Scottish Government Draft Planning Guidance: Biodiversity

Scottish Government
Riaghaltas na h-Alba

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Introduction

1.1. This guidance sets out the Scottish Ministers' expectations for implementing NPF4 policies which support the cross-cutting NPF4 outcome 'improving biodiversity'. This guidance has been prepared with advice provided by CIEEM, the RTPI, Heads of Planning Scotland, the Improvement Service and NatureScot.

Tackling the Twin global climate and nature crises

1.2. The Environment Strategy for Scotland sets out the Scottish Government's vision for tackling the twin global climate and nature crises. Recent global assessments by expert bodies on biodiversity and climate change have highlighted the scale and urgency of these challenges. The actions we take to address each are fundamental to our wellbeing and survival.

1.3. Biodiversity in Scotland is in crisis due not only to the effects of climate change, but also changes in land use, over-exploitation, invasive non-native species and habitat fragmentation. The State of Nature Report (2023) highlights 'inappropriate development' as an exacerbating factor contributing to declining biodiversity in Scotland. We urgently need to accelerate and up-scale efforts to increase nature recovery in Scotland, and the planning system has a critical contribution to make towards achieving this.

1.4. Scotland's Biodiversity Strategy sets targets for halting biodiversity loss by 2030 and restoring and regenerating biodiversity by 2045. The Scottish Biodiversity Strategy is accompanied and supported by a Delivery Plan which sets out ambitious actions to help deliver important projects such as the delivery and growth of nature networks and the commitment to protect at least 30% of our land and sea for nature by 2030 (30x30). The forthcoming Natural Environment Bill will put in place key legislative changes to restore and protect nature. Securing positive effects for biodiversity, creating and strengthening nature networks and investing in nature-based solutions are some of the key steps needed to respond to the global nature crisis.

1.5. In order to achieve a healthy, thriving natural environment we need to take immediate bold action. Planning has a key role in helping to deliver the Scottish Government's wider policy and delivery programmes. This may mean working differently to how we have before and will require concerted action from all parties.

National Planning Framework 4 (NPF4)

1.6. Our Fourth National Planning Framework (NPF4), published and adopted on 13 February 2023, is a long term plan looking to 2045. NPF4 guides spatial development, sets out national planning policies and designates national developments. It is part of the development plan so influences planning decisions across Scotland. As a statement of national policy, NPF4 will also directly inform decisions under other consenting regimes.

1.7. Securing positive effects for biodiversity is one of six statutory outcomes for our National Planning Framework introduced by the Planning (Scotland) Act 2019. Improving biodiversity is a cross-cutting theme which runs throughout NPF4.

1.8. NPF4 rebalances the planning system so that climate change and nature recovery are the primary guiding principles for all plans and decisions. NPF4 strategy and policies support development that helps to secure positive effects for biodiversity. NPF4 policy 1 prioritises the climate and nature crises in all decisions. It sets out to encourage, promote and facilitate development that addresses the global climate emergency and nature crisis;

> **Policy 1:** "when considering all development proposals, significant weight will be given to the global climate and nature crises".

1.9. NPF4 Policy 3 in particular plays a critical role in ensuring that development will secure positive effects for biodiversity. Relevant NPF4 policies, including policy 3 specifically, are discussed further in section 4 below.

Key Terms

Enhancement

1.10. The terms 'enhance' and 'enhancement' are widely used in NPF4. In order for biodiversity to be 'enhanced' it will need to be demonstrated that it will be in an overall better state than before intervention, and that this will be sustained in the future. Development proposals should clearly set out the type and scale of enhancement they will deliver. Specifically for local development, NatureScot's Developing With Nature guidance provides advice on information that applicants could include within a planning application in order to provide confidence that enhancement will be achieved.

Nature-based solutions

1.11. The NPF4 glossary defines nature-based solutions as '*actions to protect, sustainably manage, and restore natural and modified ecosystems that address societal challenges effectively and adaptively, simultaneously providing human wellbeing and biodiversity benefits.*' For example, incorporating good quality green infrastructure such as green spaces, green roofs, living walls and rain gardens into development proposals can provide multiple benefits for adaptation to climate change, biodiversity and people. NatureScot have published detailed information on nature-based solutions which both planning authorities and developers may find helpful.

Nature Networks

1.12. The planning system has a key role to play in facilitating the creation of nature networks, helping to build and strengthen networks and the connections between them.

