

## **BIODIVERSITY NET GAIN AND LOCAL NATURE RECOVERY**

### Report of the Director of Place Management

#### **1. Introduction and Purpose of Report**

- 1.1. To provide an update on the implementation of new national government legislation which mandates Biodiversity Net Gain (BNG) within all new developments through the land-use planning system, and our work to ensure nature recovery takes place across the borough.
- 1.2. To seek endorsement of the ongoing work to identify and survey locations within our land holdings to establish as 'habitat banks' in order to:
  - Prepare for the upcoming introduction of mandatory Biodiversity Net Gain legislation, which is anticipated for November 2023, but for which secondary legislation has not yet been released.
  - Following introduction of the legislation, enable the sale of off-site biodiversity units to developers, to allow otherwise acceptable developments to be approved.
  - Facilitate the delivery of natural environment targets which are a fundamental part of the Climate Action Now (CAN) strategy.
  - To provide locations to feed into our forthcoming Biodiversity Strategy.
  - To provide locations to feed into the emerging GM Local Nature Recovery Strategy.
  - To help fulfil our duties under the amended Natural Environment and Rural Communities (NERC) Act 2006.

#### **2. Background**

- 2.1. England is one of the most nature-depleted countries in the world due to its long history of industrialisation and land use changes. In 2022, the government committed to designate and protect 30% of UK land by 2030, and as part of this, newly created Local Nature Recovery Strategies will help to drive action locally. Nature based solutions will help to address the biodiversity and climate crises being faced, enabling wildlife to recover and for people to mitigate and adapt to the effects of climate change.
- 2.2. In March 2022 Stockport Council, together with the other 9 GM authorities, declared a 'biodiversity emergency', signing the Edinburgh Declaration to commit to reversing biodiversity loss. At a meeting of the council in November 2022 a motion was passed to support the Climate and Ecology Bill. At a meeting of the council in January 2023 a further motion was passed, which requested the establishment of a cross-party group to encourage action on the biodiversity emergency. As a result, a Local Nature Recovery Members Group has been established, which will oversee the emerging Biodiversity Strategy and ongoing work related to nature recovery through the 'Natural Environment' strand of the Climate Action Now (CAN) strategy.
- 2.3. Stockport Council currently manages a large number of parks and local nature reserves for the benefit of people and nature. The impending introduction of mandatory Biodiversity Net Gain (BNG) offers an unprecedented opportunity to

capture the ecological and community benefits of private finance leveraged through the planning system to deliver enhanced biodiversity on our own land and support nature recovery within 'habitat banks'.

### 3. Local Nature Recovery and Biodiversity Net Gain)

#### Context

- 3.1. The term 'biodiversity' comes from the phrase 'biological diversity'. Biodiversity refers to the variety of life on Earth, encompassing all living organisms, their habitats, and their interactions. Biodiversity Net Gain (BNG) is an approach that ensures habitats for wildlife are enhanced as a result of development, rather than diminished. This is a significant requirement that aims to integrate development with nature recovery and enhancement.
- 3.2. The Environment Act 2021 mandates that planning applications, with a few exceptions, must achieve at least a mandatory 10% BNG from as yet, an unconfirmed date in November 2023. **However, on 27th September DEFRA announced that secondary guidance for the legislation will be published in November 2023 with a view to requiring implementation of the legislation in January 2024. This essentially delays implementation by 2 months but clarifies when secondary guidance will be provided.**
- 3.3. The Environment Act 2021 also includes new duties requiring the preparation and delivery of Local Nature Recovery Strategies (LNRS). LNRS's will be new spatial strategies that establish priorities and map proposals for specific actions to drive nature recovery and provide wider environmental benefit. Local Planning Authorities will need to have regard to the LNRS in local planning policy and decisions. GMCA has been provisionally appointed by Defra for the production of a GM-wide LNRS, building upon the pilot work done across GM in 2021. Mandatory BNG is a key mechanism for delivering our GM LNRS.
- 3.4. Whilst this change to the planning system will involve additional regulatory burdens in terms of the development management process, there is an opportunity for Stockport Council to use some of our land to provide off-site biodiversity units on 'habitat banks'. Doing this will ensure that some of the private investment unleashed by mandatory BNG can be directed onto our sites which can be enhanced for the benefit of biodiversity and local communities.
- 3.5. Through the planning process, Stockport Council is already seeking the provision of 10% BNG on sites for major planning applications; this policy approach is underpinned by the National Planning Policy Framework (NPPF). Where schemes are unable to provide BNG onsite, we have been requesting monies for offsite mitigation. To date we have secured £108,124 via s106 legal agreements.
- 3.6. In terms of forthcoming mandatory BNG, the following is a summary of the key components:
  - Minimum 10% gain required calculated using national DEFRA Biodiversity Metric.
  - Approval of a net gain plan by the planning authority for each development site.
  - Habitat improvement can be delivered on-site, off-site or via statutory biodiversity units.
  - The mitigation hierarchy applies through avoidance, mitigation and compensation for biodiversity loss.

