 (as

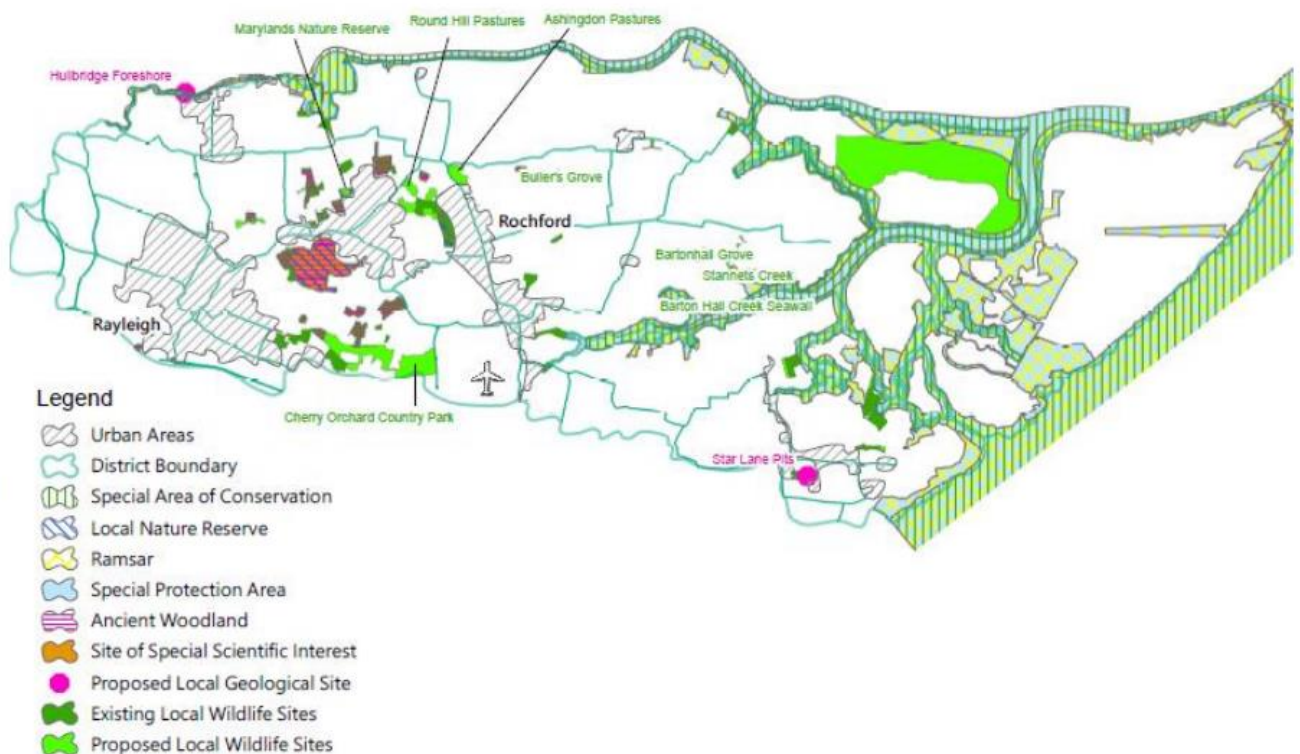
amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) to determine if a plan or project may affect the protected features of a habitats site before deciding whether to undertake, permit or authorise it. All plans and projects (including planning applications) which are not directly connected with, or necessary for, the conservation management of a habitat site, require consideration of whether the plan or project is likely to have significant effects on that site. This consideration – typically referred to as the ‘Habitats Regulations Assessment screening’ – should take into account the potential effects both of the plan/project itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, a [competent authority](#) must make an appropriate assessment of the implications of the plan or project for that site, in view of the site’s conservation objectives. The competent authority may agree to the plan or project only after having ruled out adverse effects on the integrity of the habitats site.

## 5 What is the biodiversity context for Rochford?

### Hierarchy of Important Habitats

- 5.1 Rochford is home to a diverse range of important habitats, including over 12,000 hectares of internationally important habitats, mostly concentrated along the District’s coastline and estuaries. The District is also home to some important in-land habitats, including Hockley Woods Site of Special Scientific Interest, four local nature reserves (at Kendal Park, Marylands, Magnolia Park and Hockley Woods) and 39 local wildlife sites. A summary of these important habitats is shown on Figure 2 below.

