



DEVELOPMENT PLAN PANEL

Meeting to be held in Civic Hall, Leeds, LS1 1UR on
Tuesday, 18th July, 2023
at 1.30 pm

MEMBERSHIP

Councillors

J Akhtar
B Anderson
K Brooks
C Campbell
P Carlill
R Finnigan
C Gruen (Chair)
H Hayden
J McKenna
H Bithell
A Carter

Please do not attend the meeting in person if you have symptoms of Covid-19 and please follow current public health advice to avoid passing the virus onto other people.

Note to observers of the meeting. To remotely observe this meeting, please click on the 'View the Meeting Recording' link which will feature on the meeting's webpage (linked below) ahead of the meeting. The webcast will become available at the commencement of the meeting.

<https://democracy.leeds.gov.uk/ieListDocuments.aspx?CId=450&MId=12235&Ver=4>

A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 15.2 of the Access to Information Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 15.2, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information, as follows:</p>	

Item No	Ward	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration.</p> <p>(The special circumstance shall be specified in the minutes).</p>	
4			<p>DECLARATION OF INTERESTS</p> <p>To disclose or draw attention to any interests in accordance with Leeds City Council's 'Councillor Code of Conduct'.</p>	
5			<p>APOLOGIES FOR ABSENCE</p>	
6			<p>MINUTES - 4 APRIL 23</p> <p>To receive and consider the attached minutes of the previous meeting held 4th April 2023.</p>	7 - 14
7			<p>BIODIVERSITY AND NATURE RECOVERY UPDATE</p> <p>To receive and consider the attached report of the Chief Planning Officer which provides an update about emerging new and revised approaches to protecting and enhancing biodiversity in Leeds.</p>	15 - 28
8			<p>DATE AND TIME OF NEXT MEETING</p> <p>To note the date and time of the next meeting as 26th September 2023 at 1.30pm.</p>	

Item No	Ward	Item Not Open		Page No
			<p><u>Third Party Recording</u></p> <p>Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda.</p> <p>Use of Recordings by Third Parties– code of practice</p> <ul style="list-style-type: none"> a) Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title. b) Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete. <p>We strive to ensure our public committee meetings are inclusive and accessible for all. If you are intending to observe a public meeting in-person, please advise us in advance of any specific access requirements that we need to take into account by email (FacilitiesManagement@leeds.gov.uk). Please state the name, date and start time of the committee meeting you will be observing and include your full name and contact details.</p>	

Third Party Recording

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Use of Recordings by Third Parties– code of practice

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Development Plan Panel

Tuesday, 4th April, 2023

PRESENT: Councillor C Gruen in the Chair

Councillors B Anderson, C Campbell,
J McKenna, K Brooks, A Lamb, E Taylor
and P Carlill

37 Welcomes and Introductions

The Panel welcomed Councillor Lamb back after recently being unwell and were glad to see him back at work.

The Legal Officer advised Panel Members that as the election had been called for the 4th of May 2023 so the pre-election period, also known as 'purdah' brought heightened sensitivity, however, the purpose of the purdah period is not to prevent the Council from carrying out normal business but it is to prevent the business conducted during the period being potentially perceived to be securing any electoral advantage. Members were advised to participate in the meeting as usual but to also be mindful of debate which may be perceived as electioneering.

38 Appeals Against Refusal of Inspection of Documents

There were no appeals.

39 Exempt Information - Possible Exclusion of the Press and Public

There were no exempt items.

40 Late Items

There were no late items.

41 Declaration of Interests

Members did not declare any interests at the meeting.

42 Apologies for Absence

Apologies for absence were received from Councillors, Finnigan, Akhtar and H Hayden with Councillor A Garthwaite substituting for Councillor Hayden.

43 Minutes

RESOLVED- That the minutes of the Development Plan Panel meeting held on the 31st January 2023 be approved as an accurate record.

44 Matters Arising

The Group Manager Policy and Plans provided Members with an update on the Leeds Local Plan 2040 (LLP 2040) consultation which had closed on 24th March 2023 with 1000 surveys responses received, submitted as 750 smart surveys and 250 emails. An additional 450 'call for sites' survey responses had been received which was an ongoing process. The consultation was noted to be positive with more engagement exercises to be conducted as the plan is still in its early format.

45 Technical Planning Guidance on Co-Living

The Report of the Chief Planning Officer sought Members' views on a technical planning guidance note, "Co-living Position Paper", intended to be used to help determine planning applications for co-living developments by using existing planning policies for housing and amenity. This was necessary, in the absence of specific planning policy guidance for this type of development within the adopted Local Plan for Leeds or the National Planning Policy Framework (NPPF).