- Habitat improvement sites must be secured for at least 30 years via planning conditions, s106 obligations, or conservation covenants.
- There will be a national register for net gain delivery sites which records actual BNG.
- Does not change existing legal environmental and wildlife protections.

### **Identifying locations for enhancing nature and biodiversity**

- 3.7. Pilot work across England has indicated that around three quarters of development schemes have managed to deliver BNG on-site. Therefore, it is desirable that BNG happens on site wherever possible, but when this is not possible it would be best to keep the benefits arising from BNG as close as possible to the development, and certainly within the borough. Therefore, it is our ambition to identify a number of locations that can be set up as habitat banks from which we can sell “offsite biodiversity units” to developers, with a site located to serve new developments within each area committee. Biodiversity units generated in Stockport will be used to meet the demand within the borough but could also be used to provide for the needs in neighbouring authorities and/or nationally.
- 3.8. An Ecology Study was undertaken for Stockport in 2019 which identified the principal ecological features of the borough and the opportunities for delivery of locally appropriate BNG, this forms a key piece of evidence which has been used to inform subsequent work.
- 3.9. The reasons for situating the first wave of habitat banks as outlined in this report is informed by best practice for nature and our local evidence base. These sites are strategically placed in terms of their ecological connectivity and priorities for biodiversity enhancement. The identified candidate sites meet the criteria of being:
- located within our core ecological network;
  - encompassing a variety of habitat types;
  - having the best potential for biodiversity to be uplifted; and
  - are already managed for nature.
- 3.10. Each site will have to undergo an ecological survey by a trained ecologist before being established as a habitat bank. It is our aim to have a site surveyed in each committee area by the end of November 2023.
- 3.11. The candidate sites are shown in figure 1 and are as follows:
- Bramhall and Cheadle Hulme South: Bramhall Green
  - Central: Warth Meadow & Woodbank Park
  - Cheadle: Bruntwood Park & Lumhead Wood
  - Heatons and Reddish: Reddish Vale Country Park
  - Marple: Brabyns Park
  - Stepping Hill: New House Farm Woods (Grange Road)
  - Werneth: Tangshutts Field & Mill Lane Fields
- 3.12. Some of the sites to deliver BNG offsetting are linked to developments through S106 under the existing system, therefore enhancement on these locations will be prioritised: Warth Meadow, Reddish Vale and Tangshutts Field.
- 3.13. Once established, each habitat bank will need to have a biodiversity management plan in place. Each habitat bank must remain as such for a 30-year period, this means that they will have zero potential for future development purposes. As the candidate sites are already managed for nature, this represents an opportunity to use funds from development to further enhance the areas that we already maintain.

