



# EXECUTIVE BOARD DECISION

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

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

**SUBJECT: Update on District Wildlife sites (and associated off-site BNG opportunities)**

## 1. EXECUTIVE SUMMARY

The Council have undertaken ecological studies of all District Wildlife Sites (DWS) within the Borough, as part of preparatory works for the Local Plan (2021-2037), the introduction of Biodiversity Net Gain (BNG) and the development of the Local Nature Recovery Strategy (LNRS). This report seeks approval of a series of recommended actions arising from that work and explains the Council's intended approach with regard the use of these (and other) sites to support the provision of off-site BNG opportunities in the Borough.

## 2. RECOMMENDATIONS

That the Executive Board:

- approve the recommendations of the DWS Study Summary report (Background Paper 1) to:
  - I) retain all qualifying sites as District Wildlife Sites;
  - II) retain all non-qualifying sites as District Wildlife Sites with the condition that actions will be prioritised to restore and enhance habitat at those locations. This includes Knuzden Brook (Abbot Clough) DWS, Meadowhead Pastures DWS, Blacksnape/Taylor's Green and Robin Bank DWS; and retaining the current site areas for Darwen Golf Course DWS and Knuzden Brook (Haslingden Road) DWS;
  - III) amend the boundaries of three sites - Davyfield Brook DWS, Eccleshill Quarry/Pastures DWS and Stones Bank Brook to reflect physical features / boundaries or SSSI designations; and,
  - IV) update the boundaries of Bog Height Tip to reflect the housing allocation in the northern parcel so that only the southern parcel is retained as a District Wildlife Site.
- grant delegated authority to the Strategic Director for Growth and Development, in consultation with the Executive Member for Growth and Development, to make all relevant decisions on the use of Council-owned land to facilitate the supply and delivery of off-site BNG, and to authorise registration of the sites on the national off-site register.

### 3. BACKGROUND

- 3.1 In response to the current ecological crisis, the Government have set out a 25-year Environment Plan, with an ambition “to leave our environment in a better state than we found it”, and a wider commitment to protect 30% of land and seas by 2030 (“30x30”). The interventions the Government plans to take to improve the environment have been set out through legislation and guidance, including the Natural Environment and Rural Communities Act 2006 (NERC), Environment Act 2021 and Environmental Improvement Plan (EIP) 2023.
- 3.2 These interventions include mandatory Biodiversity Net Gain (BNG), which requires all new development (unless exempted) to deliver measurable net gains to habitats, and the development of a National Nature Recovery Strategy, comprised of 48 (county-level) Local Nature Recovery Strategies (LNRS), to help drive the recovery of nature.
- 3.3 To help inform the development of the LNRS, and local strategies relating to off-site BNG delivery, the Council have undertaken ecological surveys of District Wildlife Sites (DWS) within the Borough to better understand their habitat importance. DWS are sites designated as locally important for wildlife and habitat. The adopted Local Plan (2021-2037) *Core Policy CP6: The Natural Environment and Development Management Policy DM15: Protection and Enhancement of Wildlife Sites* recognises the importance of these designated habitats to nature recovery strategies, and to BNG, and the need to support their protection and enhancement. DWS sites are identified on the Local Plan Policies Map (as a constraints layer).
- 3.4 In 2022, the Council commissioned ecological consultants to undertake a re-survey of almost 40 DWS to: determine if the sites still qualified as DWS (based on habitat criteria) and whether any changes were needed to amend site boundaries; establish baseline calculations of the value of the habitats; identify potential threats to the habitats; and identify management opportunities to improve those habitats. The DWS report, summarising the findings and recommendations of the study, is provided as Background Paper 1.
- 3.5 This report seeks approval of the study recommendations as set out in Section 2.
- 3.6 The study makes clear that the five sites identified as no longer meeting the DWS classifications have the potential to be restored to DWS status with appropriate management. Indeed, all the DWSs have the potential to be enhanced. However, the DWS sites contained within the study are in various ownerships – both public (Council) and private ownership. As management of private land is the responsibility of the respective landowner(s), the Council’s focus for biodiversity enhancements relate to their own land holdings only. The introduction of BNG requirements provides opportunities to fund and deliver the necessary interventions on Council-owned sites, whilst supporting off-site BNG and fulfilling wider duties to nature recovery. Such intervention measures are more easily deliverable on Council-owned land.
- 3.7 Improvements to those DWS in private ownership will require liaison with the landowners, but need not necessarily mean that enhancement opportunities are undeliverable, just that they may take greater work to secure. With adequate resources, officers may be able to explore with those landowners opportunities to deliver enhancement works, and, in relation to BNG, direct those owners to relevant private habitat brokers. In some cases, works are already underway – for example, the study consultants noted that ongoing habitat restoration work is being implemented at Darwen Golf Club by the landowner. For this reason, it is considered that these sites should still be retained as DWS designations.
- 3.8 Through the BNG legislation, net gains should be delivered through a spatial hierarchy, prioritising gains on the development site (on-site). However, where this cannot be achieved, in whole or in