The Team Leader from City Development presented the report, providing Members with the following information:

- The technical draft guidance document had been produced by Officers across Plans & Policy and Development Management within the City Development department, developed on previous briefs and best practice acquired from other core cities.
- Members may be aware of co-living model planning applications that had been brought forward to Plans Panel meetings.
- Co-living was a relatively new conceptual model for housing, largely appealing to young professionals and postgraduates seeking communal living, comprised of relatively small private units supported by communal facilities and amenity space.
- It was a distinct model, in planning terms, similar to Purpose Build Student Accommodation (PBSA) however it attracts different end users.
- Neither National Planning Policy Framework (NPPF) or the Leeds Local Plan specifically refer to co-living, but they do contain policies for housing. Although a Supplementary Planning Documents (SPD) had been drafted for PBSA, houses of multiple occupation (HMO) and co-living models, following legal advice in a Development Plan Panel meeting in December 2020, due to the lack of a policy hook, co-living was to be removed from that SPD.
- Co-living developments do not hold a definitive planning use class; however, it can sit in both sui-generis and C3 (dwelling house) classifications.
- It is important for Leeds to hold robust planning policy for design, affordability, amenity, sustainability, health and wellbeing and community infrastructure so the guidance document for co-living is needed to supplement current policy to ensure consistent housing quality.
- An internal co-living guidance note had been available for planning officers, but formal, visible guidance was required to streamline the broad approach for applicants, officers and Plans Panel Members as co-living application proposals come forward.
- There was a policy vacuum noted for co-living applications which will be best addressed in the long term through LLP20240, but new policy cannot be created at the moment.
- The technical draft guidance contained material considerations of size, location, accessibility and affordability. Post occupancy surveys will provide further insight for lived experience as co-living development come into fruition.
- The draft document was noted to be in the public domain with some feedback received from developers, commenting that the draft was well balanced, raised questions regarding the previous SPD which incorporated space

standards for co-living and concerns for the aggregate approach to quantifying space standards between private and communal spaces.

- A specific figure or measurement was not available for space standards within the draft guidance document as each scheme will be appraised on its own merit using the nationally described space standards (NDSS) model against an aggregate of communal and private space. It was noted the private units were unlikely, given the model of co-living, to meet the 37m² standard.
- Developer feedback noted that on page 24 of the report, the referenced link to policy H10 regarding accessibility criteria was applicable to comply to C3 use class dwellings, so further work to clarifying the wording needs to be looked at. Equality of access will be encouraged for all developments.

Members discussed the following key matters:

- As this was a new model of development entering the planning system, a balanced approach to the product will be needed to provide a good standard of housing as there is potential for developers to gain additional value by providing small units with high take up.
- Members raised concerns regarding the potential emergence of viability issues, often raised by developers. Officers outlined the importance of judging each application that may come forward by its own merit against current policy, including by reference to the District Valuer.
- Officers outlined that the existing policy suite guides provision of quality accommodation and the NPPF had announced the need to boost the housing stock. Co-living can add to the diversity of options available to the public, so the need to develop new guidance for this model is so it will be done correctly, with a consistent approach.
- Whilst similarities may be drawn from HMO's and PBSA's, bespoke guidance and policy will be needed to address all potential issues as the model may get proposed in a variety of forms. New policy cannot be created immediately and so this guidance provided an interim signposting to wider housing policies which will be used to negotiate quality co-living schemes.
- Members queried the use classification, detailed on page 18 of the report, against the opinion of a professional body, such as a planning inspectorate. It was noted that Local Authorities hold the power to determine the suitable use class to apply as other core cities were also in this process. An appeal had successfully been defended by Liverpool City Council on quality grounds who had used the sui generis classification.
- Officers outlined other notable information on the Liverpool appeal case as the grounds for refusal and the defended appeal were failure to meet the local plan policies on housing mix, NDSS internal space standards and insufficient space provision in private and communal areas; the weight given to their co-living guidance document was unclear but thought to have helped.
- A person centred, lived experience will be integral information to explore how people reside in this model of housing to determine opinions on space, amenity provision and length of occupation. The Strategic Housing Market (SHMA) was in the process of update, with details expected in August 2023 which will help evidence new future co-living policies within LLP2040.
- Members sought clarity on the affordability of the schemes for users and what measures were in place for lower income provision or key workers, such

as nurses. It was outlined that co-living could be an appropriate housing option for key workers, the age of occupiers cannot be conditioned, the schemes may take different forms and post-occupancy surveying will provide data. The guidance document will be unable to set new policy to prioritise units for a specific social group.

- It was noted that, all emergent net zero / climate Local Plan Update policies will be applicable (as appropriate) to the developments once the Plan is adopted.
- The aggregating approach to quantifying space was queried as if this model allows developers to sell or rent a higher number of units the private units should be able to meet NDSS 37.m2. Concern was also outlined that there is potential for price rises of existing housing options, such as one-bedroom flats, if many co-living schemes come forward.
- Co-living through choosing cohabitants already exists in Leeds organically however if these new models comprise of many people who do not know each other, there is potential for conflict without a clear resolution. Unipol can step in for disagreements in PBSA, but there is no comparable institution for co-living. Good management and safeguarding considerations will be required.
- It was confirmed that EN1 and EN2 policies, as well as electric vehicle charging policies for car parks will apply to these schemes, as with any comparable large residential development.
- Issues of scale were noted if a development were to house a high number of people, of which there was not limit set, conflict or isolation may occur if lots of residents try to access communal spaces or facilities at busy times. Officers outlined the aggregated approach will be proportional in security and amenity to the scale but would consider a more quantifiable approach.
- Although co-living will increase housing stock and options, it is unlikely to provide long term accommodation and given the cost of rent, there may be barriers to moving out to more secure residency as people's lives develop.
- Often older people need more space and schemes may need to cater for this in order to be perceived to be inclusive and a housing option for a diverse range of people.
- On site management 24 hours a day was preferred to a dedicated phone number to suitably resolve security issues, although it was noted this may incur higher costs to provide such staff. Members were of the opinion 24-hour supervision should be a required condition.
- If a development were to be built in the shell of an existing building it may create difficulty in meeting environmental policies as well as raising potential issues around soundproofing and natural light. Members stressed the importance for people to have access to day light within private units.
- A site visit to an existing co-living development was stressed as integral for Members to really understand what they can expect a scheme to look like in order to provide robust guidance.
- Consideration to review the agreed guidance was deemed necessary as the new model was not yet tried and tested. The appropriateness for this style of development was queried as it may be disruptive to existing communities; guidance for location may be needed and the guidance document should not be reserved to city centre co-living developments.