1.13. The NPF4 glossary defines Nature Networks as; "*A joined-up system of places important for wild plants and animals, on land and in water. It allows plants, animals, seeds, nutrients and water to move from place to place and enables the natural world to adapt to change, providing plants and animals with places to live, feed and breed. Effectively functioning nature networks will connect existing nature rich areas through habitat corridors, habitat 'stepping stones', or habitat restoration areas. Scotland's Nature Networks will enable opportunities for achieving ecological connectivity that meet local priorities for biodiversity and nature; whilst building and strengthening an evolving regional and national connectivity. Opportunities for implementation may be identified through, e.g. LDPs and/or Local Biodiversity Action Plans and/or other existing or new mechanisms such as those developed under the Scottish Biodiversity Strategy Delivery Plan, to achieve connectivity within and across urban, peri-urban and rural landscapes.*"

1.14. Nature networks link areas which are currently important for biodiversity in urban, peri-urban and rural settings to allow nature the space to adapt to Scotland's changing climate. Different local areas will have differing ecological needs and priorities according to the landscapes they need to manage. **NPF4 National Development 7: Central Scotland Green Network** is one of Europe's largest and most ambitious green infrastructure projects. It focuses on those areas where greening and development can be mutually supportive, helping to improve equity of access to quality green and blue space, and supporting communities where improving wellbeing and resilience is most needed, including to help people adapt to future climate risks.

1.15. Scotland's Biodiversity Strategy highlights the need to improve ecological connectivity across Scotland. Nature Networks are spaces for nature that are resilient to our changing climate. They are delivered through local partnerships that contribute to local priorities for nature, support biodiversity-rich areas including our National Parks and protected areas, and bring positive benefits for both nature and our communities. A co-designed Nature Network framework has been developed with stakeholders, to help inform implementation. The Scottish Government is also exploring how best to support Local Authorities and their partners in delivering Nature Networks by developing an online toolbox such as opportunity mapping tools to help local authorities identify nature restoration action areas. Further guidance is also being developed by NatureScot.

1.16. A fuller glossary is included at the end of this document.

A Plan-led system

Regional Spatial Strategies

2.1. The Planning (Scotland) Act 2019 establishes a duty requiring the preparation of Regional Spatial Strategies (RSS). The new duty to produce RSS will be enacted with the publication of statutory guidance, expected in 2024. A planning authority, or authorities acting jointly will prepare these long-term spatial strategies for the strategic development of an area, which identify:

- The need for strategic development;

- The outcomes to which strategic development will contribute;

- Priorities for the delivery of strategic development; and

- Proposed locations, shown in the form of a map or diagram

2.2. RSS are not part of the statutory development plan, but can in the future play an important role in informing Local Development Plans. They will allow planning authorities to develop a tailored approach to strategic planning for their area that best reflects their local and regional circumstances. In terms of nature recovery, RSS can address cross-boundary issues and set out a strategic view on delivering enhancements for biodiversity. They may identify suitable regional opportunities for off-site enhancement including to support nature networks.

Local Development Plans (LDPs)

2.3. Development planning is required to manage the development and use of land in the long-term public interest. LDPs set out how places will change in the future, including where development should and shouldn't happen. Where relevant, LDPs should also set out the details of any required developer contributions.

2.4. As set out in the Local Development Planning Guidance, LDPs should encourage, promote and facilitate development that addresses the global climate emergency and nature crisis, in order to reflect the significant weight that this carries within NPF4.

> **Local Development Plans**: "LDPs must address the global climate emergency and nature crisis by ensuring the spatial strategy will reduce emissions and adapt to current and future risks of climate change by promoting nature recovery and restoration in the area" [NPF4 page 36]

2.5. Opportunities to promote nature recovery and nature restoration could include by facilitating the creation of nature networks (see paragraphs 1.12-1.15 above); restoring degraded habitats or creating new habitats; and by incorporating measures to increase biodiversity, including populations and priority species.

2.6. The Evidence Report stage of the LDP preparation process is an opportunity to identify priority species and habitats within the plan area. Local areas of importance for biodiversity may also be identified, Further information, including on evidence sources, is available in our LDP Guidance.

2.7. Most local authorities work in partnership with both national environmental agencies and local biodiversity organisations to deliver Local Biodiversity Action Plans (LBAPs). LBAPs are one way in which the Scottish Biodiversity Strategy can be implemented at the local level. LBAPs offer an ideal opportunity to link LDP spatial strategies to agreed local priorities for protecting and enhancing local ecosystems, habitats and species. Wherever possible LBAPs should be maintained and kept up to date so they may be used to inform both the LDP and development proposals.

Local Development Plans: "LDPs should protect, conserve, restore and enhance biodiversity in line with the mitigation hierarchy. They should also promote nature recovery and nature restoration across the development plan area, including by: facilitating the creation of nature networks and strengthening connections between them to support improved ecological connectivity; restoring degraded habitats or creating new habitats; and incorporating measures to increase biodiversity, including populations of priority species." [NPF4 page 38]

2.8. Whether or not an up to date LBAP is in place, the LDP preparation process offers an opportunity to take a more strategic, place-based and cross-sectoral approach to nature. In this approach wildlife sites, corridors, and stepping stones, landscape features, watercourses, and green and blue spaces are identified and come together to form integrated nature networks, supporting ecological connectivity. The spatial strategy can help to prevent fragmentation or isolation of habitats and identify opportunities to restore and enhance links which have been broken, including as part of wider green networks and active travel routes.

