

Report to **National Park Authority**
Date **12 December 2023**
By **Countryside & Policy Manager (Eastern)**
Title of Report **Partnership Management Plan Delivery – Nature Recovery and the Authority’s role in Local Nature Recovery Strategies, the strengthened Biodiversity Duty and Conservation Covenants as set out in the Environment Act 2021**

Decision

Recommendations:

The National Park Authority is recommended to:

1. **Note and welcome the SDNPA taking forward the provisions of the Environment Act 2021 in support of nature recovery action;**
 2. **Note and welcome the Authority’s role as a Supporting Authority in relation to Local Nature Recovery Strategies, under The Environment (Local Nature Recovery Strategies) (Procedure) Regulations 2023;**
 3. **Delegate authority to the Chief Executive, in consultation with the Chair of the Authority and the Chairs of the Authority’s Planning and Policy & Resources Committees, to:**
 - a) **Approve and submit a response to the Responsible Authority on any pre-consultation draft of a Local Nature Recovery Strategy within 28 days as required by the Authority’s role as a Supporting Authority under The Environment (Local Nature Recovery Strategies) (Procedure) Regulations 2023;**
 - b) **Consider the pre-publication draft of any Local Nature Recovery Strategy and, if the Chief Executive considers that the a draft strategy cannot be justified based on the results of the consultation or that it is materially deficient, to submit a publication advisory notice to the Responsible Authority within 28 days, as set out in regulation 15 of The Environment (Local Nature Recovery Strategies) (Procedure) Regulations 2023; and,**
 4. **Note that any response or notice submitted under these delegations pursuant to recommendation 3 shall be reported to the next meeting of the National Park Authority after the response or notice has been submitted.**
 5. **Agree that the Authority apply to Defra to be designated as a Responsible Body for Conservation Covenant Agreements, pursuant to part 7 of the Environment Act 2021, as an important additional tool to support nature recovery in the South Downs National Park.**
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I. Introduction

1.1 This report covers the following provisions under the Environment Act 2021 (and related Guidance & Regulations):

- Supporting Authority role for Local Nature Recovery Strategy/ies
- Responsibilities and reporting requirements under the strengthened Biodiversity Duty
- Conservation Covenant Agreements - application to become a Responsible Body

2. Policy Context

- 2.1 The national legislative framework for nature recovery is set through the 25 Year Environment Plan 2018, The Environment Act 2021, and the Environmental Improvement Plan 2023. In addition, the Government has committed to protect 30% of the land and sea of the UK for nature's recovery, by 2030 (30by30). This commitment was agreed under the UN Convention on Biological Diversity in December 2022.
- 2.2 The **Environment Act** in England is part of a new legal framework for environmental protection. It sets clear statutory targets for the recovery of the natural world in four priority areas: air quality, biodiversity, water and waste, and includes important new targets to reverse the decline in species abundance by the end of 2030. It also sets in law new tools that we can use to help meet those targets.
- 2.3 The **Office for Environmental Protection** also began operating with its full statutory functions on 24 January 2022. Its mission is to protect and improve the environment by holding government and other public authorities to account. The OEP has an independent Chair (Glenys Stacey) and the SDNPA has hosted a visit from its CEO Natalie Prosser to the SDNP.
- 2.4 In terms of restoring nature, the new provisions and tools include **Local Nature Recovery Strategies (LNRS)**, **Conservation Covenant Agreements (CCAs)** and a strengthened **Biodiversity Duty** as well as **Biodiversity Net Gain (BNG)**.
- 2.5 **Local Nature Recovery Strategies (LNRS)** are to be a new system of spatial strategies for nature covering the whole of England. They are designed as tools to drive more coordinated, practical, and focused action to help nature. They will support the delivery of BNG and provide a focus for the strengthened duty on all public authorities to conserve and enhance biodiversity (see below). Preparation of each LNRS will be led by a "Responsible Authority" appointed by the Defra Secretary of State. These are all Tier 1 Authorities (County Councils or Unitaries). The SDNP will be covered by three strategies: Hampshire, West Sussex and a joint East Sussex and Brighton and Hove strategy.
- 2.6 The previous **Biodiversity Duty** (Section 40 of the Natural Environment and Rural Communities Act 2006) required public authorities to have regard for the conservation of biodiversity when delivering their functions. This is now strengthened by Section 102 of the Environment Act 2021 so that public authorities must consider what action the authority can take to further the conservation and enhancement of biodiversity.
- 2.7 **Conservation Covenant Agreements (CCAs)** are a private, voluntary agreement to conserve the natural or heritage features of the land. This can include buildings on the land. A conservation covenant agreement must both be for the public good and have a conservation purpose. CCAs can be used independently of the planning process.
- ## 3. The South Downs National Park Authority Nature Recovery Programme
- 3.1 The South Downs National Park Authority (SDNPA) has its own Nature Recovery programme of work and delivery plan for wildlife in the South Downs: "ReNature the South Downs National Park - A Delivery Plan for Wildlife" informed by the National Parks England (NPE) Delivery Plan for Wildlife in National Parks.
- 3.2 In turn this has shaped the Corporate Plan targets:
- **ReNature:** To secure an additional 13,000ha, or 33% of land managed for nature by 2030 from a baseline of 25%, and