- Members queried whether there was any potential for 2 bed private units and thus how people with children would fit into a co-living model as this raises safeguarding issues.
- It was confirmed to Members that each private unit will contribute to housing stock figures. Assessment for the sufficiency of communal space and facilities will also need careful consideration.
- Affordable housing policies should apply to the same standard and green space provision should be conditioned to be provided on site as people need an outdoor space.
- The travel plan approach, detailed at page 24 of the report, should apply to developments in excess of 25 private studios, not the proposed 50.
- Concerns were raised regarding the management of viability and selling the building, or floors, in the future.
- Members outlined that permitted development rights should not apply to the co-living model.
- The ideas to allocate a percentage of units to key workers isn't practical unless they were affordable and will not address overarching housing issues for key workers. It was also noted the model will likely be unaffordable to the majority of graduates.
- It was confirmed, based on the cost analysis from developments within London, the rent costs will include bills and amenities, such as gym memberships. It was outlined that external or mixed used amenities, open to the public, should be discouraged or conditioned out via the guidance.
- The variety of suggestions for minimum standards and provision likely raise further viability concerns. Consultation with District Valuers will help analyse the cost of development and reasonable expectations.
- Existing policies regarding accessibility will be applied to co-living models, with an expectation for 30% of dwellings to be wheelchair accessible.
- Compliance with all policy and the possibility of grey areas arising when determining future co-living model planning applications raised concerns. Officers established that issues should be raised through the process, the guidance document had been produced to supplement existing planning policy and decision makers will judge each application on their own merit to determine a good balance if some aspects fall short on some policies.
- Members outlined some unease with publication of the guidance document due to some outstanding information regarding the application of policy and requested the amended version, subject to Members comments, be scrutinised further before release.

The Head of Strategic Planning provided a summary of the debate and the consequential process due to the scope of comments received and the further work needed on the document, whilst also outlining the need for co-living guidance given the current vacuum of policy for this model. It was noted that Members comments had been useful, and the debate can feed into the development of LLP2040 policies for co-living. The guidance will fill voids in national and local planning policy to ensure quality design, amenities and sustainability as these models come forward. Consultation with people holding experience of co-living and Members visiting a development will be essential for an accurate overview, the model needs to be held to the same standards as other housing models in Leeds, a focus on monitoring

delivery and quantity is required and there needs to be a pathway for reviewing the guidance once approved by the Panel.

The Planning Inspectorates report for the Liverpool co-living scheme appeal had given weight to the aggregated private and communal space formulation to meet NDSS standards while also noting the difference in determining space standards from traditional housing types. It was considered reasonable to take a broader view on space requirements, taking communal areas into account. This appeal had been dismissed due to the lack of aggregated space standards against policy; it was agreed that this report will be shared with Panel Members to provide further considerations to determine their view on co-living model guidance.

It was agreed as best practice for the guidance to be reviewed by Officers within City Development to address Members concerns and reflect their comments, then consult with Plans Panel Chairs and the Executive Member for Infrastructure and Climate while also having a pathway to consult back with Development Plan Panel Members to agree in principle, the full, interim guidance before it is approved by the Chief Planning Officer. The co-living technical guidance document was agreed to be published to fill the policy vacuum, with the availability for further amendments; some considerations may be dealt through further LLP2040 policy, such as space standards, while the extent of applicability of guidance for considerations such as on-site management and key worker provision, may be best dealt on a case by case basis when determining co-living applications.

The Legal Officer outlined that the technical guidance set out the Local Planning Authority's position on co-living which builds on existing policy of what is to be expected from a residential development. The guidance sets out how existing policy in relation to affordable housing, parking, green space provision and the like be applied to the new model. In determining co-living applications, decision makers will consider how the communal space contributes to the shortfall of private space as a material consideration. The publication will assist developers and planning applicants with understanding how and with what weight policy will apply to co-living developments.

RESOLVED –

- a) That the report and the draft technical planning guidance note “Co-living Technical Guidance note” at Appendix 1 of the submitted report, along with Members comments be noted.
- b) That, where appropriate, the comments made by the Panel be incorporated into the draft technical planning guidance note prior to the Chief Planning Officer giving approval for its publication for use in the determination of planning applications by the Chief Planning Officer.
- c) To note that the “Co-Living Guidance note” will be presented a future meeting of the Development Plan Panel for further comment and consideration.

46 Date and Time of Next Meeting

RESOLVED – The date and time for the next meeting of the Development Plan Panel was not confirmed at the time of the meeting.

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Biodiversity and Nature Recovery Update

Date: 18 July 2023

Report of: Chief Planning Officer

Report to: Development Plan Panel

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

There have been some changes in response to the biodiversity crisis nationally that have an impact on the way the Council protects and enhances the environment. The Environment Act 2021 introduces mandatory Biodiversity Net Gain, which is operated through the planning system. This legislation also introduces a need to prepare Local Nature Recovery Strategies at a sub-regional level. These changes provide an important opportunity to reverse decades-long declines in our natural environment and invest in our environmental assets across the District. This report describes work currently underway on these issues.

