



EXECUTIVE BOARD DECISION

REPORT OF:	Executive Member for Growth and Development
LEAD OFFICERS:	Strategic Director of Growth & Development
DATE:	Thursday, 7 March 2024

PORTFOLIO/S AFFECTED:	Growth and Development
WARD/S AFFECTED:	(All Wards);
KEY DECISION:	Y

SUBJECT: Biodiversity Net Gain (BNG) Planning Advisory Note

1. EXECUTIVE SUMMARY

1.1 The Environment Act 2021 has introduced mandatory requirements relating to Biodiversity Net Gain (BNG), which require all new developments (unless exempted) to deliver a minimum of 10% measurable net gains to biodiversity. Requirements surrounding BNG are complex and technical and so the Council have prepared a BNG Planning Advisory Note (PAN) to provide developers with the necessary guidance. This report seeks endorsement of the PAN and its approval for publication on the Council website.

2. RECOMMENDATIONS

That the Executive Board:

- endorse the Biodiversity Net Gain Planning Advisory Note (attached as Appendix 1) and approve it, and the associated online mapping, for publication (see Background Paper section for link to the associated online mapping site); and
- grant delegated authority to the Strategic Director for Growth and Development, in consultation with the Executive Member for Growth and Development, to update the BNG applicant checklists as BNG information requirements change.

3. BACKGROUND

3.1 Nationally from February 2024, under the Environment Act 2021, all new developments (unless exempted) will be legally required to deliver 10% gains to biodiversity (known as Biodiversity Net Gain, or BNG). BNG uses habitats as a proxy for biodiversity. This means the development must seek to avoid or mitigate damage to existing habitats, but, where this cannot be achieved, they must compensate for the loss of habitats on a like-for-like basis, and then must deliver 10% net gains by creating or enhancing habitats in association with the development. These improvements must be measured and assessed using a national Defra metric, and the

management of significant habitat enhancements must be secured for a minimum of 30 years. BNG aims to ensure that nature is in a better state post-development than it was pre-development to help address the current ecological crisis.

- 3.2 In addition to these national requirements, the Council's adopted Local Plan 2021-2037, Policy CP6: The Natural Environment, sets its own local requirement for developments to deliver 10% BNG, which must be evidenced through the submission of the latest relevant Defra metrics. This took effect from the Plan's adoption, on 25 January 2024. However, the national, mandatory BNG requirements take precedence over local policy requirements.
- 3.3 BNG is therefore a local policy requirement, and a national legislative requirement, and all new (non-exempted) development must deliver the prescribed level of net gains. Legislation, guidance and requirements relating to BNG are extensive, technical and complex. Therefore, to help provide guidance for applicants and developers, a BNG Planning Advisory Note (PAN) has been prepared to explain requirements and expectations. The PAN is supported by online mapping to help illustrate those local areas that can be considered to be 'strategically significant' within the metric calculations. The BNG PAN is attached as Appendix 1 to this decision paper and the link to the associated mapping is found in the Background Paper section in this report.
- 3.4 The PAN also contains a series of checklists for applicants (Appendix E in the PAN), detailing the types of information the Council will require at the different stages of the planning process, and is drawn from various Defra guidance documents, and identified local requirements. The Council's Local Validation list refers applicants to these BNG checklists. Planning applications will not be validated where the stipulated BNG information is not provided. It is intended that these checklists will be published on the Council website (on the dedicated BNG webpage) to guide planning applicants.
- 3.5 The Planning and Highways Committee has considered the PAN, with any comments received having been incorporated into the attached document.
- 3.6 The Council published its latest Local Development Scheme (LDS) in September 2023 confirming its intention to prepare this PAN, and incorporate it into a Natural Environment Supplementary Planning Document (SPD) later in 2024. The scope of the SPD will cover a wider range of issues beyond BNG that are referenced in the new Local Plan and are relevant to the Natural Environment. For example, Local Nature Recovery Strategies, Environmental Opportunity Areas, Trees and Woodlands. The SPD will be brought to a future Executive Board meeting for approval.

4. KEY ISSUES & RISKS

- 4.1 BNG is still in its relative infancy and Government legislation and guidance is expected to change over time as its working practicalities are better understood. For this reason, the guidance in the PAN may become out of date, and so the PAN makes clear that developers should always consult the latest national planning practice guidance, and wider BNG guidance, for the latest position.
- 4.2 The PAN includes applicant checklists, but the Council recognise that these are likely to also change as the full requirements of BNG are better understood. Therefore, this report recommends, at Section 2, that delegated authority is granted to the Strategic Director for Growth and Development, in consultation with the Executive Member for Growth and Development, to update the BNG applicant checklists as any information requirements change.
- 4.3 BNG is preferably to be delivered on the development site, but, where this is not possible, it may be delivered off-site or through a combination of on- and off-site. The PAN also sets out that

BNG should be delivered within the borough, not outside it, so that the local area benefits from new development, not other areas. It is the developer's responsibility to identify off-site sites for BNG, but, at least in the interim, it is thought a local, private off-site market will take time to establish. To ensure that a lack of off-site land does not stymie development (planning permission cannot be granted where developments cannot demonstrate they will achieve mandatory 10% BNG), the Council are proposing to make suitable areas of council-owned land available for BNG. The Council have identified a shortlist of potentially suitable sites and have commissioned ecological studies to inform their suitability for off-site BNG. The PAN confirms that, once finalised, details of available off-site opportunities will be made available. Therefore, whilst the lack of local off-site supply is a risk to the wider strategy and delivery of BNG, the Council are taking steps to try and address this issue at a local level.

5. POLICY IMPLICATIONS

- 5.1 Mandatory BNG requirements are set out through legislation, national planning policy and planning practice guidance. At a local level, BNG requirements are set within the Local Plan (2021-2037). The BNG PAN provides the relevant local guidance to support national requirements, and local policy, including clarifying the areas of strategic significance and spatial risk.
- 5.2 A Natural Environment Supplementary Planning Document (SPD) will be prepared in 2024 to provide additional guidance to support the policies of the Local Plan, including that relating to the Local Nature Recovery Strategy (once finalised) and green infrastructure.

6. FINANCIAL IMPLICATIONS

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

7. LEGAL IMPLICATIONS

- 7.1 There are no legal implications arising from the preparation of the PAN. The PAN has been prepared to help developers navigate a complex BNG system but confirms that the latest national legislation and guidance should always be referred to.

8. RESOURCE IMPLICATIONS

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

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

10.1 None required.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

VERSION:	1
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CONTACT OFFICER:	PMO Growth
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DATE:	February 2024
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BACKGROUND PAPER:	Biodiversity Net Gain Planning Advisory Note (Appendix 1) and accompanying mapping (accessible via this link)
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