Local Development Plans: Local Development Plans: LDPs will identify and protect locally, regionally, nationally and internationally important natural assets, on land and along coasts. The spatial strategy should safeguard them and take into account the objectives and level of their protected status in allocating land for development. Spatial strategies should also better connect nature rich areas by establishing and growing nature networks to help protect and restore the biodiversity, ecosystems and natural processes in their area." [NPF4 page 40]

Strategic Environmental Assessment

2.9. The Environmental Assessment (Scotland) Act 2005 requires those preparing qualifying plans, including LDPs, to undertake an assessment of the likely significant effects of the plan, both positive and negative, on the environment. SEA can significantly benefit the preparation of an LDP, supporting better understanding of its environmental context and helping to identify steps to avoid, mitigate or reduce significant adverse effects, and enhance positive effects,

including for biodiversity. The benefits of embedding SEA into the LDP preparation process are therefore particularly relevant in addressing the twin crises of biodiversity loss and climate change.

2.10. To minimise duplication and ensure the SEA adds value to the plan preparation process, the LDP Evidence Report should be aligned with work undertaken to prepare the SEA scoping report. In this way, SEA can help to improve an LDP's environmental performance from an early stage, including by identifying reasonable alternatives and assessing the impact these may have for biodiversity.

2.11. Further detail on how Local Development Plans can actively promote nature recovery and nature restoration across the development plan area, as well as on the important role SEA should play in the implementation and delivery of NPF4 Policies through LDPs is set out in the Scottish Government's Local Development Planning Guidance.

Case Study: Partnership working in Perth & Kinross

Perth and Kinross Council developed local planning guidance aligned to priorities and actions set out in the Local Biodiversity Action Plan.

"We have a close working relationship between planning policy, our biodiversity officer and the Tayside Biodiversity Co-ordinator. NatureScot, CIEEM and existing Tayside Biodiversity Partnership guidance played a big role but this was supplemented with local knowledge by utilising the expertise within the Tayside Biodiversity Partnership". – Perth and Kinross Council, May 2023

Development proposals: Core principles

3.1. There are a number of commonly used and widely applied 'principles' which can be followed when designing development so that nature and nature recovery are an integral part of any proposal. These principles are discussed further in sections 3.3 to 3.14 below and are applicable to development of all types and scale.

3.2. Applying these principles will not only help to secure biodiversity enhancements, they can also help to deliver wider policy objectives including for green and blue infrastructure, open space, nature-based solutions, nature networks and 30x30 (see para 1.4). Development proposals which follow these steps are also much more likely to result in more pleasant and enriching places to live, work and spend time. The principles are:

- Apply the mitigation hierarchy

- Consider biodiversity from the outset

- Provide synergies and connectivity for nature

- Integrate nature to deliver multiple benefits

- Prioritise on-site enhancement before off-site delivery

- Take a place-based and inclusive approach

- Ensure long term enhancement is secured

- Additionality

Apply the mitigation hierarchy

3.3. The mitigation hierarchy indicates the order in which the impacts of development should be considered and addressed i.e. to first **avoid,** then **minimise, restore,** and **offset**. Potential negative effects should be mitigated in line with the mitigation hierarchy prior to identifying enhancements.

Consider biodiversity from the outset

3.4. There are significant benefits to be gained where proposals are designed with nature in mind from the outset. Planning ahead and having an early understanding of the existing biodiversity on site, including any irreplaceable habitats and the species populations they support, can help avoid costly delays as applications go through the planning system and can result in a smoother passage overall. The opportunities for safeguarding and enhancing biodiversity should be considered from the very earliest stages of formulating a development proposal, as a core part of the siting and design process. Once the ecological interests of a site and its connectivity with the wider landscape have been identified, the mitigation hierarchy can be applied. Widely applied design processes such as masterplanning for larger or more complex applications can provide a clear and robust framework for designing with biodiversity in mind. This requires an understanding of site characteristics (such as soil properties, aspect, shelter and drainage), existing habitats and species, and the variability across the site. In nearly all circumstances, retaining and enhancing existing nature is of greater benefit than seeking to provide replacement habitats that will require time to become established and for associated benefits to accrue, and with the associated uncertainty as to their success.

3.5. Early consideration at all stages of project development can also support evaluation of the full range of opportunities for delivering the best outcome for biodiversity. This can lead to improvements early in the design process, capturing the benefits provided by mature habitats and better integrating biodiversity measures and their management needs at the outset (helping to avoid the cost of later 'retrofit'). Early consideration of existing soil and habitat resources can also help reduce waste and the need to import new material for the reinstatement and improvement of biodiversity.