Recommendations

- a) Development Plan Panel is asked to note and comment on the contents of this report.

What is this report about?

1. This report is an update about emerging new and revised approaches to protecting and enhancing biodiversity in Leeds.
2. Leeds gets a lot of its distinctive character and identity from its green environment: two-thirds of the Leeds District is countryside (with the Southern Magnesian Limestone Natural Area to the east and the Pennine fringes to the west and north forming particularly important habitats). The environment also extends into the main urban area in green wedges (such as the Meanwood Valley and the Wykebeck Valley) and the two main rivers and canals form significant blue and green corridors (such as the Lower Aire Valley) which are very important for wildlife. The environment is very important in its own right for aspects such as biodiversity, but the quality of the environment also makes the District an attractive place to invest in, work in and live in, with corresponding benefits to mental health where there is good access to nearby natural greenspace.

3. The green environment includes both designated and undesignated areas of Leeds where nature can flourish and people can recreate – these include areas of woodland, grasslands, hedgerows, waterways and water bodies, gardens, allotments, farmland and field margins, scrub, and other open spaces. Many of these spaces are within the Council’s ownership, including within the key City parks and green spaces, nature reserves, flood management areas, recreational routes, verges and roadsides, footpaths or open land.

Biodiversity

4. Biodiversity is the variety of all life on earth – it includes all species of animals and plants, and the natural systems that support them. It is therefore not only about the rare or the threatened, but also the wildlife that is familiar to us, such as bees and other insects.
5. Habitats are the places in which species live. These species and their habitats provide substantial benefits and are vital for a well-functioning place. However, biodiversity has been in rapid decline for decades because of farming practices, pollution and development and the UK is one of the least biodiverse countries in the world. Climate change is one of seven factors causing biodiversity loss (as stated in the State of Nature Report 2019) and will also impact upon already threatened habitats and species largely due to changes to weather patterns. Biodiversity is therefore under threat, globally and in the UK, representing a significant crisis. This has serious implications for the physical environment (air, soil, water) the ability of the natural environment to provide natural resources (such as food and construction materials), our ability to respond to the climate emergency and for our physical and mental health and well-being.

Government Guidance and Legislation

6. The Government’s approach to the biodiversity crisis is as follows:
 - in 2018, the Government’s 25 Year Environment Plan¹ marked a step change in ambition for wildlife and the natural environment, setting out goals for improving the environment. Its overarching ambition was to “leave our environment in a better state than we found it and to pass on to the next generation a natural environment protected and enhanced for the future”.
 - in 2021 the Environment Act introduced a mandatory Biodiversity Net Gain requirement for new development along with Local Nature Recovery Strategies to target the best places for nature recovery and wider environmental benefits. When commenced in November 2023, a minimum 10% Biodiversity Net Gain will mean that developments leave habitats in a better state for wildlife than they were in before, whilst Local Nature Recovery Strategies will identify the most important places for nature and set local priorities for nature recovery
 - in 2023 Environmental Improvement Plan², the Government’s first revision of the 25 Year Plan, sets out a plan to deliver it and halt the decline in biodiversity. It makes clear that it is not possible to mitigate and adapt to a changing climate without nature-based solutions and advocates for a systems approach to the environment.
 - the National Planning Policy Framework (NPPF)³ sets out that planning policies and decisions should:
 - a) contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils,
 - b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services and minimising impacts on and

¹ <https://www.gov.uk/government/publications/25-year-environment-plan>

² <https://www.gov.uk/government/publications/environmental-improvement-plan>

³ Para 174

- c) providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

The Council's Planning Policies

7. The council has a statutory duty as the Local Planning Authority (LPA) to consider the conservation of biodiversity when making decisions on planning applications. This includes considering the safeguarding of species protected by law. To help carry this duty out the Adopted Core Strategy already has policies for biodiversity as follows:
 - Policy G8: Protection of important habitats and species. The policy strongly discourages development that would harm designated sites. Designated sites are shown on a Leeds Natural Environment Map.
 - Policy G9: Biodiversity Improvements. This seeks an overall net gain for biodiversity and a positive contribution to habitat creation as well as encouraging new development to be designed to enhance wildlife, and improve ecological connectivity through identifying the Leeds Habitat Network.
8. The emerging Local Plan Update “Your City, Your Neighbourhood, Your Planet” seeks to update and improve these policies within a wider systematic approach to improving Green and Blue Infrastructure and the way that nature can be protected and enhanced for multiple benefits across the District with a focus on biodiversity, greenspaces, trees, local food production and water use and storage. DPP have steered the development of these revised policies to Publication Draft stage. The proposed amended policies on biodiversity are:
 - Policy G8a: Protection of important species and habitats. Updated to allow for recently identified Local Wildlife Sites and Local Nature Reserves to reflect the importance of the emerging Local Nature Recovery Strategy.
 - Policy G8b: Leeds Habitat Network. New policy to stress the importance of joining the designated sites in a network across the District.
 - Policy G9: Biodiversity Net Gain. Amended to reflect Environment Act, set 10% BNG on all relevant development, presume on-site delivery and follow a mitigation hierarchy of “avoid, mitigate and compensate”, and set out detail of how information on BNG should be presented to the Council