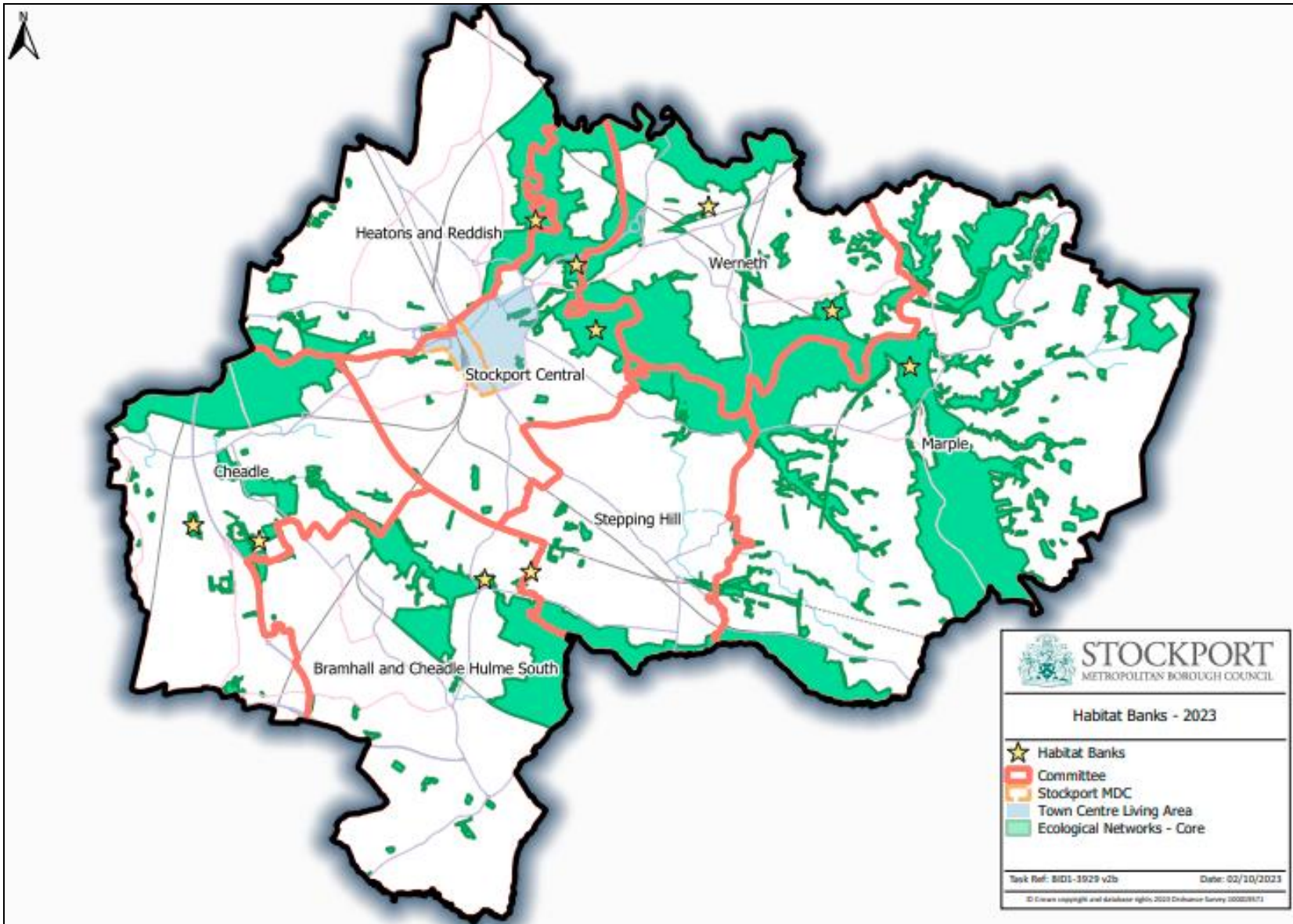


Figure 1: locations of proposed candidate sites for habitat banks

## **Delivering BNG**

- 3.14. A biodiversity metric tool has been created by DEFRA which uses habitat, the places in which species live, as a proxy to describe biodiversity. These habitats are converted into measurable 'biodiversity units' which are the currency of the metric. Biodiversity units are calculated using the size of a parcel of habitat and its quality. A developer will need to use the metric to undertake an assessment of the current biodiversity value of their site prior to development and then a corresponding assessment of the proposed biodiversity value of the site post development, incorporating any on-site biodiversity enhancements. If the value of the site post-development is not expected to be enhanced by 10%, then the developer will have to provide additional off site BNG units to achieve the mandatory figure. Where a site's baseline biodiversity score is zero, for example, because the pre-development site is an area of hardstanding with sealed surfaces, then there is no need to provide BNG (because 10% of zero is zero). Locations such as the MDC within Stockport are therefore unlikely to require a significant level of BNG. Through policies in the emerging Local Plan, it is intended that we will have locally specific policies relating to biodiversity to seek a higher percentage of a minimum 20% uplift, subject to whole plan viability testing of all policy requirements.
- 3.15. Where BNG cannot be delivered within the boundary of a development site, developers will need to purchase off-site biodiversity units from third parties. Off-site BNG will be delivered via an open market where developers will be able to choose the provider of their BNG. Local authorities will not be able to mandate where off-site BNG is delivered in conjunction with a given planning application. These units could be purchased from any landowner who is willing to take on the responsibility of creating and maintaining these units of new or enhanced biodiversity habitats for 30 years. Off-site biodiversity units must be on a national register which will be administered by Natural England. This is to facilitate the controlled sale and purchase of biodiversity units and to provide some transparency for sites containing such off-site gain. Various requirements must be met for off-site biodiversity units to be included on Natural England's register, including that the landowner (or another person) maintain the biodiversity enhancement for at least 30 years after the completion of those works.
- 3.16. There is no fixed price for a BNG unit, and the Government envisages a commercial market will be created with the price being set by supply and demand. It is expected that the price of a BNG units will cover the following costs:
- a BNG assessment of the site (both as is and proposed);
  - the capital investment to deliver proposed habitat enhancements;
  - contingency;
  - inflationary considerations;
  - the required ecological monitoring and reporting;
  - the specialist habitat management required to maintain the new habitats; and
