

# ENVIRONMENT OVERVIEW AND SCRUTINY PANEL

## 14 MARCH 2024

### ENVIRONMENT ACT DEVELOPMENTS

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#### Summary

1. The Cabinet Member with Responsibility for Environment and the Director of Economy and Infrastructure have been invited to the meeting to update the Panel on developments relating to the Environment Act 2021.

#### Background

2. The Environment Act, 2021 offers new powers to set binding targets for air quality, water, biodiversity, and waste reduction and operates as the framework for environmental protection, replacing some of the environmental protections which originally came from the European Union (EU).
3. The Act sets out a number of specific functions and duties for Worcestershire County Council (the Council) with regard to:
  - Biodiversity including the publication of a Local Nature Recovery Strategy, strengthened Biodiversity Duty and the requirement for Biodiversity Net Gain.
  - Air quality including a strengthened role as an air quality partner and to work cohesively across local authorities to tackle air quality.
  - Waste Management.
4. The Panel has discussed the individual topics within the Environment Act at previous meetings with an overview in October 2022.

#### Biodiversity

##### Local Nature Recovery Strategy

5. Local Nature Recovery Strategies are new locally led spatial plans for nature. The legislation outlines that these will bring together communities and decision makers from the public, private and voluntary sectors across the county to collaborate in planning and prioritising actions for nature's recovery. These will help to protect and improve the local environment, meet national environmental objectives, and support delivery of the national Nature Recovery Network.
6. Each Local Nature Recovery Strategy must:
  - Agree local priorities for nature's recovery.
  - Map the most valuable existing habitat for nature.
  - Map specific proposals for creating and improving habitats for nature and wider environmental goals.

7. The Government, through the Department of Environment Food and Rural Affairs (Defra), have set a target date for the adoption of all the Local Nature Recovery Strategies of March 2025.
8. In Worcestershire the following progress is being made with the development of the Local Nature Recovery Strategy:
  - Cabinet approved an Issues and Options consultation in November 2023 and gave approval to progress the Local Nature Recovery Strategy.
  - The Issues and Options consultation (15 January 2024 - 23 February 2024 – extended to 10 March 2024) was an initial consultation to inform the preparation of the strategy. It included questions on the content and functionality of the mapping, key local threats and pressures on nature, potential opportunities for recovery and headline principles for the local nature recovery.
  - The consultation was supported by the publication of an evidence base which includes the Worcestershire State of Nature Report (2023) and Worcestershire Grasslands Report. These are available on the website at: [Worcestershire Local Nature Recovery Strategy background papers](#)
  - A cross local authority members reference group has been established and will continue to meet throughout the process of the development of the Local Nature Recovery Strategy. The District Councils are all designated Supporting Authorities for the Local Nature Recovery Strategy through the Environment Act. They will have to approve the final document.
9. The results of the Issues and Options consultation will inform the ongoing development of the strategy, with further engagement planned in autumn 2024 on the final draft of the strategy. The final strategy will then return to the Cabinet for adoption and implementation.

### **Requirement for Biodiversity Net Gain**

10. The requirement for Biodiversity Net Gain also arises from the Environment Act and applies to planning applications. From February 2024, all major applications have been required to deliver a minimum of 10% biodiversity net gain. This will apply to all applications from April 2024.
11. The biodiversity net gain which must be secured from each application is determined by a combination of the specific habitat type at the location of the development and its quality. This is measured in biodiversity units.
12. To comply with biodiversity net gain, the planning applicant must then secure the units required to offset the biodiversity impact of their development. This can either be on site as part of the development proposals or off site. In either case, the biodiversity units are secured to create or enhance habitat. All units must be maintained for a minimum of 30 years and are subject to monitoring visits and enforcement action if there is a failure to maintain them appropriately.
13. The legislation expects that a market will develop for offsite units which will enable developers to purchase the appropriate number of units to offset the impact of their development. Defra envisage that this market will be one of the

ways in which the aspirations of the Local Nature Recovery Strategy are delivered as landowners enter the off-setting market and secure funding from developers.

14. County Planning have updated their validation checklist to include the requirement for biodiversity net gain. The larger minerals operators have been aware of this requirement and are working towards including it in their applications utilising onsite land. Many waste operators have small sites where there is less onsite potential for biodiversity net gain and may have to seek to purchase off site provision.
15. A series of preparatory works have been undertaken to prepare for this new requirement, including securing additional resources from Defra to resource this commitment for 12 months, initial desk-based assessment of the Council's land holdings and the role which these assets can have in securing biodiversity net gain for the Council's projects and engaging proactively with the District Councils to share knowledge and undertake joint activity where possible.

### **Enhanced biodiversity duty**

16. The third biodiversity element of the Environment Act is the enhanced biodiversity duty. This originated from the Countryside and Rights of Way Act 2000 and placed a general duty on public sector organisations to have regard to biodiversity.
17. The Environment Act has strengthened this to include three elements which must be reported on:
  - Consider what you can do to conserve and enhance biodiversity.
  - Agree policy and specific objectives based on these considerations.
  - Act to deliver your policies and achieve your objectives.
18. In accordance with the timetable set by Defra, an initial report was published in January 2024 which sets out the first consideration of the Council's actions in connection with biodiversity reporting. This is available on the website at: [Biodiversity Duty Legal Requirements \(worcestershire.gov.uk\)](https://www.worcestershire.gov.uk/biodiversity-duty-legal-requirements)
19. The first formal Biodiversity Report will subsequently be prepared no later than 1 January 2026, and then repeated every five years. Reports should detail actions that have conserved and enhanced biodiversity and plans for future actions. This will include information on biodiversity net gain secured in the county, and actions to implement the Local Nature Recovery Strategy.

