

ORIGINATING SECTION: Strategic Planning

REPORT TO: Planning and Highways Committee

DATE: 15 February 2024

TITLE: Biodiversity – Supporting the recovery of nature in the Borough

WARDS AFFECTED: All

COUNCILLORS: All

PURPOSE OF REPORT

- 1.1 To brief the Planning and Highways Committee on the introduction of biodiversity net gain (BNG).
- 1.2 To invite the Committee to note and comment on the Biodiversity Net Gain Planning Advisory Note (PAN), with approval of the PAN to be sought from the Executive Board.

2. BACKGROUND

- 2.1 Biodiversity is in alarming decline across the country and the Government has set out their commitments to addressing this biodiversity crisis through a 25-year Environment Plan, with an ambition “to leave our environment in a better state than we found it”. The interventions it plans to take to improve the environment have since been set out through legislation and guidance, including the statutory Environment Act (2021) and the Government’s Environmental Improvement Plan (EIP) (2023). The Environment Act (2021) introduced a series of mandatory strategies and interventions to begin to address the biodiversity emergency. This includes Biodiversity Net Gain (BNG).
- 2.2 Biodiversity Net Gain is a new, mandatory requirement for most new development to deliver a 10% net gain in biodiversity, and uses habitats as a proxy for biodiversity. Any habitats lost through new development must be replaced or compensated for, on a like for like basis, and then a further 10% uplift in biodiversity must be provided. Habitats must be provided at the same condition (quality), or higher, as the habitats that are to be lost.
- 2.3 BNG was due to be introduced in November 2024, but government delays now mean that national BNG will take effect from 12 February 2024. Most planning applications will be expected to deliver 10% BNG, although, under transitional arrangements, the requirements only begin for minor applications on 2 April 2024. Some developments, for example householder schemes, small self- or custom-build schemes, or developments with de-minimis areas of habitat, are exempted from the BNG requirements.
- 2.4 Whilst BNG takes effect nationally from February 2024, Local Planning Authorities have, for some time, also been entitled to set their own local net gain requirements. In reflection of the ever-increasing importance of the environment, the Council have set out their own

local requirements for BNG in the new Local Plan (2021-2037) through Policy CP6: Natural Environment. Policy CP6 requires most new developments in the borough to deliver a minimum of 10% BNG. The Council adopted the Local Plan on 25 January 2024, and BNG is now a requirement of all planning applications. However, once national BNG takes effect, this will take precedence over local BNG requirements (though both are required to deliver 10% BNG and evidence this in the same way).

3. RATIONALE

- 3.1 To date, the general approach to nature conservation has relied on ensuring no net loss to biodiversity by protecting designated sites and priority species from harmful development. Whilst this works to avoid the most severe impacts on biodiversity and wildlife, it works less well to manage the gradual erosion of lower value and more common habitats which benefit a wide range of flora and fauna. Cumulatively, the loss of habitat adds up to significant rates of biodiversity loss. The introduction of BNG is therefore a significant step change to positively address this issue and support the recovery of nature.
- 3.2 As a legal requirement of the planning system, Biodiversity Net Gain operates through a series of primary and secondary legislation (Environment Act 2021 and Statutory Instruments 2023-2024), national planning policy, planning practice guidance and wider government guidance. There is also a plethora of guidance published by other bodies, (e.g. CIEEM). Applicants are required to consider BNG at the earliest stages of their development's design and must submit a variety of information throughout the stages of planning – including submission of the planning application, and post-approval (and prior to commencement of their scheme) – to evidence how they will deliver 10% BNG.
- 3.3 Information must include statutory, government published biodiversity metrics which are used to calculate the 'value' of existing habitats, and to measure the uplift proposed through each development. In addition, each scheme must submit a Biodiversity Gain Plan (BGP) before the development can commence. Additional information, legal agreements, and habitat management and monitoring plans (HMMP) may also be required. Developers and landowners will, in most cases, be required to manage and monitor BNG habitats for a mandatory 30-year period, and report regularly to the Council. Where habitats are not provided, or delivered to the intended quality, then the Council must take enforcement action to ensure these habitat improvements are secured (as a condition of planning approval).
- 3.4 BNG is therefore complex and technical. Whilst it operates through national level requirements and guidance, some of the requirements, for example whether a site falls within an area of 'strategic significance' is for local planning authorities to determine. Therefore, to help developers navigate the new requirements, and provide guidance on the local requirements, officers have prepared guidance on BNG through a Planning Advisory Note. The PAN has been produced to explain:
 - The importance of biodiversity net gain (BNG);
 - The key principles of BNG to be considered through the design of the development.
 - BNG and the planning application process, including validation requirements, biodiversity statements, biodiversity metrics, planning conditions, legal agreements, biodiversity gain plans, habitat monitoring and management plans;
 - The spatial hierarchy for BNG – on-site, off-site and national credits – and how they are considered in the biodiversity metrics;
 - The strategic context for delivering off-site biodiversity net gain within the borough, in advance of the introduction of a Local Nature Recovery Strategy (LNRS);
 - BNG monitoring and reporting requirements; and