- **Core Nature:** Work to maintain, enhance and/or restore 30% of existing Core Nature sites and support key species recovery within the SDNP by 2030
- In essence, we are seeking a National Park in which one third is primarily managed for nature and the remaining two thirds becomes nature friendly. Progress is tracked and reported on through the reporting cycle and the annual review.

3.3 It is also now three years on from launching the ReNature Campaign. Its aim is to:

- create awareness about the biodiversity crisis;
- to create a movement to ReNature the National Park and;
- to enable the South Downs National Park Trust to raise funds towards the estimated £100m inward investment needed over 10 years to help create an additional 13,000 hectares of habitat.

3.4 Our goal simply put is “Nature everywhere, for everyone”.

4. Delivering the Nature Recovery programme

4.1 Delivery of the SDNPA Nature Recovery programme is through the aforementioned provisions of the Environment Act 2021 as well as other multiple mechanisms including:

- **South Downs Trusts Grants** (such as Beelines, Trees for the Downs, Pounds for Ponds and the ReNature Grant funding pot)
- **Agri-environment** payments (FiPL, Countryside Stewardship, Landscape Recovery)
- **Planning** requirements (SI06, CIL, BNG)
- **Whole Estate Plans** (eg for Wiston Estate, Brighton Downland)
- **Green finance** (partnership with Palladium, Nutrient offsetting, ReNature credits), and carbon credits
- **Partnership projects** (for example Changing Chalk funded by NLHF)

4.2 It also relies on ongoing partnership and collaboration with landowners, managers and farmers as well as joint working with key partners - including local authorities, environmental charities and trusts (eNGOs), statutory bodies, businesses and communities.

5. Issues for consideration

Supporting Authority role for Local Nature Recovery Strategy/ies

- 5.1 Hampshire County Council, West Sussex County Council and East Sussex County Council (also covering Brighton & Hove CC) have been appointed as the authority/ies responsible for preparing a Local Nature Recovery Strategy (LNRS) under section 105 of the Environment Act 2021. All three **Responsible Authorities** are now responsible for preparing, publishing, reviewing and republishing a Local Nature Recovery Strategy following the process set out in [The Environment \(Local Nature Recovery Strategies\) \(Procedure\) Regulations 2023](#)
- 5.2 LNRSs are designed to be collaboratively developed and therefore it is expected that each Responsible Authority will work with others whilst retaining overall responsibility for LNRS preparation, publication and adherence to the Regulations.
- 5.3 The Regulations set out a particular role for **Supporting Authorities** in the LNRS process. The South Downs National Park Authority is a Supporting Authority for all three LNRS which overlap the area of the National Park as are our neighbouring Districts and Boroughs. This is particularly important to ensure interlock between the LNRS and the Local Plans for each area.
- 5.4 A Responsible Authority must take reasonable steps to involve all supporting authorities for its local nature recovery strategy in the preparation of the local nature recovery strategy. Involvement of SDNPA is confirmed through participation of the Hampshire LNRS Steering

Group, the Sussex (a pan-Sussex approach agreed by East and West Sussex) LNRS Working Group and separate LNRS Supporting Authorities Group.

- 5.5 Responsible Authorities must give Supporting Authorities a statutory consultee role in relation to pre-consultation requirement and pre-publication requirements. (Details in Appendix 1). Both requirements give 28 day formal period in which Supporting Authorities are expected to respond. Due to the formal period being so time limited and also unlikely to align neatly with the Authority's committee cycle, delegated authority is requested.

Responsibilities and reporting requirements under the strengthened Biodiversity Duty

- 5.6 Public authorities must consider what they can do to conserve and enhance biodiversity in England. This is the **strengthened 'Biodiversity Duty'** that the Environment Act 2021 introduces.