  - an element of land value (at least equivalent to a 30yr plus lease on the land).

## **4. Current Position and Next Steps**

- 4.1. We are still waiting for secondary legislation to provide the necessary detail to inform the operation of BNG. Until that is available there is still a high degree of uncertainty around BNG implementation.

- 4.2. Due to the additional work created by the Environment Act and amendments to the NERC Act, an additional ecologist role has been created within the organisation to help enable us to fulfil our duties.
- 4.3. Guidance is being prepared that will be published on our website to inform developers of the new requirements of mandatory BNG through the planning system.
- 4.4. Once the ecological surveying season has concluded, it is proposed that a Biodiversity Strategy will be developed working in partnership with communities and key stakeholders and overseen by the Local Nature Recovery Members Group. The Biodiversity Strategy will set our objectives and priorities for managing those habitat banks, and enhancing biodiversity across the whole borough, in line with our wider ambitions for nature recovery, encompassing other key considerations including public health benefits, urban greening and the climate emergency.

### **Benefits**

- 4.5. Establishing habitat banks on our own land will have the following benefits:
  - a) It captures the ecological and community benefits of private finance leveraged through the planning system.
  - b) It reduces the risk of shortfalls in local biodiversity units which may otherwise slow the delivery of much needed development.
  - c) Developers are likely to welcome local provision of BNG if it is more straightforward and cost effective than provision outside of the borough.
  - d) It helps facilitate the delivery of natural environment targets which are a fundamental part of the Climate Action Now (CAN) strategy.
  - e) It will be a component part of the emerging Local Nature Recovery Strategy.
  - f) The costs of managing land as off-site biodiversity units may be less than the current costs of land management, providing savings.
  - g) Any profits generated from the sale of the off-site biodiversity units can be reinvested into community projects for the benefit of local residents.
  - h) It helps us deliver more and improved green spaces for the benefit of local residents. Doing this is consistent with the objectives of the government's [Green Infrastructure Framework](#), which seeks to increase access to green spaces in urban area, boosting green cover by 40% and deliver on the government's target that everyone in this country should have access to green spaces within 15 minutes' walk of their homes.
  - i) It helps us comply with new enhanced biodiversity duties under section 40 of the Natural Environment and Rural Communities Act 2006, which came into force in January 2023. The newly amended biodiversity duty requires public authorities to "from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective". Local authorities must also report on the action they have taken to comply with their new biodiversity duties every 5 years.

