

THE DELIVERY OF BIODIVERSITY NET GAIN THROUGH THE PLANNING AND DEVELOPMENT MANAGEMENT PROCESS

Report of the Assistant Director Place Making and Planning

1. INTRODUCTION AND PURPOSE OF REPORT

- 1.1 This report provides an update on the activities relating to the delivery of Biodiversity Net Gain through the Planning and Development Management process.

2. BIODIVERSITY NET GAIN (BNG)

- 2.1 By way of context, 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.
- 2.2 The Environment Act 2021 mandates that major planning applications, with a few exceptions, must achieve at least a mandatory 10% BNG from 12 February 2024; for minor planning applications the date will be 2 April 2024. Both dates relate to new planning applications being submitted to the local planning authority (LPA), rather than decisions being issued. There are transitional arrangements in place for live applications and S73 applications.
- 2.3 The new mandatory requirement for BNG does not change existing legal protections for important habitats and wildlife species. It also does not replace the 'mitigation hierarchy' of avoid impacts first, then mitigate and only compensate as a last resort.
- 2.4 A new statutory pre-commencement planning condition has been inserted into the Town and Country Planning Act 1990, which cannot be overridden on cost or viability grounds. This condition will require the submission of a biodiversity gain plan for most developments that requires planning permission, with some exemptions. Due to it being non-negotiable, the provision of 10% BNG would therefore take priority above other policy asks that could be subject to viability considerations.
- 2.5 To ensure the provision of the 10% uplift on major development sites, a 'statutory metric' tool has been created by Department for Environment, Food & Rural Affairs (DEFRA) which uses habitat, the places in which species live, as a proxy to describe biodiversity. A small sites metric is used for minor planning applications. Habitats are converted into measurable 'biodiversity units' which are the currency of the metric. Biodiversity units are calculated using the size and type of a parcel of habitat, along with and its quality and location. 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. Delivery of BNG on/within the development site should be maximised. If the value of the site post-development is not enhanced by 10%, then the developer will have to provide additional off-site BNG units to achieve the mandatory figure.

- 2.6 Where a site's baseline biodiversity score is zero, for example, because the pre-development site is an area of hardstanding with sealed surfaces such as a car park, then there is no need to provide BNG (because 10% of zero is zero).
- 2.7 Where BNG cannot be delivered within the boundary of a development site, developers will need to purchase off-site biodiversity units from a land manager or make off-site gains on their own land outside of the development site. The land manager can be a private landowner, broker or the council. Off-site BNG will be delivered via an open market where developers will be able to choose the provider of their BNG. 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.
- 2.8 Statutory credits are a provision of last resort by DEFRA to ensure applicants can achieve 10% net gain irrespective of the local offset market; the costs of these credits are significantly higher than local options. If BNG cannot be delivered on-site or off-site, then a developer can purchase statutory biodiversity credits from the Secretary of State to meet their biodiversity gain objective.
- 2.9 The 'Biodiversity Gain Plan' is the main document that should accompany an application requiring BNG, alongside the biodiversity metric itself. The 'Biodiversity Gain Plan' will be used to discharge the statutory planning condition. Delivery and monitoring of BNG will be secured for at least 30 years.
- 2.10 The biodiversity gain hierarchy emphasises the preferred route to be followed for achieving a 10% net gain. Local authorities will not be able to mandate where off-site BNG is delivered in conjunction with the determination of a given planning application. However, the metric is set up in such a way to incentivise the delivery of habitat units within the local area. Where offsite provision is identified within another authority's boundary which is not within the same National Character Area (these are areas defined by Natural England that share similar landscape characteristics, and which follow natural lines in the landscape rather than administrative boundaries), it would have to provide more units in order to reach the mandated 10% net gain.
- 2.11 Where offsite provision is identified within a neighbouring authority's boundary, it would have to provide more units in order to reach the mandated 10% net gain.

3. PROGRESS UPDATE

- 3.1 We applied to DEFRA for the new burdens funding made available by central government to all councils in England in financial years 2022/23 and 2023/24. As a result, Stockport Council has been awarded £26,807 for FY 2022/23 and an additional £26,807 for FY 2023/24.
- 3.2 We have employed a new permanent ecologist in order to support and deliver the additional work created by the Environment Act and amendments to the original Natural Environment and Rural Communities Act 2006 (NERC Act); this role sits within the existing Ecology and Nature Development Team within the council.

- 3.3 We have been assessing BNG on all major planning applications since late 2020 (which is shortly after the Environment Bill was first laid before parliament), and under the provisions of the National Planning Policy Framework (NPPF) we have successfully secured offsite habitat creation and enhancements for BNG via S106 agreements. As the new secondary legislation has come into force, the legal delivery mechanisms for securing BNG have changed and we are no longer be able to enter into S106 agreements for financial payments towards habitat improvements on our own land. Work is being done to explore the provision of habitat units on council-owned land and it is intended that a paper will be taken to scrutiny to consider the best approach for Stockport.
- 3.4 An online directory/map is being prepared by Greater Manchester Ecology Unit (GMEU) for authorities across GM to showcase locations where units are available for developers to purchase.
- 3.5 Information for applicants on the requirements associated with the consideration and of BNG through the planning system is provided on our website. Guidance is being prepared by consultants, on behalf of Greater Manchester authorities, to support the development management process and is expected to be published soon.
- 3.6 National guidance is available from the following webpage:
<https://www.gov.uk/guidance/understanding-biodiversity-net-gain>

4. CONCLUSIONS AND RECOMMENDATIONS

- 4.1 To note the contents of this report.

BACKGROUND PAPERS

There are none

Anyone requiring further information should contact Melanie Craven by email melanie.craven@stockport.gov.uk