### **Air Quality**

20. A further element of the Environment Act is concerned with air quality. This remains a District Council matter, but the role of the County Council has been strengthened. Where air quality falls below the thresholds set by government and air quality management areas have been declared, the County Council is now a partner in actions to address air quality.

21. These actions include contributing to the Air Quality Management Plan (AQAP) through proposals and projects which will improve air quality.

## **Waste**

22. The Environment Act 2021 brings three main areas of reform relating to waste:
- Simpler Recycling.
  - Extended Producer Responsibility for Packaging (EPR).
  - Deposit Return Scheme (DRS).

## **Simpler Recycling**

23. Some of the detail around Simpler Recycling was announced in October 2023 after a long wait for the outcomes of consultation carried out in 2021. Simpler Recycling aims to bring consistency across England to the materials collected for recycling.
24. Through Simpler Recycling, the Environment Act places a duty on local authorities to:
- Separately collect food waste from households at least weekly.
  - Collect aluminium foil, food trays and tubes from households by March 2026. Note – Worcestershire authorities already collect most of the dry recyclables required by Simpler Recycling.
  - Collect Plastic film from households by March 2027.
25. Non-household municipal premises like universities, schools and larger businesses need to implement Simpler Recycling by March 2025. Further consultation on Statutory Guidance to implement Simpler Recycling including setting a minimum frequency for residual waste collection of fortnightly, was carried out in October/November 2023. The results of that consultation are still to be published. The Council is working with the Waste Collection Authorities and our contractor to implement the requirements of Simpler Recycling.
26. A Worcestershire Task and Finish Group was established in 2022 to review how the authorities can introduce food waste collection most efficiently and effectively.
27. The Worcestershire authorities are reviewing what is required to introduce food waste collection.
28. Defra has announced three funding streams to provide New Burdens for Waste Collection Authorities to support for the introduction of food waste collection:
- Capital transitional funding.
  - Transitional resource funding.
  - Ongoing resource (revenue) funding.
29. Details of capital transitional funding for the purchase of vehicles and food waste caddies/bins was provided to all Local Authorities in January 2024. Further detail is awaited on the other two funding streams.
30. The Worcestershire authorities have collaborated on a response to Defra outlining concerns that no funding has been allocated to changes to infrastructure and that the indicative capital funding amounts do not cover the costs of food

waste transfer facilities and additional depot capacity for the expanded food waste collection fleet.

31. Costs for the transfer and disposal of food waste borne by the Council are to be funded through savings in the disposal of residual waste.

### **Extended Producer Responsibility (EPR) for Packaging**

32. As part of the EPR, labelling on packaging will become clearer and more standardised. This will make it easier for consumers to understand how to recycle the packaging. EPR will see local authorities receive payments for the packaging they deal with through their waste management services. A Scheme Administrator will operate the system, taking payments from packaging producers, and passing these to local authorities. EPR payments are due to commence in October 2025 and local authorities should receive notifications of indicative amounts to be paid during the 2024/25 financial year. Both Waste Disposal Authorities and Waste Collection Authorities will receive payments for dealing with packaging material handled as part of their waste collection and disposal activities.
33. The method for calculating payments is under development by Defra and will include a quality element relating to how 'efficient and effective' services are. From October 2024, sampling at Materials Reclamation Facilities, including Worcestershire's EnviroSort facility, has to almost double in line with EPR requirements.

### **Deposit Return Scheme (DRS)**

34. The scheme is designed on the principle of the 'Polluter Pays', with the packaging producers funding the cost of the take back scheme. A DRS allows the consumer to return a drinks container to a retailer to redeem a deposit. The scheme is due to be introduced across the UK from October 2025. Drinks containers made from metal and plastic are included in the scheme, glass and cartons are excluded. The implementation of a DRS will potentially have a significant impact on the waste that local authorities collect and dispose of, removing a large percentage of the waste that is made up of metal (aluminium and steel drinks cans) and plastic bottles. As the composition of the waste changes, this is likely to bring significant changes to the cost of dealing with waste which will become a key consideration in the future.
35. The Environment Act also sets out a new legally binding target to 'halve residual waste (excluding major mineral waste) produced per person by 2042'. Residual waste is defined as waste that is sent to landfill, put through incineration or used in energy recovery.

### **Purpose of the Meeting**

36. The Panel is asked to:
  - Consider and comment on the information provided on the Environment Act, 2021.
  - Agree any comments to highlight to the Cabinet Member.

## Contact Points

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## Background Papers

In the opinion of the proper officer (in this case the Assistant Director for Legal and Governance) the following are the background papers relating to the subject matter of this report:

[Agenda and Minutes of the Environment Overview and Scrutiny Panel 7 October 2022](#)

[Agenda and Minutes for Cabinet on Thursday, 23rd November 2023, 10.00 am](#)

[All agendas and minutes are available on the Council's website here.](#)