- 5.7 This means that, as a public authority, you must:

1. Consider what you can do to conserve and enhance biodiversity.
2. Agree policies and specific objectives based on your consideration.
3. Act to deliver your policies and achieve your objectives.

- 5.8 You must meet the biodiversity duty if you are a public authority, such as a:

- [government department or public body](#)
- local authority or local planning authority
- statutory undertaker – a business that has public authority duties for their land and delivers something of public importance

- 5.9 This therefore applies to National Park Authorities including the SDNPA and, critically, statutory undertakers like Water Companies, Power Network providers and Energy providers.

- 5.10 Required action by public bodies includes the following stages:

1. completing your first “consideration” of what action to take for biodiversity by 1 January 2024. You must agree your policies and objectives as soon as possible after this.
2. You must reconsider the actions you can take within 5 years of when you complete your previous consideration.
3. You can decide to do this more often, for example, you could reconsider your actions quarterly, annually, or every 5 years.

- 5.11 The table in Appendix 2 sets out the audit trail for the “consideration” of action for biodiversity by SDNPA. This will be kept as a live document and periodically updated to reflect the review of key documents such as the Partnership Management Plan, Local Plan and Corporate Plan.

- 5.12 For National Park Authorities, it is anticipated that the requirements for reporting under the Biodiversity Duty will be aligned with and integrated into the reporting for their Management Plans. New guidance on the outcomes NPAs are expected to meet through their management plans is awaited from Defra.

Conservation Covenant Agreements - application to become a Responsible Body

- 5.13 Conservation Covenant Agreements (CCAs) are another provision within the Environment Act 2021. A CCA is a private, voluntary agreement to conserve the natural or heritage features of the land. This can include buildings on the land.

- 5.14 A CCA must both:

- be for the public good
- have a conservation purpose

- 5.15 The public good means that the covenant must benefit the public in some way. For example, you could conserve land as a place of archaeological, architectural, artistic, cultural or historic interest that the public can enjoy.
- 5.16 Conservation can be for land or the setting of the land, and the land involved can be with or without an existing statutory designation.
- 5.17 A CCA must aim to conserve either the:
- natural environment or the natural resources of the land (or the setting of land)
 - land as a place of archaeological, architectural, artistic, cultural or historic interest (or the setting of land)
- 5.18 You can use a CCA to suit your individual circumstances. For example, you can use it to:
- secure income and funding for conservation activities
 - make sure that conservation commitments on the land are passed on to future landowners.
- 5.19 Public access does not need to be a feature of a CCA.
- 5.20 A CCA must be between a landowner who holds freehold title of the land or a leaseholder (if you're a leaseholder, you must have a lease of more than 7 years with time remaining on it) and a responsible body.
- 5.21 A responsible body can be a local authority, a public body or charity, where at least some of its main purposes or functions relate to conservation, or a private sector organisation, where at least some of its main activities relate to conservation.
- 5.22 An organisation must apply to Defra to become a responsible body. Defra will aim to inform an applicant of the outcome of their organisation's designation request within 12 weeks of receiving a correctly completed application form and all supporting evidence. The SDNPA proposes to submit an application to become a responsible body by Spring 2024.
- 5.23 If successfully designated as a responsible body, there is a requirement to complete annual returns by 31 March each year, covering the conservation covenants that the Authority holds.
- 5.24 The additional of CCAs to the toolkit available to the SDNPA would allow the creation of long-term binding agreements with landowners for delivery of outcomes which are outwith the planning process and do not rely on our being an LPA, such as carbon sequestration.
- 6. Future cost implications**
- 6.1 Funding for the South Downs Nature Recovery programme will continue to be derived from multiple sources, including through the ReNature campaign and other mechanisms. Provisions of the Environment Act 2021 will gradually be embedded within our work to deliver the programme.
- 6.2 In the short-term there will be a resource implication on officer time related to the development and shaping of the LNRSs. The strengthened Biodiversity Duty will have a reporting requirement, but the aspiration is that this will become part of future reporting requirements for the Partnership Management Plan and Local Plan. With regards to Conservation Covenant Agreements there will be a short-term resource implication associated with the application process. The creation of actual CCAs would have cost implications for legal advice, monitoring and reporting on individual agreements but these are akin to what is currently in place with S106 and CIL.
- 7. Next steps**
- 7.1 Officers will continue to engage with the development of the three LNRSs relevant to the SDNP and, if delegated authority in relation to the Supporting Authority role is agreed by the NPA, officers will work closely with the Chief Executive, Chair of the Authority and Chairs of Committees to respond within the timescales required.