3.6. The level of detail should be proportionate to the scale of the development and/or the sensitivity of the site. Where appropriate, initial survey work should be carried out by suitably qualified ecologists as early as practical to provide broad assessment findings of the ecological interest of the site, helping to identify where further habitat and species surveys and/or detailed ecological assessments may be needed. Consideration should be given to the timing of seasonally constrained surveys and the timing of certain mitigation activities. Consideration of standing advice and if appropriate consultation with NatureScot, SEPA and Local Authority biodiversity/environmental planners is also recommended. Other stakeholders such as nature conservation organisations and local community groups are also valuable sources of local information, along with Local Development Plans and Local Biodiversity Action Plans and other strategies. These can help to inform the scope for surveys, mitigation and enhancement.

3.7. Discussions between applicants and the planning authority should be carried out at the earliest possible stage.

Case Study: Hagshaw Energy Cluster

The Hagshaw Energy Cluster is a strategic location for large scale renewable energy projects. [The Development Framework](link) has been developed together between the local authorities, renewable energy developers and operators, statutory agencies and communities to create a shared vision for the cluster.

The Development Framework sets out a coordinated approach to the enhancement of nature. It details how, through working together, the cluster offers opportunities to deliver landscape-scale restoration, enhancement and the creation of wildlife habitats helping to connect these to other important areas for nature in the surrounding area, in line with the principles of the Glasgow and Clyde Valley (GCV) Green Network Partnership Blueprint for Strategic Habitat Networks.

The sharing of existing habitat management and monitoring data between developers and operators, landowners, agencies and other stakeholders, will inform the development of a Cluster Wide Habitat Management Plan.

Provide synergies and connectivity for nature

3.8. No single action should be considered in isolation, but as an important component of the site and its wider setting. Existing, well-established habitat, either retained on site or found in adjacent areas, is of particular value as new habitat can require significant time to mature. Every opportunity should be taken to safeguard, enhance and extend connectivity between the development itself and adjoining areas of habitat, ensuring 'permeable boundaries' are incorporated. Hedgerows, woodland and scrub, meadows and verges, street and feature trees, as well as ponds and wetlands can all provide stepping stones and corridors that aid the movement and dispersion of species, address fragmentation and can help avoid creating isolated pockets of nature. Ensuring suitable habitat connectivity for wildlife across the landscape is important for most species, particularly where cover avoids predation, or protects from exposure to the elements. Improved connectivity will help build and strengthen the resilience of nature networks, which may be specifically identified in Local Development Plans, Local Biodiversity Action Plans and other strategies, or more generally encouraged by specific species initiatives.

Integrate nature to deliver multiple benefits

3.9. Development should consider opportunities to maximise contributions to ecosystem services more generally and deliver multiple benefits for both people and nature. Nature-based solutions, such as sustainable drainage systems (SuDS), green roofs and walls, street trees and green space, are increasingly being utilised in development. These provide a cost effective and climate-resilient solution to issues such as extreme temperatures, high energy use,

noise, water quality and quantity, and poor amenity. Not all nature-based solutions automatically maximise biodiversity potential, however integrating biodiversity rich nature-based solutions into the early design phase of a development proposal offers opportunities to directly enhance nature, for example by providing suitable nesting, foraging and shelter habitat. Nature-based solutions can also have a wider positive impact on nature, for example in helping to maintain suitable temperatures for wildlife, limiting disturbance by reducing noise and light pollution, and reducing pollutant run-off. Examples of often very simple ways to integrate nature within developments can be found in NatureScot's Developing With Nature guidance as well as NatureScot's information on nature-based solutions available online.

Prioritise on-site enhancement before off-site delivery

3.10. Wherever possible measures for enhancing biodiversity should be provided within the development site, where the loss of, or damage to, biodiversity is taking place. This is an equitable approach, that seeks to ensure that areas of land do not become 'nature poor' as a consequence of development, to the detriment of both people and biodiversity. Where purely on-site enhancement is not possible, section 4.19 sets out further considerations for off-site delivery.

Take a placed-based and inclusive approach

3.11. An understanding of the main natural assets of the site and its surroundings and the opportunities they provide for enhancement will be important. Consideration should be given to any opportunities to contribute towards restoring and enhancing any habitats and species identified as national, strategic or local priorities. The local environmental records centre, Local Biodiversity Partnership officers or wildlife group may be able to advise on appropriate habitat and species choice.

3.12. Local stakeholders, including community councils and local community groups can apply their knowledge to identify broader benefits of biodiversity measures to both people and place. At the same time this can raise understanding and encourage involvement in, and protection of, nature. The place standard tool provides a simple framework to structure conversations about place.