Existing Biodiversity Activities

9. Leeds also has a Biodiversity Action Plan (BAP) which explains what habitats are important in the District, but is no longer supported by an active delivery partnership. Therefore, the LNRS and the operation of BNG will form the key delivery framework for the future.
10. There are 14 Local Nature Reserves within the Leeds District which are declared and managed for the benefit of people and wildlife, including Halton Moor and Killingbeck Meadows within the inner city. Within these the Council provides resources, including via rangers to lead a series of management and projects involving local communities, often through partnership with Yorkshire Wildlife Trust. In addition, the West Yorkshire Local Wildlife Sites Partnership has been active since 2009 and has been – subject to funding for West Yorkshire Ecology to employ a Local Wildlife Sites officer – reviewing existing and identifying new Local Wildlife Sites throughout West Yorkshire.
11. More recently the Council has been aligning its work on biodiversity with its Net Zero challenge e.g. by diverse tree and scrub planting, which joins up fragments of existing woodland and strengthens habitats. In some cases the planting and management of wet woodland helps to prevent downstream flood risks. In all cases local people are benefitting from newly created greenspaces and recreation routes.

12. Members of DPP were provided with an update on changes arising from national guidance and legislation at a meeting in July 2021. This report updates on progress since on two key areas: Biodiversity Net Gain and Local Nature Recovery Strategies.

What impact will this proposal have?

Biodiversity Net Gain

13. Biodiversity Net Gain (BNG) is an approach to development through the planning process that aims to leave the natural environment in a measurably better state than it was before development. It does this by creating and/or improving wildlife habitats, such as grasslands, hedgerows, woodlands and ponds on-site and where that is not possible off-site. The Environment Act 2021 makes the provision of a minimum 10% gain in biodiversity a compulsory requirement on all planning permissions (with some exemptions⁴). Compulsory BNG commences in November 2023⁵.
14. The 10% BNG uplift is measured in terms of “Biodiversity Units” and calculated using a national Biodiversity Metric. The metric considers the original number of Biodiversity Units on the site *before* development and the expected number of Biodiversity Units *after* development.
15. The Government expects the demand for off-site Biodiversity Units to stimulate the private market and establish a number of competing private habitat banks who will act as brokers to sell Biodiversity Units directly to developers. However, there is no guarantee that this route will deliver biodiversity improvements within Leeds or on local priorities. Private habitat banks and brokers are already active in all parts of the country, although private habitat banks will only be expected to tie-up land delivering BNG for 30 years. This poses the risk of biodiversity features being removed after that time has elapsed.
16. The Environment Act requires any off-site Biodiversity Units delivered through BNG to be in place for a minimum of 30 years and be approved through the planning process with a S106 legal agreement and/or Conservation Covenant linking the planning application to an off-site parcel of land. All sites delivering off-site Biodiversity Units will need to be entered onto a National Sites Register set up by Natural England.
17. The BNG process presents an opportunity for the Council to improve the environment in Leeds on land within its ownership or through partnering with other land owners. Since 2021 the Council has been working with the 4 other West Yorkshire Local Planning Authorities to understand the implications of the Environment Act and the opportunities it presents to them. To date this work has:
 - Commissioned WSP consultants (using new burdens funding from Government) to prepare a report on implications, resourcing of BNG within local authorities and options for how to gain benefits from it. The Executive Summary of this report is attached as **Appendix 1**. In short it sets out the benefits of BNG and the significant resource burdens involved for LPAs.
 - Established a West Yorkshire BNG Steering Group (with local authorities and statutory nature bodies and Government agencies) to use the WSP report to develop a detailed approach to BNG, which includes:

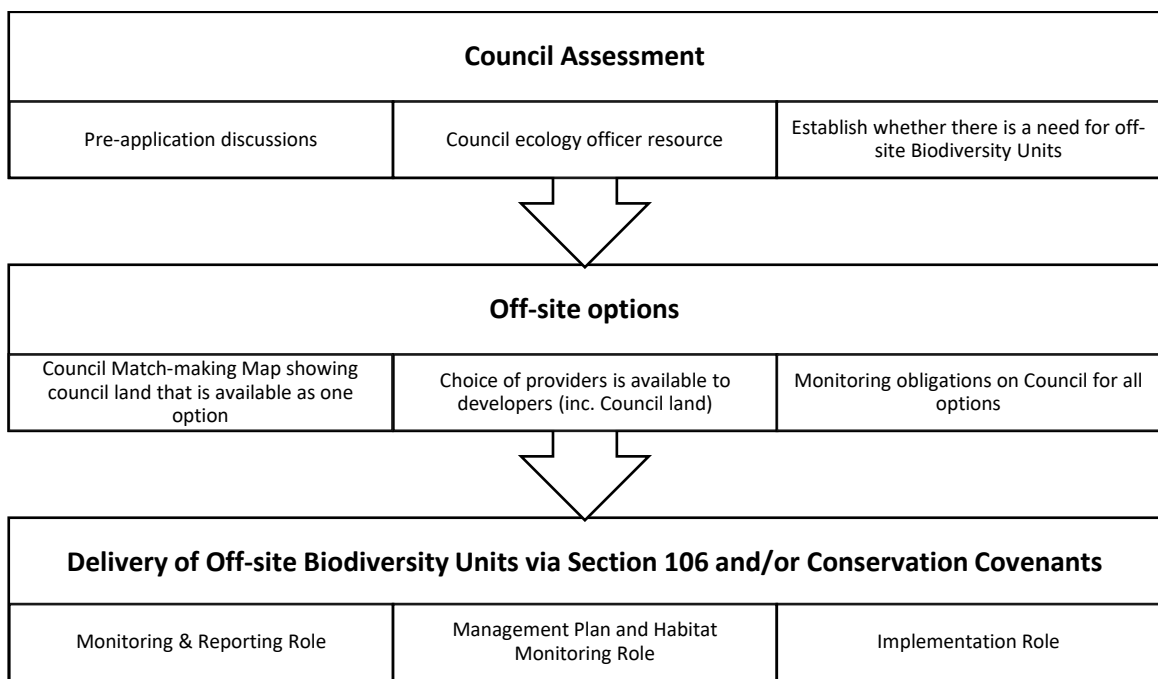
⁴ Exemptions for changes of use with no biodiversity impacts, permitted development and householder applications

