

RIBBLE VALLEY BOROUGH COUNCIL

REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

Agenda Item No.

meeting date: THURSDAY, 7th DECEMBER 2023
title: BIODIVERSITY NET GAIN
submitted by: DIRECTOR OF ECONOMIC DEVELOPMENT & PLANNING
principal author: HEAD OF DEVELOPMENT MANAGEMENT & BUILDING CONTROL

1. PURPOSE

- 1.1 To inform Members on the Biodiversity Net Gain (BNG) requirements.
- 1.2 To seek authority from Members to enter into a 12-month contract with Greater Manchester Ecology Unit (GMEU) to assist the Council in meeting its BNG responsibility from January 2024.
- 1.3 Relevance to the Council's ambitions and priorities:
 - Community Ambitions
 - To be a well-managed council providing efficient services based on identified customer needs.
 - To protect and enhance the existing environmental quality of our area.
 - Corporate Objectives
 - To conserve our countryside, the natural beauty of the area and enhance our built environment

2. BACKGROUND

- 2.1 Biodiversity net gain (BNG) is a way to contribute to the recovery of nature while developing land. It is making sure that new development or land management leaves the natural environment in a measurably better state than it was beforehand.
- 2.2 BNG was introduced in England through the 2021 Environment Act. Through this primary legislation there is a mandatory requirement for Council's to ensure new developments deliver BNG. During 2022 and 2023 the Department for Environment, Food and Rural Affairs (Defra) has been consulting on and considering the secondary legislation, policy and guidance needed to deliver BNG, including the biodiversity metric for measuring BNG.
- 2.3 There are three possible mechanisms for delivery of BNG in developing land; on-site (habitat creation or enhancement, landscaping or green infrastructure), off-site (new habitat creation or enhancement on land holdings or via habitat banks) or through the purchase of statutory credits (landscape-scale strategic habitat creation). Statutory credits are intended to be a last resort for developers unable to provide sufficient biodiversity units on-site or off-site. On-site and off-site habitats would need to be secured for 30 years.
- 2.4 The latest timetable, published September 2023, is that developers of large sites in England will be required to deliver 10% (minimum) "Biodiversity Net Gain" from January 2024 onwards when building new housing, industrial or commercial developments. BNG for small sites will be applicable from April 2024, and implementation for Nationally Significant Infrastructure Projects remains planned for

2025. There will be some development exemptions in having to provide BNG which is expected to include householder development.

2.5 Secondary legislation and guidance is still required to enact the mandatory requirement, which is expected to be forthcoming in late November 2023 including:

- The statutory biodiversity metric, critical for calculating the correct biodiversity gain
- The draft biodiversity gain plan template, which will help developers prepare for what they will need to complete during the planning application stages
- The Habitat Management and Monitoring Plan template, which will set out how the improved significant on-site and off-site habitats will be managed for the long term
- A package of BNG guidance that sets out further advice for landowners, developers, and Local Planning Authorities around their role and responsibilities in delivering mandatory Biodiversity Net Gain

2.6 On and off site gains and losses will be calculated by a statutory biodiversity metric. Natural England published a 'main metric' in March 2023 which is expected to form the basis of the calculations. It requires the calculation of a baseline position which includes condition assessment, and then a forecast outcome based on the habitats proposed. The different habitat types are scored based on their relative value to wildlife to determine whether a 10% (minimum) uplift in value is achieved.

2.7 It requires a 'competent' person in the form of a qualified ecologist to submit the metric on behalf of a developer, and to appraise the metric on behalf of a local planning authority. It includes a 'small sites metric', a simplified version of the main metric, to use on small sites which do not contain priority habitat or designated habitat sites. It is designed to provide confidence and ensure consistency of approach.

3. PROPOSAL

3.1 Local planning authorities are dependent on the services of specialist ecology advisors to support them in delivering the mandatory BNG requirement. Lancashire County Council did consult the district councils in Spring 2023 to see what the demand and likely uptake would be for a joint ecology/BNG planning advice service in the county but came to a decision that they were not able to provide this service at the present time. In part this is due to LPAs choosing to continue with their existing ecology advice service.