Case Study: **RSPB Insh Marshes Nature Reserve**

RSPB Insh Marshes Nature Reserve is a 1,000-hectare floodplain of the River Spey in the Cairngorms. It is part of Cairngorms Connect: a partnership of neighbouring land managers who have committed to a long term vision to enhance habitats, species and ecological processes.

"A long-term vision is being developed to transform RSPB Insh Marshes into a prime example of a better-connected floodplain and less modified river system. The project will make the reserve more climate resilient whilst helping to reduce flood risks in communities surrounding the reserve and keep ongoing management requirements sustainable. The partnership committed to engaging with the local community at as early a stage as possible, to shape proposals well before any planning application is made. Since 2020, ongoing conversations, updates and engagement events with local communities have kept this key stakeholder group up to date and informed with the restoration project. This commitment has facilitated a two-way conversation around any potential issues or concerns." – Cairngorms Connect, October 2023

Ensure Long-Term Enhancement is Secured

3.13. Nature is uncertain and not fully within our control. Securing positive effects for biodiversity inevitably entails a degree of risk as to whether the intended outcomes will be delivered in practice. This is likely to increasingly be the case as local environments adapt to climate change. Incorporating a contingency to compensate for this risk, designing for resilience and taking an adaptive approach that can respond to nature's uncertainty can help ensure successful outcomes.

3.14. Consideration will be required as to the need for on-going management and future monitoring to ensure the intended enhancement is achieved in practice. See section 4.22 on securing long-term benefits.

Additionality

3.15. Within a plan-led system, ensure enhancement delivered is additional to any measures which would have been likely to happen in the absence of the development.

Determining planning applications

Policy context

4.1. NPF4 must be read and applied as a whole. The NPF strategy and policies support development that helps to secure positive effects for biodiversity. The intent of each of the 33 policies is set out and can be used to guide decision making. The following policies in particular are relevant and inter-related, such that delivery of one benefits the others.

4.2. **Policy 1** prioritises the climate and nature crises in all plans and decisions. **Policy 4** protects and enhances natural heritage, and this is further supported by **policy 5** on soils and **policy 6** on forestry, woodland and trees. **Policy 20** promotes the expansion and connectivity of blue and green infrastructure, whilst **policy 10** recognises the particular sensitivities of coastal areas. Protection of the natural features of brownfield land is also highlighted in **policy 9**, and protection of the green belt in **policy 8** will ensure that biodiversity in these locations is conserved and accessible to communities, bringing nature into the design and layout of our cities, towns, streets and spaces in **policy 14**.

4.3. Most significantly, **policy 3** plays a critical role in ensuring that development will secure positive effects for biodiversity. Policy 3 is discussed further below.

Policy 3 a) Contributing to the Enhancement of Biodiversity

4.4. Policy 3 a) applies to all development proposals.

"Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible."

4.5. NatureScot's 'Developing With Nature' guidance includes examples of simple, readily applied, and widely applicable measures which can contribute to the overall enhancement of biodiversity. It will however be for the decision maker to take into account the policies in NPF4 as a whole, together with material considerations in each individual case. Careful consideration of the future use of a site and it's setting can help to ensure the application of policy in an appropriate and proportionate way which reflects the needs of both people and nature.

Policy 3b (National / Major / EIA Development)

"Development proposals for national or major development, or for development that requires an Environmental Impact Assessment will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention. This will include future management. To inform this, best practice assessment methods should be used"

4.6. It will be for the applicant to demonstrate, through the planning application, those ways in which biodiversity will be left in a 'demonstrably better state' than before intervention. NPF4 does not specify or require a particular assessment approach or methodology to be used, though the policy makes clear best practice assessment methods should be utilised.

4.7. Assessment may be qualitative or quantitative (for example through use of a metric) and where relevant should align with existing statutory and other assessment requirements, taking an integrated approach to avoid duplication and ensure efficiency. For example, early data gathering and survey work should be aligned wherever possible. Data sources may include National Biodiversity Atlas, NatureScot (Biodiversity data), SiteLink (Scotland's register of European sites), Local Biodiversity Action Plans and local biodiversity record centres amongst other known species and habitat distribution mapping.

The role of Ecological Impact Assessment

4.8. Development proposals may be supported by an Ecological Impact Assessment (EcIA). EcIA is a process of identifying, quantifying and evaluating potential effects of development or other proposed actions on habitats, species and ecosystems. EcIA can be used for the appraisal of development projects of varying scales and including where an EIA is not required.

Environmental Impact Assessment

4.9. Environmental Impact Assessment (EIA) is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects on a range of factors, including biodiversity. This will include both positive and negative effects. Where the application is accompanied by an EIA report, it follows that information and evidence on whether and how biodiversity will be impacted should be set out in that report. Regardless of whether or not an EIA report is required, careful sign-posting will be needed to ensure information is clearly set out with appropriate evidence and conclusions reached which demonstrate how the policy criteria have been met.