- 7.2 If authority was not delegated, as set out in recommendation no.3, the authority to agree the consultation response and consider the pre-publication LNRS would remain with the NPA. Given the short timescales set out in the regulations, of only 28 days to respond, it is unlikely this would fit in with the planned schedule of NPA meetings. Therefore, either an additional meeting of the NPA would likely be required or, should this not be possible, the Chief Executive would need to approve and submit the consultation response or consider the pre-publication LNRS under the urgent action provision as set out in the Authority’s Standing Orders.
- 7.3 Officers will periodically review the actions as part of the “consideration” undertaken for the strengthened Biodiversity Duty and report as required by the guidance.
- 7.4 Subject to the NPA’s agreement, an application to become a Responsible Body for Conservation Covenant Agreements will be progressed and submitted.

8. Other implications

Implication	Yes*/No
Will further decisions be required by another committee / full authority?	No
Does the proposal raise any Resource implications?	Yes, see section 7 of this report.
How does the proposal represent Value for Money?	The Authority strives to make the most efficient and effective use of its resources in performing its role as a Supporting Authority for the LNRSs and in its delivery of the new Biodiversity Duty, including in its governance arrangements around these. The Value for Money of entering into any CCA would be assessed at such time as the Authority may be considering entering into one.
Which PMP Outcomes / Corporate plan objectives does this deliver against	PMP Outcome 1: Landscape and Natural Beauty PMP Outcome 2: Increasing Resilience PMP Outcome 3: Habitats and Species Corporate Plan High Level Target: Nature Recovery
Links to other projects or partner organisations	Responsible Authorities for LNRS
How does this decision contribute to the Authority’s climate change objectives	Implementation of nature recovery projects and initiatives will often contribute to the Authority’s climate change objectives – net zero with nature.
Are there any Social Value implications arising from the proposal?	None.
Have you taken regard of the South Downs National Park Authority’s equality duty as contained within the Equality Act 2010?	There are no equalities implications arising from this report. Equalities issues are taken into account in relation to any decision taking with regard to the application and administration of any grant funding submission and in the operation of the wider nature recovery programme.

Implication	Yes*/No
	As part of the considerations of the new Biodiversity Duty, as set out in Appendix 2, Equality Impact Assessments would be undertaken for the various areas of work.
Are there any Human Rights implications arising from the proposal?	None.
Are there any Crime & Disorder implications arising from the proposal?	None.
Are there any Health & Safety implications arising from the proposal?	None.
Are there any Data Protection implications?	None

9. Risks Associated with the Proposed Decision

9.1 As new strategies, proposed LNRSs do have associated risks in relation to both timescale and content. SDNPA is already working closely with all of the relevant Responsible Authorities and delegation will support this further. In terms of the strengthened Biodiversity Duty it is important that SDNPA stands as an example of best practice hence compliance with the provision and its timescales is important. Not applying to become an Responsible Body for CCAs would mean one less tool potentially available to support nature recovery delivery. This, however, is less time sensitive.

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 Appendices Appendix 1: LNRS - Supporting Authority role specifically relating to the requirement of the Responsible Authority in relation to pre-consultation requirement and pre-publication requirements.
 Appendix 2: Draft Local Nature Recovery Strategy timetables
 Appendix 3: Strengthened Biodiversity Duty “considerations” table
 SDNPA Consultees Director of Countryside Policy and Management, Director of Planning, Head of Governance, Monitoring Officer
 External Consultees None.
 Background Documents [The Environment Act 2021](#)
[The Environment Act 2021 Frequently Asked Questions](#) (pages 31-43 cover the Restoring Nature elements of the Act.)
[Defra 25-year Environment Plan](#)
[Environmental Improvement Plan 2023](#)
[UN Convention on Biological Diversity Kunming-Montreal Global Diversity Framework](#)

[South Downs National Park Corporate Plan 2020–2025](#)

[SDNPA: Delivery Plan for Wildlife in the South Downs “ReNature” the South Downs National Park](#)

[The SDNP Nature Recovery Delivery Prospectus 2021-2031](#)

[NPE Delivery Plan for Wildlife in National Parks](#)

[Local nature recovery strategies – areas and responsible authorities](#)

[Local nature recovery strategy statutory guidance](#)

[Complying with the biodiversity duty guidance](#)

[Reporting your biodiversity duty actions](#)

[Conservation covenants: apply to become a responsible body](#)