Lynn Watson

Apologies for this being really ropey, but it's being rattled up at the last moment. I am completely exhausted, having spent the last week battling to save a local site as green space for our community. It had previously been promised as such, as compensatory open space, but then flogged off for housing. It's a much-loved site - great for biodiversity, and the best exposure a lot of folk in the area will get to it. Our lovely open space was trumped by the pitch strategy which states that as long as the number of pitches stays constant within the council area - then tough!

I've also been trying to convince our council that they should allow us to rescue all the books, stationery, equipment & furniture that they've just chucked out following the closure of our local school. A few of us from the local Friends of the Earth group have spent days salvaging stuff & moving it to a warehouse, but because the local authority didn't dispose of confidential material properly, we've now been denied access.

Instead of removing all potentially sensitive paperwork & letting us take the other books & equipment from the skip that we had already sorted half of - they incinerated it all! From the half of the skip we had previously emptied, we obtained:

- Hundreds of books (Better World Books had agreed to take every book rescued).
- 105kg of paper (mostly worksheets) - there were paper recycling bins, but none had been used.
- Brand new display books & folder bindings
- Printer/toner cartridges etc etc

From the building itself, a colleague saved countless lorry-loads of tables, cupboards, cookers, benches...

This is not directly related to biodiversity - but obviously, indirectly, it IS important through waste of resources, energy & money. Apparently that was 2 large trees' worth of paper - we removed it all, the council chucked it back in & burned it. Incinerating loads of useable items doesn't help with the council's commitment to Climate Change, does it?

This explains why I have no time or energy to give you a proper response & provide proof to back up any claims I make. So I'm deliberately keeping it vague. But I do have evidence to support it all.

It also illustrates the council's attitude in general - last week they were patting themselves on the back & saying how well they were doing Sustainability! This sums up their attitude to so many topics they claim to take seriously.

My council's track record on biodiversity is not good. It used to be part of a larger
organisation which worked together - but it left in 2011. While looking into a planning matter which endangered a local nature area and a host of protected species, I discovered that the council did not even have a Biodiversity Duty document, or action plan - or anything really.

I submitted a complaint. It was not investigated as the Chief Executive of the council claimed it was a quasi-judicial planning matter. I contacted the Scottish Public Service Ombudsman and explained to them - they said they would look at it. Then they sent it all back, saying that the CEO of the council had told them it was outwith their remit... Funnily enough, The Chief Exec used to be a planner, so he should know these things.

I then had to send the SPSO links to the Scottish Government's website on biodiversity duty. They took the complaint on & are still investigating it.

Since I complained, there has been a rushed 'Duty Document' published. This is a list of what our Countryside Rangers (who are fantastic - but there's only 3 of them & they are not given ANY input) have done - and what various groups & charities have done. A couple of groups that I'm involved in are included - and this is all credited with being the COUNCIL fulfilling its duty. Nobody checked with us if this was ok...

In my experience, biodiversity is seen as one of 2 things:
1. Something to trot out for brochures, festivals & nursery school groups
2. Something that gets in the way of building stuff.

1. There's nothing aimed at older kids. Biodiversity is seen as a parent-and-toddler thing. There used to be an excellent Wildlife Club (my son was part of it) but it closed due to cuts. It's become a bit of a joke that the standard answer to anything involving biodiversity is, 'But we planted some wildflowers...'

2. Planning has just been horrendous - we've been back & forth to our Wildlife Crimes officer but the message is always the same. Unless we are clutching bodies of nestlings; or have 2 independent witnesses prepared to vouch for 'an otter in a state of distress' - then nothing can be done. If things are not set out clearly in law then whatever 'guidelines' or 'ethos' – it doesn't matter. It won’t get done here. There's no aim for good practice, just bare minimum. The answer we get most often is: “We are not required to …”

Apparently no-one will notice the claims of red squirrels, bats, otters & a wide variety of bird species on one council document (aimed at tourists) and the adjoining area being written off as 'species-poor grassland' (for planning)
We have no base-line surveys. The last ones were done in 2000. Ecology surveys for planning applications are of an appalling standard. The council architect took it upon himself to 'explain' an ecology report to us at a meeting - it would have been hilarious if it wasn't so sad.
(I've got a degree in zoology, have been involved in a range of ecology projects over 30 years, & was a biology teacher.)