Other tools and assessment methods

4.10. There are a variety of bespoke tools/methods currently being used by planners and applicants across the UK and Europe. The list below details some of these for illustrative purposes, though this is not exhaustive:

[Natural England Biodiversity Metric 4.0](#) (please see para 4.11 below)

[Urban Greening Factor](#)

[Malmo Green Points](#)

[Building With Nature Standards Framework](#)

4.11. The Scottish Government commissioned research into Approaches to Measuring Biodiversity in Scotland, a [report](#) on which was published in September 2023. That research concluded that, with refinement, Natural England's Biodiversity Metric 3.1 could be adapted for planning and development use in Scotland. Whilst this conclusion relates to Metric 3.1, broad conclusions are considered likely to remain the same for Metric 4.0 which was published on 24th March 2023. NatureScot will shortly commence work to develop an adapted biodiversity metric suitable for use in supporting delivery of NPF4 policy 3b. Further information will be provided on this work in due course.

4.12. In the meantime, the absence of a universally adopted Scottish methodology/tool should not be used to frustrate or delay decision making, and a flexible approach will be required. Wherever relevant and applicable, and as indicated above, information and evidence gathered for statutory and other assessment obligations, such as EIA, can be utilised to demonstrate those ways in which the policy tests set out in NPF4 have been met. Equally, where a developer wishes to use an established metric or tool, the planning submission should demonstrate how Scotland's habitats and environmental conditions have been taken into account. Where an established metric or tool has been modified, the changes made and the reasons for this should be clearly set out.

Applying policy 3b)

4.13. Whichever assessment approach is taken, proposals should clearly demonstrate how they have met all of the following criteria:

i. "the proposal is based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats;
ii. wherever feasible, nature-based solutions have been integrated and made best use of;
iii. an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements;
iv. significant biodiversity enhancements are provided, in addition to any proposed mitigation. This should include nature networks, linking to and strengthening habitat connectivity within and beyond the development, secured within a reasonable timescale and with reasonable certainty. Management arrangements for their long-term retention and monitoring should be included, wherever appropriate; and
v. local community benefits of the biodiversity and/or nature networks have been considered."

4.14. It will be for the Planning Authority to determine whether the relevant policy criteria have been met taking into account the circumstances of the particular proposal. NPF4 does not specify how much enhancement or 'net gain' should be delivered, though biodiversity should clearly be left in a 'demonstrably better state' than without intervention. Rather, the selection and design of enhancements will be a matter of judgement based on the circumstances of the individual case, taking into account a range of considerations including:

- The location of the development site and the opportunities it provides for enhancing biodiversity;

- The character and scale of the development;

- The requirements and cost of maintenance and future management measures proposed;

- The distinctiveness and scale of the biodiversity damaged or lost; and

- The time required to deliver biodiversity enhancements and any risks or uncertainty in achieving this.

4.15. Planning authorities and developers may wish to consider securing the support of Ecological Clerks of Works, Project Ecologists and Environmental Clerks of Works. These can support contractors during construction and implementation ensuring biodiversity is protected wherever possible, enabling enhancements and assisting with long term monitoring and protection. Heads of Planning Scotland have published a Position Statement on the role of Environmental Clerks of Works within the planning system.

Policy 3c (Local Development)

"Proposals for local development will include appropriate measures (*hereafter referred to as 'Biodiversity Measures'*) to conserve, restore and enhance biodiversity, in accordance with national and local guidance. The Biodiversity Measures should be proportionate to the nature and scale of development. Applications for individual householder development, or which fall within scope of [policy 3 (b)], are excluded from this requirement".

4.16. The application of this policy in practice is supported by NatureScot's Developing With Nature Guidance which sets out some of the common biodiversity measures that can be incorporated into a wide range of developments. This is not an exhaustive list of all potential measures, but those considered widely applicable to a range of developments across much of Scotland. Where local guidance on appropriate measures has also been prepared this should also be taken in to account.

4.17. Planning applications should include a statement setting out the measure(s) to be included, demonstrating that they are proportionate to the nature and scale of the development. The Developing with Nature guidance includes an example template for presenting this information. The guidance also acknowledges that

the level of information to be provided will vary with the site, scale and complexity of the development and the measures to be included.

Policy 3d (Adverse impacts, including cumulative)

"Any potential adverse impacts, including cumulative impacts, of development proposals on biodiversity, nature networks and the natural environment will be minimised through careful planning and design. This will take into account the need to reverse biodiversity loss, safeguard the ecosystem services that the natural environment provides, and build resilience by enhancing nature networks and maximising the potential for restoration".

4.18. Policy 3 (d) applies to all development proposals. Following the mitigation hierarchy and considering biodiversity from the outset are key to ensuring that nature, and nature recovery, are an integral part of the planning and design of any development proposal.