part, then BNG can be delivered on land other than the development site (off-site). This may be on land within the developer's ownership, or on third party land. It is always the responsibility of the developer to identify land for off-site BNG.

- 3.9 The Council expect that private off-site BNG markets will take time to establish and there will be few private sites available in the Borough, at least initially, to support off-site delivery. The Council are therefore proposing to make suitable areas of Council-owned land available for BNG to ensure that:
- i. development in the Borough is not stymied by a lack of available off-site land,
  - ii. the Council can use the income from BNG to deliver improvements to habitat sites by optimising this additional revenue stream;
  - iii. BNG can be kept within the Borough so that communities and nature realise the benefits of local new development; and
  - iv. the Council meets its duties towards nature recovery within the Borough (required by the NERC Act 2006, and set out in the separate Executive Board report titled 'First Considerations towards the Council's Biodiversity Duty').

3.10 Based on the findings of the DWS Study (2022), the Council consider that those DWS sites in Council ownership shown to no longer meet the criteria for DWS designation, either in whole or in part, but that have the potential to be restored to re-meet DWS designation, should be prioritised for off-site BNG interventions. They form Priority Group One and are:

- Blacksnape/Taylors Green
- Robin Bank;
- Knuzden Brook (Haslingden Road);

The study results also identified a series of DWS that still meet the criteria for DWS designation but which have the potential to deliver relatively large uplifts in BNG and they form Priority Group Two:

- Fishmoor Drive;
- Higher Croft;
- Corporation Park;
- Pleckgate; and
- Bold Venture.

Therefore, in 2023, the Council commissioned further, more detailed ecological assessments of these sites, along with assessments of other Environmental Opportunity Areas (Policy DM14 of the Local Plan) and some areas of Green Infrastructure (Policy DM16), which have been initially identified as having the opportunity to further support off-site BNG delivery.

3.11 The Council are still to finalise the results of the latest ecological assessments. Subject to the study confirming appropriate BNG opportunities exist, there remains a sizeable amount of work to prepare off-site habitats. For example, every off-site opportunity must be registered on a national database, and, where the Council do not have the resources to deliver or manage BNG on their own land, then this will need to be outsourced to external contractors, or to specialist purpose vehicles (SPVs). Officers will continue to progress discussions, and obtain relevant legal advice, in respect of the appropriate framework for offering and managing BNG sites, led by the latest national guidance.

3.12 This report seeks approval for delegated authority to be granted to the Strategic Director for Growth and Development, in consultation with the Executive Member for Growth and Development, to make all relevant decisions regarding the use of Council-owned land to facilitate the supply and delivery of off-site BNG, and, for those sites taken forward, to authorise their registration on the national off-site register.

#### **4. KEY ISSUES & RISKS**

- 4.1 The 2022 DWS study identified a number of sites that could be de-designated as DWSs, but also makes clear that habitat management opportunities have the potential to restore the site habitats to DWS status in the short-medium term and makes a series of recommendations for interventions that could help to deliver this restoration, including drawing upon BNG opportunities. Failing to take action to restore these sites would result in the loss of these important habitats – both to nature and to the Borough’s communities – and so the preferred approach would be to use BNG to help restore and enhance these sites.
- 4.2 The use of these DWS, and other identified sites, can also help to support the availability of BNG off-site opportunities. As previously outlined in this report, it is likely that there will be an insufficient supply within the private off-site market, at least in the interim, which may negatively impact on development within the Borough. The use of publicly owned land can help reduce this risk by providing some opportunity for off-site BNG delivery, although it should be noted that this is unlikely to be able to meet all the demand arising from new developments.
- 4.3 The Council also have duties under the NERC Act 2006 and Environment Act 2021 to conserve and enhance nature and are required to report the actions being taken to meet this duty. Failing to take action to conserve and enhance nature would fall foul of those legal duties.