**Figure 2: Map of Important Habitats**



- 5.2 As set out in Table 1, a majority of these important habitats, including those identified as being of international or national importance is not within the remit of the local

planning authority. As a consequence, it is not the remit of the Council, nor the new Local Plan, to seek to identify new internationally or nationally important habitats. Furthermore, the national and legislative protections afforded to these habitats are not discretionary and must be provided for in the new Local Plan.

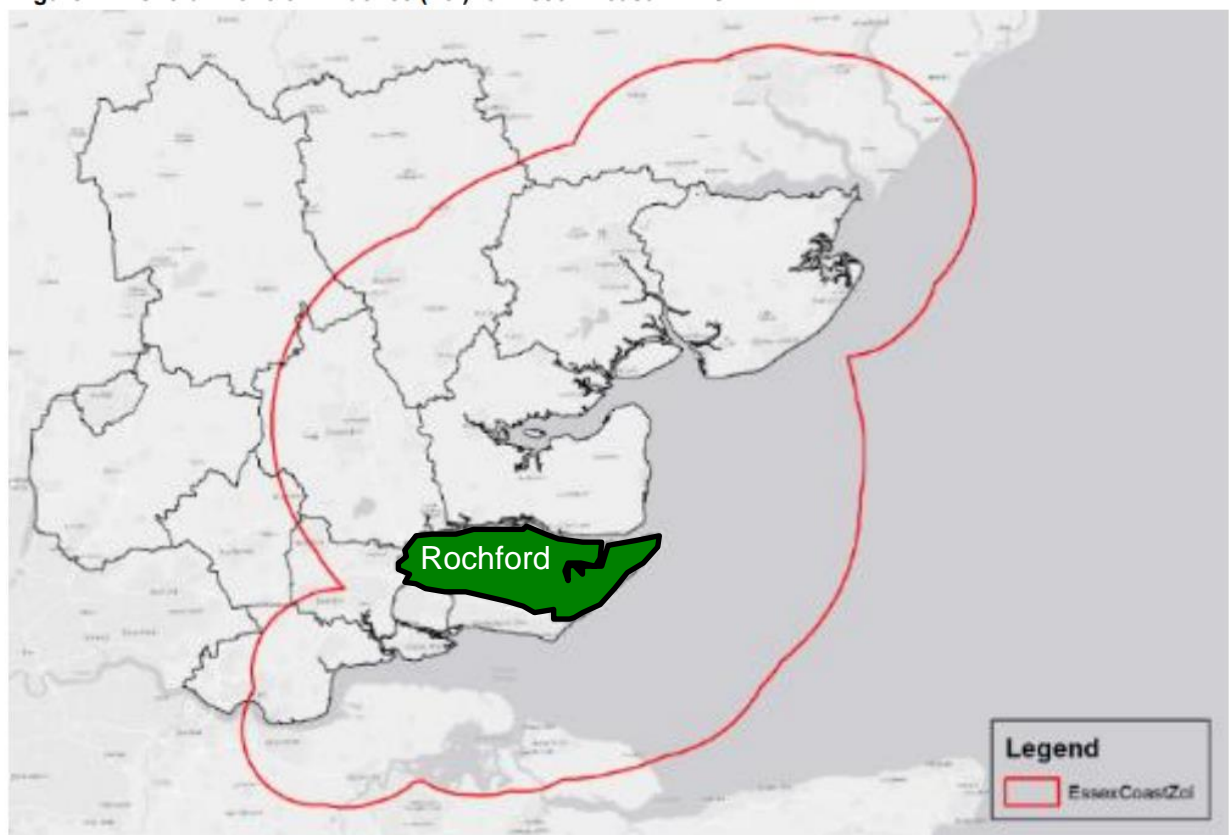
- 5.3 The new Local Plan does however have discretion over identifying and mapping habitats sites of local importance and setting out appropriate policies for their protection and enhancement.
- 5.4 The Council commissioned a [Local Wildlife Sites review](#) to apply a consistent assessment to existing local wildlife sites, as well as other sites put forward for consideration by the Council or a partner organisation. This review identified that the vast majority of existing local wildlife sites continue to be worthy of protection, with the exception of one site at Doggetts Pond. In addition, the review identified a number of additional sites that it recommended should be designated as a new local wildlife site in the new Local Plan. These are:
- Cherry Orchard Country Park
  - Marylands Nature Reserve
  - Buller's Grove
  - Bartonhall Grove
  - Stannetts Creek
  - Barton Hall Creek Seawall
  - Ashingdon Pastures, and
  - Roundhill Pastures
- 5.5 The Local Wildlife Sites review also identified two sites that it recommended be designated as Local Geological Sites, at Hullbridge Foreshore and Star Lane Pits.
- 5.6 Other minor amendments were proposed by the review, including modest alterations to the boundaries of existing sites where this would better reflect the scale and location of important habitats.
- 5.7 At this time, no additional locations deserving of Local Nature Reserve status have been identified.

**Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Partnership**

- 5.8 In addition to habitats sites of local importance, the Council is also part of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) partnership which is a partnership of 11 local authorities in Essex aimed at appropriately avoiding and mitigating the impacts of new housing development on coastal habitats (through increased recreational disturbance). Recreational disturbance can be broadly defined as damage or disturbance to important habitats caused by people (including pets) accessing the habitats, or locations close to the habitats, for the purposes of recreation, e.g. walking, exercise or leisure.
- 5.9 This partnership has already delivered a strategy and Supplementary Planning Document (SPD) which together aim to deliver a defined mitigation package financed through planning obligations. The approach is based on an evidence-based strategy

which identifies the distance that residents are travelling to visit habitats sites and therefore the reasonable distance away from a habitat site that a new house could reasonably be said to generate additional demand for. These distances are defined for each site as a “Zone of Influence”, as set out in Figure 3. The entirety of Rochford District falls within the wider Zone of Influence.

**Figure 3 – Outer Zones of Influence for recreational disturbance to Essex Coast International Habitat Sites**



5.10 Over time, it will be important to update this strategy and mitigation package to ensure it takes account of the most up-to-date projections of housing growth across Essex. It is proposed that the new Local Plan supports the implementation of the Essex Coast RAMS strategy, and its updates, through an appropriate policy to ensure that the impacts of recreational disturbance on important habitats can be appropriately avoided or mitigated.

**Wider Protection of Protected Species**

5.11 The NPPG identifies that planning authorities need to consider the potential impacts of development on protected and priority species, and the scope to avoid or mitigate any impacts when considering site allocations or planning applications.

5.12 To aid in this process, Natural England has issued standing advice on protected species. A protected species mitigation licence from Natural England may be required before any work can start.

- 5.13 It is recognised that Natural England is working with local partners to develop strategic mitigation approaches to address the impacts of development on certain protected species such as [District-level new licensing systems](#).
- 5.14 The new Local Plan will also need to ensure that its policies are compatible with the wider statutory protections afforded to particular species. This might include setting out clear requirements for surveys and assessments to be submitted alongside specific developments, such as those to identify protected species such as bats.

## 6 Issues for the Rochford new Local Plan to address

- 6.1 Local Plans have an important role in identifying important habitats and setting out policies which provide for their protection and enhancement through the planning process.
- 6.2 It is recognised that beyond the current national policy requirements to identify and map habitats sites, and to provide for their protection and enhancement, the emerging draft Environment Bill is proposing to introduce mandatory requirements around delivering net gains for biodiversity and potentially the wider environment.
- 6.3 The concept of biodiversity net gain is that the quality of a habitat should be improved by new development, as opposed to that habitat simply being protected.
- 6.4 The NPPG identifies that (local) plans, and particularly those containing strategic policies, can be used to set out a suitable approach to both biodiversity and wider environmental net gain, how it will be achieved, and which areas present the best opportunities to deliver gains. Such areas could include those identified in: natural capital plans; local biodiversity opportunity or ecological network maps; local green infrastructure strategies; strategic flood risk assessments; water cycle studies; air quality management plans; river basin management plans; and strategic protected species licensing areas. Consideration may also be given to local sites including where communities could benefit from improved access to nature.
- 6.5 To help deliver net gain, planning conditions or obligations can, in appropriate circumstances, be used to require that a planning permission provides for works that will measurably increase biodiversity. An applicant may also propose measures to achieve biodiversity net gain through a unilateral undertaking. The work involved may, for example, involve creating new habitats, enhancing existing habitats, providing green roofs, green walls, street trees or sustainable drainage systems. Relatively small features can often achieve important benefits for wildlife, such as incorporating ‘swift bricks’ and bat boxes in developments and providing safe routes for hedgehogs between different areas of habitat.
- 6.6 The NPPG further identifies that these benefits could be achieved entirely on-site or by using off-site gains where necessary. Off-site measures can sometimes be secured from ‘habitat banks’, which comprise areas of enhanced or created habitats which generate biodiversity unit ‘credits’. Care needs to be taken to ensure that any benefits promised will lead to genuine and demonstrable gains for biodiversity. Discussions with local wildlife organisations can help to identify appropriate solutions, and tools such as the Defra biodiversity metric can be used to assess whether a biodiversity net gain outcome is expected to be achieved. Planning authorities need to make sure that