⁵ Small sites and Nationally Significant Infrastructure Projects will have a delayed start date. Small sites will commence in April 2024 and are defined as: a) residential developments of between 1 and 9 units on a site having an area of less than one hectare, or if the number of units is not known (e.g. an outline application) if the site area is less than 0.5 hectares, b) other development types where the floor space to be created is less than 1,000 sq metres or where the site area is less than one hectare.

- a) Working jointly on Supplementary Planning Document production to set out what good BNG looks like and how to deliver it alongside new development on- and off-site
- b) Scoping and testing approaches to selling biodiversity units to developers
- c) Commissioning Yorkshire Wildlife Trust (using grant funding from Natural England) to review approaches and consider a specific approach being tested in Leeds City Council. The Executive Summary of this report is attached as **Appendix 2**. In short, the report endorses the Leeds approach to selling Biodiversity Units and the work of the WY BNG Steering Group.

18. The approach developed by officers within the Leeds Strategic Planning Service and considered through the Steering Group is the proposed approach for the selling of Biodiversity Units to developers and consequent receipt of monies to be spent on improving biodiversity on Council land. It is just one option of many available to developers (including delivery on land they already own) and is set out in **Appendix 3** and will be considered by Executive Board in September with detailed technical guidance.

19. The general process for off-site BNG delivery is summarised below:



20. Without the option of the Council selling Biodiversity Units for delivery on its own land holdings, the locations for off-site delivery of Biodiversity Units will be dictated by the private market based only on where land is available by those private BNG habitat banks and brokers. It is important to realise this could result in BNG being delivered in locations completely unconnected to the impact site including outside Leeds.
21. Conversely, if BNG is only delivered in locations where there is the most development taking place opportunities may be lost for it to be delivered where it could be most beneficial for wildlife and to benefit wider biodiversity strategic priorities (for example along green corridors to expand the range of wildlife already living in the city) – or in areas where people currently have the least access to nature on their doorsteps.
22. Therefore, the Local Plan Update considers in proposed Policy G9 and its supporting text that where off-site BNG is proposed it must be in the same locality where possible, whilst also considering the following 4 priority types of locations:
- Within or immediately adjacent to a designated nature conservation site or Habitat of Principal Importance (as per Policy G8a) = High Strategic Significance

- Within or immediately adjacent to the Leeds Habitat Network = Medium Strategic Significance
- Outside the Leeds Habitat Network but in a location that forms a new strategic connection between two separate parts of the Network = Low Strategic Significance
- Any other location but with clearly defined public access to provide the function of a nature reserve = Low Strategic Significance⁶

23. This will enable the Council to set District-wide and local nature priorities that can be delivered via the selling of Biodiversity Units. Such priorities will form part of wider work going on in the West Yorkshire sub-region on Local Nature Recovery Strategies. These are described below.

Local Nature Recovery Strategies

24. The 2021 Environment Bill enacted a commitment to a Nature Recovery Network made in the government's 2018 25-year Environment Plan to restore and enhance nature across England. Key to the Nature Recovery Network is a system of around 50 mandatory spatial Local Nature Recovery Strategies (LNRSs). These are statutory levers that, together, will help to agree priorities, identify high-impact opportunities to restore habitats and underpin wider nature recovery on the ground. The LNRS will comprise of a Statement of Biodiversity Priorities and a Local Habitat Map. The Statement of Biodiversity Priorities will agree priorities for nature recovery. The Local Habitat Map (drawing on the City Council's Habitat Network) will identify the most valuable existing habitat for nature and map specific proposals for creating or improving habitat for nature and wider environmental goals. DEFRA will require LNRSs to be re-published every 3-10 years.
25. As 'responsible authority', the West Yorkshire Combined Authority (WYCA) will work with supporting authorities (WY Districts, the Peak District National Park and Natural England) other partners and stakeholders to prepare and publish the LNRS for West Yorkshire by early 2025. A small project team is currently being supported by a LNRS Steering Group as follows:

Representing:	Works for:
Nature: Water	The Rivers Trust
Nature: Woodlands and trees	White Rose Forest
Nature: Overall	Yorkshire Wildlife Trust
Nature: Landscapes and supporting authority	Peak District National Park
Land use: Landowners and managers	National Farmers Union
Land use: Planning	Leeds City Council
Government: (DEFRA arm's length body)	Environment Agency
Regional government / responsible authority	WYCA
Local Government Ecologists: 5 Districts	Calderdale Council

26. The LNRS will help bring focus and consistency to existing biodiversity projects within the District (see paras 9 to 11 above) and the delivery of BNG. As the LNRS progresses there will be an opportunity for material to be brought to future Development Plan Panel meetings where this has a relevance with the implementation of the Local Plan.