## **Uncertainties and risks**

- 4.6. It should be noted BNG is a relatively new approach and as yet there is little robust evidence on likely demand for BNG units, the level of supply of BNG units and hence what the market value of a BNG unit might be and how fast units might sell. As mentioned above, pilot work across England has indicated that so far around three quarters of development schemes have opted to deliver the BNG on-site.
- 4.7. Work on costing our price per unit is underway, the price should include the cost of registering the site on Natural England's register, along with the annual management, maintenance and monitoring, linked to indexation over a 30-year period. Habitats change over time, so whether units are sold or not, updated surveys are likely to be required every 3 years, which also has a cost implication. Due to each site requiring a 30-year management period, underestimating the cost per unit represents a potential future burden to the authority, and conversely, overestimating the cost potentially runs the risk of being undercut by private offers
- 4.8. Advice from GMCA suggests that a 'special purpose vehicle' may well need to be established for the sale of units, to allow the separation of our role as local planning authority making decisions on planning applications and accompanying BNG offsetting, from our interest as an offset provider. Greater Manchester Environment Fund (GMEF) is developing a service to support local authorities with offsetting with the establishment of a 'Natural Capital Services Company' (NCSC), which would entail the GMEF entering into a long-term contract with a local authority and taking legal responsibility for the preparation, securement, registration and delivery stages of offsite BNG delivery on local authority owned sites. We will be seeking assurance about the efficiency of such a vehicle and would in a position to recommend considering joining the scheme once only all the detail is known.

## **5. Conclusions and recommendations**

- 5.1. An update report will be brought to members on the appropriate approach and mechanisms for establishing 'habitat banks', once secondary legislation is published.
- 5.2. **The Scrutiny Committee is recommended to:**  
**Endorse the approach outlined in this paper and ongoing work to identify and survey locations within our land holdings to establish as 'habitat banks' for the benefit of nature and communities.**

## TECHNICAL APPENDIX

A new statutory “general planning condition” will be imposed on planning permissions granted under the TCPA 1990. This new general planning condition must be discharged prior to commencement of development, thus placing an additional burden on the local planning authority. Achieving BNG means that development is designed in a way that provides benefits to people and nature and reduces its impacts on the wider environment.

Developers can deliver 10% BNG in the following ways:

- a) On-site, within the redline boundary of the proposed development.
- b) Off-site, by developers creating their own off-site habitats or purchasing the required biodiversity units from landowners in the local area – these are known as “habitat banks”.
- c) As a last resort, purchasing statutory biodiversity credits as part of a national scheme provided by the government (which have been made deliberately expensive, with an indicative starting price of £42,000 per credit, so as to avoid undercutting the emerging market for off-site biodiversity units).

In addition to BNG secured through the planning process, public authorities who operate in England must consider what they can do to conserve and enhance biodiversity in England. This is the strengthened ‘**biodiversity duty**’ that the Environment Act 2021 introduces. This means that, as a local authority, we must:

- Consider what we can do to conserve and enhance biodiversity.
- Agree policies and specific objectives based on our consideration.
- Act to deliver our policies and achieve our objectives.

We must complete our first consideration of what action to take for biodiversity by 1 January 2024, and we must agree our policies and objectives as soon as possible after this. We must reconsider the actions taken within 5 years of completion of our previous consideration.

Previously, the Natural Environment and Rural Communities (NERC) Act 2006 included a duty on public authorities to have regard to the conservation of biodiversity. This duty has been amended and strengthened so that there is an expectation on public authorities to look strategically at their policies and operations from time to time (at least every 5 years) and assess what action they can take ‘to further’ the conservation and enhancement of biodiversity. They must also have regard to the relevant Local Nature Recovery Strategies, Species Conservation Strategies and Protected Sites Strategies, as part of the consideration. In addition, local authorities must produce a Biodiversity Report every five years which will describe actions taken and their impacts under biodiversity net gain.