#### **5. POLICY IMPLICATIONS**

- 5.1 The Council have considered DWS and BNG in the preparation of the new Local Plan, most notably through Policies CP6: Natural Environment and DM15: Protection and enhancement of wildlife habitats. The importance of biodiversity is therefore established through the Local Plan, reflecting a greater national focus on the importance of the environment.
- 5.2 The Borough’s DWS are designated on the adopted Local Plan policies mapping and take account of the DWS study recommendations. Through the Local Plan’s examination, the Council recognised that the boundaries of some areas of land, relating to certain policy designations, may be revised during the lifetime of the Plan, for example to update data. The DWSs therefore now form part of a ‘Constraints’ layer, to allow the boundaries to be updated in the future, should it be deemed necessary.
- 5.3 Within the adopted plan, a DWS at Fishmoor Drive/Pilmuir Road overlaps with the Local Plan housing allocation at Fishmoor Drive (Parcel 4). However, this is addressed through Local Plan Policy H029 which sets out a series of key development considerations for the site that includes the potential ecological impact and necessary mitigation that will be required owing to the location of the DWS. The significance of the DWS should be accounted for within the biodiversity metric calculations, and BNG will be required from the site.
- 5.4 The DWS will form part of the LNRS – a strategic spatial framework for nature recovery. The LNRS is expected to take a further 12 months to prepare, and so in the interim, the DWS sites form part of the current ecological network (as identified in the BNG Planning Advisory Note and Green Infrastructure and Ecological Networks Supplementary Planning Document (SPD)). DWS, and BNG, form a key part of current and future ecological strategies.
- 5.5 The Council have undertaken the ecological assessments to inform the development of both current policy and future strategies. The recommendations of the latest studies will be used in developing strategies relating to Council-owned land, BNG off-site supply, and habitat interventions, helping to meet the Council’s duties towards the biodiversity objective.

## 6. FINANCIAL IMPLICATIONS

- 6.1 The costs of work undertaken to date has been funded through Defra 'new burdens' grants (for both the financial years 2021/22 and 2022/23) which have been made available to support local authorities in England in their preparations for the introduction of mandatory BNG. The remaining balance has been met from the Local Plan budget. Defra have made available further new burdens funding since 1 April 2023 and additional funding is also expected following the introduction of national mandatory BNG in February 2024. The Council will continue to use this funding towards the additional ecological studies commissioned in 2023 and any further work that is required.
- 6.2 Further, the Council have successfully secured £70,000 (part of a £100,000 Planning Skills Delivery Fund award) towards developing the ecology knowledge and skills of existing officers and progressing Council-owned sites for off-site BNG.
- 6.3 Making Council-owned land available for off-site net gains provides an opportunity for the Council to secure the necessary funds to deliver improvements to DWS, or other publicly owned sites, in the borough. All financial burdens associated with providing BNG must be borne by the developer and must cover the cost of delivering habitat enhancements / creation, and its management and monitoring for a mandatory 30-year period. It will be essential that costs of biodiversity units are correctly calculated and indexed to inflation rates. This is still to be determined as part of ongoing works.

## 7. LEGAL IMPLICATIONS

- 7.1 There are no legal implications for the DWS surveys themselves, or the specific associated recommendations which are made through this report. Undertaking these ecological assessments and appropriately planning for biodiversity improvements will support and increase the ability of the Council to ensure the mandatory delivery of BNG and the development of the LNRS and fulfil its legal duties to conserve and enhance biodiversity.

## 8. RESOURCE IMPLICATIONS

- 8.1 Work arising from the survey work, and future ecology studies, will be managed by the Strategic Planning Team as part of their ongoing responsibilities, and resource introduced/funded through the Planning Skills Delivery Fund. The Council may need to out-source BNG creation/enhancement works to external contractors or specialist delivery vehicles which comes at a cost to be borne by developers.

## 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

**CONTACT OFFICER:** PMO Growth

**DATE:** February 2024

**BACKGROUND PAPER:** 1. District Wildlife Sites Study Final Summary Report