⁶ The reference to Strategic Significance is from a multiplier in the Natural England Biodiversity Metric which incentivises locations which are best for biodiversity.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

27. BNG is relevant to the delivery of many of the priorities in the Best City Ambition. BNG delivery will be managed through the planning system and the Leeds Local Plan to ensure that health and well-being, active travel, natural infrastructure, zero carbon and recreational opportunities are enhanced through delivery. The Council's Net Zero Strategy and Climate Emergency Advisory Committee includes a working group on Biodiversity and Food, which will help steer and monitor progress.

What consultation and engagement has taken place?

Wards affected: ALL

Have ward members been consulted?

Yes

No

28. Consultation and engagement has taken place through the West Yorkshire BNG Steering Group, West Yorkshire Combined Authority Directors of Development and Heads of Planning, the West Yorkshire Duty to Cooperate planning group and an internal BNG Steering Group comprising officers from Planning, Legal services, Flood Risk Management, Asset Management, Climate Energy & Green Spaces.

What are the resource implications?

29. Implementing BNG creates a series of new opportunities and requirements for Local Planning Authorities, including collecting and scrutinising large amounts of data at planning application stage and monitoring and reporting on enhancements over the following 30 years. LPAs are legally required to deliver this, and there is no consistent new funding for this responsibility – what Government money there has been, is insufficient to fully fund new permanent posts. This is an issue for the Council when planners and ecologists are already overstretched.
30. The Planning and Sustainable Development Service is exploring the means of increasing resource for ecology within the Council.

What are the key risks and how are they being managed?

31. Authorities proving unable to manage their duties could be one of the biggest risks to the entire BNG system. With so much of the new workload being data-related, there is a role for mapping and new software systems to help mitigate this risk. To that end, the Council has invested in a West Yorkshire Habitat Bank Map and will continue to explore how the process can be made more efficient.

What are the legal implications?

32. BNG is a mandatory obligation on all development which will be managed through existing Section 106 arrangements. There will be a requirement for legal services to scrutinise such S106s in the same manner that they currently do for other parts of the planning system such as affordable housing or greenspace.

Options, timescales and measuring success

What other options were considered?

33. The Council could do nothing and not engage with the system of BNG, leaving it wholly up to the private market to deliver benefits. This would have few resource implications but leave biodiversity recovery to others to implement, potentially outside of the District.

How will success be measured?

34. Success measures (alongside monitoring and reporting arrangements) will be developed as part of the LNRS and BNG approaches outlined in the paper.

What is the timetable and who will be responsible for implementation?

35. The mandatory BNG requirement starts in November 2023 and the LNRS will be prepared for consultation in 2024 and completion by 2025. Implementation will be driven by the Planning and Sustainable Development Service in partnership with colleagues from other parts of the Council who may operate as Habitat Delivery Partners (such as Climate, Energy and Green Spaces, Flood Risk Management, Asset Management and Transport).
36. A paper and more detailed technical guidance report on BNG will be presented to Executive Board for approval in September.

Appendices

Appendix 1: Executive Summary WSP Report “A Self-Financing BNG System for West Yorkshire”

Appendix 2: Executive Summary Yorkshire Wildlife Trust Report “Exploring the future of BNG ‘Habitat Banking’ in West Yorkshire”

Appendix 3: Proposed Leeds City Council approach to selling biodiversity units to developers

Background papers

None

WSP Report a Self-Financing BNG system for West Yorkshire – Resources, Approaches and Policy

Executive Summary

WSP and Balfour Beatty were commissioned by the five West Yorkshire Local Planning Authorities (LPAs) to undertake a series of 'actions' (including interviews, workshops, desk-based research and GIS analysis) and then prepare a report which clarifies what resources, knowledge base and skills are required to deliver a self-financing Biodiversity off-setting & Biodiversity Net Gain (BNG) system for the five LPAs (both individually and working together at a West Yorkshire level) as required by the Environment Act. In addition, the report was to define what this system could look like in practice. It should be noted that at time of writing (May 2022), the Act is in a 'transition phase' and secondary legislation and further clarification from Defra is expected over the coming months.

There were numerous 'actions' of relevance to the LPAs, as set out in the original project brief from the West Yorkshire LPAs. Therefore, instead of detailing the results of all actions in this executive summary, a summary box section has been provided which illustrates the key takeaways for each action.

Due to the challenges of delivering all of the required Biodiversity Units on-site, off-site delivery (via a habitat bank) will be a necessary part of the BNG system for some applications. Private habitat banks already exist and during this transitional legislative phase some LPAs have already started selling Biodiversity Units to developers through sums agreed by S106 to deliver Biodiversity Units on Council land. After the transition period (November 2023) any Council Habitat Bank will need to have a formal governance system that demonstrates it is operating in-line with similar private habitat bank governance.

This study has identified that additional resources will be needed for each LPA to review and determine planning applications, monitor what is being delivered where, when and by whom, and take enforcement action as required. This will vary per LPA, depending on the size and development caseload, but a total of 8.6 FTEs has been estimated for an LPA the size of Leeds City Council. This figure includes extra resources with respect to validation, legal, and enforcement within each LPA (3.1 FTE Planning Ecologists and 5.5 FTE spread across the other roles for Leeds City Council). The estimates are based on each LPA delivering its Environment Act BNG obligations and does not reflect any efficiencies that could be made by pooling resources across the LPAs.