Due to my complaint being taken up by the SPSO, the council is now making a fuss of how much it loves its biodiversity. Publications are now being sprinkled with the b-word, though there doesn't seem to be a consensus on whether to hyphenate or not.
The recently published Local Outcome Improvement Plan claimed that 'biodiversity is improving'. I asked the senior council officer, who was there to take questions, how that was measured. He wasn't sure. So I asked if there were any particular indicator species studied. No.
However, they are going to spend £20 000 doing a survey of the whole council area. I said that surveys were very time & labour intensive... so costly? They're going to get local groups to do it.
So I pointed out that they will need some experienced & licensed ecologists for some protected species.
At this point he started shaking & saying that he didn't know the 'science stuff' I didn't say anything more as I thought he was going to cry.

If they need an engineers’ report – they go to specialists. If they need an IT report – they go to specialists. If they need a biodiversity report – well, obviously anybody can do that, obviously.

Last year, a development on a site was given the go ahead. There was a condition that no trees or possible nest sites be disturbed until after the breeding season has finished. The leader of the council had asked about this at Planning Committee - and was assured by the Head of Planning that this was standard & nothing would be touched.
A few weeks later, in May, the site was ripped up. The head of Planning had OK'd this (I've seen the paperwork) There was the usual 'lessons have been learned' but they haven't.

On Monday, at planning committee, the application we were there for had no conditions for nest site or bat roost protection. The application before had referenced to a Biodiversity Duty document & Action Plan - both the property of neighbouring authorities.

Our local site's Ecology report did contain reference to these - but after I asked why they were being used, it was reported that it was a 'mistake' - and removed. The ecologists involved in producing it managed to find 9 species of birds (that should have taken less than 5 minutes) and also decided that the potential bat roosts stopped dead outside a line at the site boundary. There was an awful lot of copy &
pasted stuff about badgers. Nobody had ever mentioned badgers!

These reports are so bad they're depressing. 'Experts' (as they're always referred to by the planners) are brought in from as far away as possible. They're told that nothing lives there - it helps if you're a council that doesn't keep any records 'cos then you can say with a straight face that there's been no records of a red squirrel since 1997...
The 'walk over' survey should be banned as I've witnessed councillors being told that one was done (on a SWT nature reserve!) and the rare birds that they'd been told about were not there.
That's taken as factual by councillors.

In summary the whole thing is really depressing. There's groups of us pushing for improvement, but without a greater will from the Scottish Government (and with the ethos that building stuff must be done at all costs) it's pretty hopeless.
If you came on an official fact-finding mission here, you wouldn't believe me. There are a few cherry-picked, favoured sites which will be well publicised and announced that this council is 'Leading the way with its commitment...' Try asking for the other sites where this is happening & see if you get any answers.
Where I stay – and am on a community group, there is a very large proportion of disadvantaged households. We have no community garden; no wildflowers; no play area. We have fought for 3 years to keep our green space & have been gradually sneaking in fruit tree & bushes. Planting native flowers in the wood. Putting up bird boxes, insect houses & feeders. The council doesn't know we've done this – and it's all with our own money. The only way we're going to truly improve things is to try & asset transfer as much land as possible & fundraise to set up a sustainable venture.

It's a very lonely battle - where exactly are you supposed to get help & support from? Charities are run ragged. SNH tend to spend ages telling you all the things they DON'T do, then ask the local authority for information & take that as gospel. (SNH also regard otters as 'widespread' and not something worth getting bothered about)
I think those of us who understand the importance of biodiversity will keep on battling away doing what we do. Local authorities will go on about how much they love biodiversity - especially when it's somewhere else & doesn't get in the way of them building stuff.
It would be nice if those in charge tightened things up a bit - at the moment some public bodies seem to think that a bit of paper with 'Biodiversity Duty Document' written on it covers their backs. Well, it does, doesn't it? Some haven't even bothered to do that! It's all seen as a bit of an optional extra.