any evidence and rationale supplied by applicants are supported by the appropriate scientific expertise and local wildlife knowledge.

- 6.7 When assessing opportunities and proposals to secure biodiversity net gain, the local planning authority will need to have regard to all relevant policies, especially those on open space, health, green infrastructure, Green Belt and landscape. It will also be important to consider whether provisions for biodiversity net gain will be resilient to future pressures from further development or climate change, and supported by appropriate maintenance arrangements.
- 6.8 At this time, it is not possible to precisely predict the biodiversity implications of the Council’s new Local Plan, nor is it possible to precisely identify projects or initiatives for delivery of biodiversity net gain. However, in light of the likely requirements of the emerging Environment Bill, more detailed evidence will need to be prepared as the new Local Plan progress in order to set an accurate baseline for biodiversity and to set out a coherent and effective overall strategy for securing biodiversity net gains alongside development. This may include setting out identified projects where off-site net gains can be delivered, e.g. RSPB Wallasea Island.
- 6.9 The options discussed above are set out below with an explanation of what these would involve:

Option	Explanation
<p>Ensuring the protection and enhancement of a hierarchy of habitats sites through the plan, including national and international sites, and ensuring new development avoids or mitigates any generated impacts from the plan’s strategy (including through the Habitat Regulations Assessment and Essex Coast RAMS)</p>	<p>National policy requires local plans to establish a hierarchy of important habitats through the plan and to take appropriate steps to protect and enhance such habitats.</p> <p>This option would fulfil national policy requirements by establishing such a hierarchy and ensuring policies conformed to national policy requirements around the protection and enhancement of such habitats.</p> <p>This option would also fulfil the requirements of the Conservation of Habitats and Species Regulations 2017 by undertaking an appropriate assessment, where needed, on the new Local Plan’s policies and strategies.</p>
<p>Designating for protection areas of land of locally important wildlife or geological value as a local wildlife site or local geological site respectively where they meet the criteria for inclusion, having regard to the Local Wildlife Sites review</p>	<p>This option would utilise the Local Wildlife Sites review to identify and map an updated list of locally important habitats based on up-to-date and robust evidence. This would involve designating and protecting a small number of new sites, potentially ‘undesignating’ one site</p>

	<p>at Doggetts Pond and making a number of minor changes to the boundary of existing local wildlife sites to ensure protections were being afforded to the right habitats.</p>
<p>Ensuring that the plan delivers net gains for biodiversity alongside new development, including to:</p> <p>a. Require new developments to secure biodiversity net gain on-site, such as through new habitat creation or incorporation of wildlife-compatible measures</p> <p>b. Requiring new developments to contribute to off-site biodiversity net gain projects, such as habitat creation or restoration at existing wildlife sites</p>	<p>The emerging Environment Bill is proposing to introduce mandatory requirements around securing net gains for biodiversity alongside new development. This option would be to ensure the new Local Plan sets an overall consistent strategy for securing net gains alongside the development that the new Local Plan delivers. This could include on-site mitigation, such as new habitat creation on a development site, or off-site mitigation, such as a number of developments contributing toward one or more strategic projects, such as a large-scale habitat creation or restoration project. More work would be required through the plan-making process to set an appropriate baseline for biodiversity and to identify an appropriate overall strategy for the delivery of biodiversity net gain.</p>