Offsite Delivery

4.19. NPF4 biodiversity policies should be delivered in a way that is as fair and inclusive as possible to all concerned. This aligns with the ambition of the Scottish Biodiversity Strategy, which through its Delivery Plan identifies actions aimed at not only halting biodiversity decline but also providing social and economic benefits. Where the relevant policy tests cannot be met on-site, off-site provision may be considered alongside on-site. In these circumstances, offsite delivery should be as close as possible to the development site, with consideration being given firstly to the immediate landscape context and existing ecological value of the site.

4.20. Off-site delivery could entail enhancing existing habitat or creating new habitats, strengthening the connectivity of nature networks, delivering larger landscape-scale benefits, and enhancing the resilience of key habitats and species identified as a priority for action. Potential off-site projects may be identified in the Local Biodiversity Action Plan (LBAP), the RSS, LDP or other strategies, and by local or national environmental NGOs. Where necessary, wider regional opportunities may be identified through Regional Land Use Partnerships and Frameworks. Early consideration of the need for off-site delivery, drawing in local community groups and potential delivery partners where possible, will help to avoid delay at later stages including through the early identification of opportunities arising. Early consideration can also help to ensure strong linkages to local nature networks, and alignment with local biodiversity priorities. Where relevant, careful consideration will be required as to how off-site delivery is to be secured for the long term.

Delivery mechanisms

4.21. There are a variety of delivery mechanisms that can be considered depending on local circumstances, and there will be clear benefits where existing delivery partners can be utilised. Wherever possible the means of delivery should be kept as simple as possible, while providing the necessary confidence for delivery on the ground. Early engagement (see above) can help to identify established delivery mechanisms which might be utilised, where available.

Case Study: Scottish Borders Council

The Council together with stakeholders have developed a strategic approach to biodiversity that accounts for the residual environmental impacts of renewable energy and mineral development on certain species and habitats including black grouse, blanket bog and other upland habitat, seeking biodiversity benefits at the landscape scale, whilst simultaneously benefiting ecosystem services.
The programme of works for an offset project is agreed with a third party (a local environmental NGO) and secured with the Council by a legal agreement through the statutory planning process. The projects are steered by a small group chaired by the Council, with developer and NGO representatives. Projects use bespoke Geographic Information Systems (GIS) decision support tools to guide implementation.

Securing Long Term Benefits

4.22. Addressing the nature crisis requires measures to be retained for the long term (preferably in perpetuity), in order to deliver a lasting legacy. How this will be done should be set out in the planning application, and may vary depending on the circumstances of the application.

4.23. Where planning conditions or obligations are to be used, the relevant tests set out in Planning Circular 4/1998 and Planning Circular 3/2012 must be met. For something to be taken into account as a material consideration it must be relevant to planning and relate to the development proposed by the particular application under consideration.

4.24. Where off-site provision has been agreed and secured this enhancement should be protected in future LDP spatial strategies, where relevant contributing towards the wider nature network.

Conservation burdens

4.25. Conservation burdens are a legal mechanism in Scotland for securing dedicated management for biodiversity in the longer term. The Abolition of Feudal Tenure etc (Scotland) Act 2000 and Title Conditions (Scotland) Act 2003 both contain provisions for conservation burdens to be created and preserved respectively for the purpose of preserving, or protecting, for the benefit of the public:

(a) the architectural or historical characteristics of any land; or

(b) any other special characteristics of any land (including, without prejudice to the generality of this paragraph, a special characteristic derived from the flora, fauna or general appearance of the land)

Conservation burdens can only be held by Scottish Ministers or conferred in favour of bodies prescribed as conservation bodies by Scottish Ministers. Bodies which have been prescribed to date include Local Authorities, NatureScot and bodies such as National Trust for Scotland, Scottish Wildlife Trust and RSPB.

A conservation burden is extinguished if the holder ceases to be a conservation body or if the holder ceases to exist.

Monitoring

4.26. Ongoing monitoring and future management plans should be included within planning applications, where appropriate, to ensure long term benefits for biodiversity are not only planned for, but realised on the ground. Monitoring and management plans can be secured by planning conditions, and opportunities to utilise established monitoring mechanisms (e.g. linked to LDP processes, open space strategies, forestry and woodland strategies, LBAP's etc.) should be considered wherever possible.

Aquaculture

4.27. Applications for open water farmed finfish or shellfish development are excluded from the requirements of policy 3b) and 3c) and will instead apply all relevant provisions from National and Regional Marine Plans. Open water farmed finfish or shellfish development proposals are not excluded from policy 3a) and 3d).

4.28. With regards to Policy 32 (d) 'open water' refers to farming which takes place in marine, sea or freshwater locations . It is not a reference to the technology used.