Can you please send me a list of other optional laws? I'd like to find out what ones I might not want to follow...
Additional information regarding complaint about Dundee City Council not having a Biodiversity Duty Document sent 21 May 2018

Lynn Watson

In April 2017, I took a complaint about DCC to the SPSO. I had complained to the council that it did not have the legally-required Biodiversity Duty document. This seemed the only thing I could complain about as chopping down trees in nesting season & demolishing bridges where there was otters present apparently didn’t count for anything – so this was the only concrete ‘must have’

My complaint was dismissed as a ‘quasi-judicial planning matter’ by the council’s Chief Executive. He used to be a planner, so you can decide on the truthfulness of that for yourselves…

My complaint had 3 parts – that the consultation was not up to standard (I’d love to know if anyone’s ever managed to get that upheld 😊); failure to have Biodiversity Duty document; and failure to follow the complaints procedure.
I tried to explain several times that it wasn’t just a case of having a bit of paper with the required title on it, but it was supposed to describe what the council had done previously to protect & enhance biodiversity, but that just seemed to cause annoyance.
I’ve attached the actual conversation.

Over a year later, the SPSO upheld my complaint about the council but in such a grudging way!

**Complaint 2**

The Council unreasonably failed to have Biodiversity Duty document in place

While you maintained that the Council did not have a Biodiversity Duty document in place as it should have had, the Council believed that they had considered their biodiversity view in terms of the Nature Conservation (Scotland) Act 2004 and in responding to enquiries from this office on 14 September 2017, said that there had been an ‘oversight’ in relation to the Wildlife and Natural Environment (Scotland) Act 2011 requirement to publish a report on that duty.

(They got the Woodland Officer to rattle up a document containing any examples which could possibly be linked to biodiversity. Most of the contents are projects carried out by individuals, charities or groups of volunteers – I think I feature in 3 or 4 of these! No-one I’ve spoken to was asked if the council could take credit for the work we did, and many people are unhappy about that – especially those of us who complained about the council-sanctioned destruction of a valuable & very active nesting habitat last year

The Adviser was a planner, and only looked at the information for that 1 planning application. Quality of information didn’t matter – it was a case of ticking boxes for that application alone. It was actually the council’s second attempt as, among other factors, the Scottish Government had overturned the council’s opinion on an Environmental Impact Assessment being required, until the buildings were moved around on the plan.
I had tried to explain to the investigator that Biodiversity Duty was across the board & should be embedded in all council departments, but she really was having none of it. I had sent her recent evidence to show that the council’s claim that a woodland was NOT ancient woodland was untrue. The claims it had made were not valid according to SNH, who agreed that it should be treated as ancient woodland.

So I’ll add the SPSO as another public body which has no understanding of Biodiversity Duty. Does it have a Duty document...?

**Decision 2**

I note the Adviser’s views that the Council took account of biodiversity issues but what I have to consider is whether or not the Council had a Biodiversity Duty document in place as it was required under the WANE Act 2011. By the Chief Executive’s admission (see above), due to an ‘oversight’ it did not and for this reason, I uphold the complaint. However, I note that by not having such a document, the Council was in the same position as many other local authorities. I also note that there is no penalty for authorities who failed to comply with the legislation in this regard. Therefore, while I uphold the complaint, I do not make any recommendation particularly as I understand that the Council have already taken steps to remedy the situation.

So there we go – I’m basically making a bit of a fuss about nothing! There was also the ‘I know you have strong views...’ predictable response. This really just sums up the whole problem with biodiversity – it’s not valued. It’s something for parent-and-toddler groups to do. Or it gets in the way of building stuff. It’s still not being taken seriously here – planning applications still feature Tayside Biodiversity’s documents (Dundee CC is NOT part of this); nest sites are still being wrecked and any objection is dismissed with ‘But we’ve planted wildflowers’

Council officers are still insisting Oak Ward Wood is not ancient woodland – despite SNH saying the contrary - probably so it doesn’t interfere with the next stage of building work on what used to be Caird Park.

There doesn’t seem to be much point in raising it as you’re basically treated like a nutter & ignored.