- The information that must be submitted with planning applications.

4. KEY ISSUES

- 4.1 This report requests that the Planning and Highways Committee note the content of the BNG Planning Advisory Note, with an invitation to make any comments on it. The PAN has been designed to bring together the key guidance and explain local requirements.
- 4.2 Guidance in the document has been prepared to officers' best knowledge using the most up to date information available. BNG is still in its relative infancy and guidance and best practice will evolve. Some information within the PAN may therefore become out of date as BNG takes effect and its requirements are better understood. The PAN makes clear that where developers are in any doubt as to requirements or approach, they should contact the planning team (and/or consult government guidance).
- 4.3 The PAN provides a series of checklists which outline the information that must be submitted with a planning application to demonstrate it satisfies BNG requirements. The Council's Validation Checklist confirms applicants should refer to the PAN checklists for details of the information that must be submitted for the validation of a planning application (or the discharge of the general biodiversity condition). These requirements may change as the Council begins to better understand requirements and their real-world application. It is intended that the checklists will be updated from time to time to reflect the latest requirements. The latest versions will be available from the Council website.

5. POLICY IMPLICATIONS

- 5.1 Much of the key biodiversity requirements are set through national legislation. In addition, the National Planning Policy Framework (NPPF) requires plans to protect, conserve and enhance biodiversity and for all new developments to provide net gains.
- 5.2 Local Plan (2021-2037) Core Policy 6 (CP6), provides for the natural environment, including setting out local BNG requirements and strategic priorities, whilst Policy DM15 details requirements relating to the protection and enhancement of wildlife habitats in the borough. The importance of biodiversity is therefore established through the Local Plan, reflecting a greater national focus on environmental importance.
- 5.3 The BNG PAN provides relevant guidance to support national requirements, and local policy, including clarifying the areas of strategic significance and spatial risk. A Natural Environment SPD will be prepared in 2024 to provide additional guidance to support the policies of the Local Plan, including that relating to the Lancashire Local Nature Recovery Strategy (LNRS) (currently in preparation) and green and blue infrastructure. The SPD will then become a material consideration in the determination of planning applications.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications arising from the preparation of the BNG PAN as this forms part of the existing resource within Strategic Planning.

7. LEGAL IMPLICATIONS

- 7.1 There are no legal implications for the PAN which provides guidance on biodiversity net gain requirements. Failing to appropriately support, and guide, biodiversity net gain will reduce the ability of the Council to facilitate BNG and its wider duties to nature conservation and enhancement).

8. RESOURCE IMPLICATIONS

- 8.1 There are no resource implications arising from the preparation of the PAN as this forms part of the existing resource within Strategic Planning.

9. EQUALITY IMPLICATIONS

- 9.1 An EIA checklist has been completed and determined an equality impact assessment is not required.

10. CONSULTATIONS

- 10.1 No consultation is required for the Planning Advisory Note. As the Natural Environment SPD is prepared, consultation will be duly undertaken at the appropriate times.

11. RECOMMENDATIONS

1. That Committee note and make any comments on the Biodiversity Net Gain Planning Advisory Note, with approval of the PAN to be sought from Executive Board.

CONTACT OFFICER: Darren Tweed, Strategic Planning and Transport Manager,
Strategic Planning.

DATE PREPARED: 2nd February 2024

BACKGROUND PAPER: Biodiversity Net Gain Planning Advisory Note

Appendices

Appendix 1: Biodiversity Net Gain Planning Advisory Note