Next steps

Living document

5.1. This Guidance document is written and designed to be a 'living document'. It is our intention that it will be updated as practice beds in across Planning Authorities. We welcome feedback on how Policy 3 is being implemented across Scotland and how this guidance document is being used to assist implementation and delivery. Please email chief.planner@gov.scot with any comments you wish to make.

Glossary of terms and definitions

Avoidance
Prevention of impacts occurring, having regard to predictions about potentially negative environmental effects (e.g. project decisions about site location or design).

Biodiversity
The variability in living organisms and the ecological complexes of which they are part. This includes diversity within species, between species and of ecosystems.

Blue Infrastructure
Water environment features within the natural and built environments that provide a range of ecosystem services. Blue features include rivers, lochs, wetlands, canals, other water courses, ponds, coastal and marine areas including beaches, porous paving, sustainable urban drainage systems and raingardens.

Brownfield land
Land which has previously been developed. The term may cover vacant or derelict land, land occupied by redundant or unused buildings and developed land within the settlement boundary where further intensification of use is considered acceptable.

Ecosystem
Communities of organisms interacting with each other and with their non-living environment: forests, wetlands, mountains, lakes, rivers, deserts and agricultural landscapes.

Enhancement
In order for biodiversity to be 'enhanced' it will need to be demonstrated that it will be in an overall better state than before intervention, and that this will be sustained in the future. Development proposals should clearly set out the type and scale of enhancement they will deliver. Specifically for local development, NatureScot's Developing With Nature guidance provides advice on information that applicants could include within a planning application in order to provide confidence that enhancement will be achieved.

Fragmentation
Habitat fragmentation occurs when larger areas of habitat are split into separate, smaller areas. The initiation of these smaller habitats has a direct impact on all of the species, their community structure and the overall ecosystem of those fragments.

Habitat
A place or type of site where an organism or population naturally occurs.

Local Biodiversity Action Plan
A Local Biodiversity Action Plan identifies the habitats and species on which work should focus, they are one way in which the Scottish Biodiversity Strategy can be implemented at the local level. It is a comprehensive plan that identifies the local priorities for protecting and enhancing ecosystems, habitats and species in each

Local Authority area. The plan enables a joined up approach across the area that all partners can work to.

Local Biodiversity Partnership
Local Biodiversity Action Plan Partnerships operate at the local authority level. They were set up in the UK following the Rio Earth Summit in 1992 in response to the UK becoming a signatory to the Convention on Biological Diversity.

Most local authorities work in partnership with both national environmental agencies and local biodiversity organisations to deliver local biodiversity action plans. Either the local authority employs a dedicated biodiversity officer or, as part of other posts in the local authority, an officer supports the partnership.

Local Environmental Records Centre
Local environmental records centres are organisations which have been established, usually through a partnership of interested parties, in order to collect, collate and manage local information on the natural environment for a defined geographic area and to supply this information to local users.

Mitigating measures (Mitigation)
Measures that allow an activity with a negative impact on biodiversity, but reduce the impact on site by considering changes to the scale, design, location, process, sequencing, management and/or monitoring of the proposed activity. It requires a joint effort of planners, engineers, ecologists, other experts and often local stakeholders to arrive at the best practical environmental option.

Mitigation hierarchy
The mitigation hierarchy indicates the order in which the impacts of development should be considered and addressed. These are:
Avoid – by removing the impact at the outset
Minimise – by reducing the impact
Restore – by repairing damaged habitats
Offset – by compensating for the residual impact that remains, with preference to on-site over off-site measures

Nature-Based Solutions
Nature-based solutions are actions to protect, sustainably manage, and restore natural and modified ecosystems that address societal challenges effectively and adaptively, simultaneously providing human wellbeing and biodiversity benefits.

Nature Networks
A Nature Network is a joined-up system of places important for wild plants and animals, on land and in water. It allows plants, animals, seeds, nutrients and water to move from place to place and enables the natural world to adapt to change, providing plants and animals with places to live, feed and breed. Effectively functioning nature networks will connect existing nature rich areas through habitat corridors, habitat 'stepping stones', or habitat restoration areas. Scotland's Nature Networks will enable opportunities for achieving ecological connectivity that meet local priorities for biodiversity and nature; whilst building and strengthening an evolving regional and national connectivity. Opportunities for implementation may be

identified through, e.g. LDPs and/or Local Biodiversity Action Plans and/or other existing or new mechanisms such as those developed under the Scottish Biodiversity Strategy Delivery Plan, to achieve connectivity within and across urban, peri-urban and rural landscapes.

Restoration
The process of assisting the recovery of an ecosystem towards or to good condition, as a means of conserving and/or enhancing biodiversity and ecosystem resilience; for habitat types listed in Annexes I and II (Habitats Directive), restoration means the process of assisting their recovery to the highest level of condition attainable.