3.2 Officers propose that Greater Manchester Ecology Unit (GMEU) would be a good option for Ribble Valley to use to provide a consultancy service from January 2024 given their knowledge of Lancashire habitats and their skill set and experience in assessing BNG. Currently GMEU is delivering a BNG/ecology service to 22 Unitary and District Authorities throughout North West England. They currently employ seven suitably qualified full-time planning Ecologists and do have capacity to provide an advisory service to this Council which would include the following:-

1. Pre-application advice – GMEU could check metrics and biodiversity gain plans before they are submitted, but would not be able to actually undertake Biodiversity Metric calculations or prepare gain plans on behalf of applicants.
2. Planning application input - Advice will include the assessment of Biodiversity Metrics, Biodiversity Statements and any dialogue and

negotiation for the provision of biodiversity net gain in accord with the provisions of the Environment Act 2021. Advice will include the preparation of Habitat Regulations Assessments (HRAs) of applications on behalf of the Council, if an HRA is required.

3. Post approval/discharge - GMEU can advise on condition discharge applications, including for the Discharge of comprehensive Biodiversity Net Gain Plans. These will be regarded as a separate consultation.
4. Reviewing monitoring reports – It will be up to developers to monitor the provision of BNG and provide monitoring reports, but there will be a requirement for someone in the LPA to register, read and audit these monitoring reports, and it is best that the reports are looked at by a suitably qualified ecologist. For an additional fee, based on a rate of £21.56 per hour (£155.00 per day), GMEU could assess monitoring reports received, monitor and report on BNG delivery, however this is unlikely to be a cost for the first few years.

3.3 GMEU have confirmed that they would not have the capacity / resources to do the following, which would need to be undertaken by Council officers unless alternative resources were found:

- draw up S106 agreements for off-site BNG delivery
- assess council owned sites for BNG provision / habitat creation projects as BNG off-sets
- bring sites forward for the sale of BNG Units
- register monitoring reports / report on BNG delivery as part of the extended requirements for reporting to government on biodiversity
- audit a sample of the monitoring reports received to make sure that BNG delivery as reported is actually happening on the ground

3.4 The cost of GMEU providing the above Service to Ribble Valley Council from January 2024 for a 12 month period would be £8,673 excluding VAT, based on Consultation responses of 150 planning applications per year. A 'consultation' includes initial provision of ecological advice and any resulting dialogue and additional consultations on the same application. Pre-application advice is included as part of a 'consultation'

3.5 If applications received for comment exceed the above numbers then GMEU would charge for providing advice on additional applications received at the rate of £21.56 per hour (£155.00 per day). If applications received for comment are lower than the above numbers then GMEU will charge less than the above quoted fee at the end of the financial year, proportionate to the actual numbers of applications received.

3.6 The government has made available a BNG Grant fund to all authorities in England for 2022/23 and 2023/24 to support them in delivering measures to prepare them for BNG. To date the council has drawn down £21,439.25 of funding, predominantly against staff time, with up to £32,174.75 of unspent funds remaining to be spent by 31 March 2024 (unspent funds cannot be carried forward beyond this point).

3.7 Officers have been advised by Defra that the above unspent funds must be used for activities that take place between 1 April 2023 and 31 March 2024 so it would not be possible under the grant conditions to use the funding to pay for work carried out beyond 31 March 2024.

- 3.8 Therefore the Council would be entitled to draw down the contract value for January – 31 March 2024 from the ringfenced funds, however the remaining 9 month contract value would need to be found from the resources budget for this Committee to ensure that the council is able to meet this mandatory requirement, unless future funding from Defra is confirmed.

4. RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications:

- Resources – There are financial implications in respect of meeting the full contract cost, to be met from this Committee's budget unless future BNG grant funding is announced by Defra (further details outlined in the main report above).
- Technical, Environmental and Legal – This would enable the Council to fulfil its requirements under the 2021 Environment Act as well as emerging secondary legislation expected to be published late November 2023. Any ringfenced monies used would need to fulfil the terms of the BNG Grant.
- Political – N/A
- Reputation – The proposal would improve public confidence in the council's delivery of mandatory BNG
- Equality and Diversity – N/A

5. RECOMMENDED THAT Committee

- 5.1 Members are asked to confirm:

- 5.1.1 That they are happy to obtain the services of Greater Manchester Ecology Unit (GMEU) to support the Council's assessment of planning applications against the requirement for biodiversity net gain (BNG), with a 12-month contract to commence from January 2024 assuming that this is when BNG becomes mandatory.

LYNDSEY HAYES

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