In addition, there is enthusiasm within the five LPAs for a habitat bank to be delivered and governed at a West Yorkshire level, which would include Council-owned land within each LPA and potentially private land with partners. If setting up and running this 'arm's length' habitat bank organisation at the West Yorkshire level, we predict that a single central resource of around 5 FTE (possibly growing to 10 FTE by 2030) could oversee the delivery of a West Yorkshire Council Habitat Bank across all five of the LPAs. This 'arm's length' organisation would employ staff focusing on the running of a habitat bank, and associated activities such as baseline condition assessment, monitoring and reporting, liaison with landowners and developers, and overseeing management.

June 2022

Exploring the future of BNG ‘Habitat Banking’ in West Yorkshire

Executive Summary

The expected mandatory implementation of Biodiversity Net Gain (BNG) in November 2023 is likely to be approached differently by Local Planning Authorities (LPAs) across the UK. Research efforts are increasingly focusing on the set up of individually led or combined Habitat Bank operating models for developments requiring off-site BNG delivery.

Yorkshire Wildlife Trust and the GIS team at Leeds City Council were commissioned by Natural England to review the feasibility of setting up a combined West Yorkshire Habitat Bank, as opposed to continuing with and adapting the current individual approaches of the five LPAs in West Yorkshire. This involved conducting a series of interviews and workshops with representatives from each of the LPAs, as well as with three potential Habitat Delivery Partners. It should be noted that at the time of writing (March 2023) secondary legislation and further clarification on the legal BNG requirements from Defra, is yet to be released.

The importance and benefits of collaboration were clearly evident through the study, and this refers to both collaboration within councils between, for example planning departments and land management functions, and between different councils which has been effective within West Yorkshire at progressing the preparations for mandatory BNG.

This research study highlights a number of common themes currently acting as constraints successful BNG delivery, which include:

- Limited resources/specialist skills/capacity.
- Lack of upfront funding to undertake baseline BNG assessments.
- Limitations of current IT and mapping software available to LPAs.
- Novelty of approach meaning implementation is resource heavy, with lack of systems in place within the current planning system.
- Limited application of new supporting mechanisms for BNG e.g. Conservation Covenants.
- Skills gap with reference to the Watercourse metric and the assessment of likely costs for Watercourse BNG.

Anticipated actions required to implement the delivery of BNG are identified. The potential for the set-up of a shared Habitat Delivery Map is also explored, as well as information requirements for potential delivery sites required for inclusion on the map.

There is enthusiasm across the five LPAs that a combined West Yorkshire Habitat Bank could be of considerable benefit to BNG delivery in West Yorkshire, including the potential to encourage the delivery of BNG on sites with public access away from the South Pennine Moors SPA/SAC, and the potential to strategically align with the release of Local Nature Recovery Strategies. However, it is recommended that as this option will require a significant amount of further feasibility work and is therefore unlikely to be in place by November; this should instead be seen as a ‘work in progress’ option, whilst individual LPA models with a shared mapping resource are pursued as an interim.

April 2023

Proposed Leeds City Council approach to selling biodiversity units to developers

Assessment of BNG by the Local Planning Authority at Pre-Application or Application Stage

1. There are three aspects to the Biodiversity Metric which all need to individually demonstrate a 10% increase:
 - Habitat Biodiversity Units
 - Hedgerow Biodiversity Units and
 - Water Course Biodiversity Units.
2. Officers will need to consider and scrutinise both baseline habitat submissions by developers and post-development values to be delivered. This will be assessed in line with Government Guidance on the metric. Water Course Biodiversity Units are challenging to deliver, need specialist accredited input and there is no known established habitat bank offering sale of these types of Biodiversity Units in Leeds or West Yorkshire - but these will be required for any applications within 10m of a wet ditch, beck, stream, river or canal that cannot deliver all of their 10% uplift on-site (this has implications for city centre sites).
3. The process of BNG consideration is highly technical and requires specialist skilled officers. It will have significant resource implications for the Council, with the WSP Report recommending that 3 FTE ecologists will be needed to deal with the increased workload in planning. New burdens funds from Government have been sporadic and are insufficient to pay for dedicated staffing resources. The Council currently has 1.8 FTE ecologists (increased from 0.8FTE in 2021), and the planning service is exploring ways of increasing this further through the approach outlined below.

Generation of need for Biodiversity Units

4. The mandatory 10% gain will be delivered via a condition placed on all eligible planning permissions. This condition will require developers to submit a pre-commencement Biodiversity Gain Plan (BGP) demonstrating how the 10% minimum uplift will be achieved. It will often be challenging to deliver this on the development site itself (as the extent of biodiversity improvement and principle of development will often be incompatible) and therefore the use of off-site parcels of land to deliver the residual numbers of Biodiversity Units will become commonplace. Whilst the expectations of the LPU policy are for on-site delivery of Units through good-design and demonstration of the mitigation hierarchy (through planning considerations), off-site solutions will be in-line with legislation and national BNG Guidance.

Off-site options

5. Where a developer requires off-site Biodiversity Units, they can deliver these via:
 - a) Land owned by the developer
 - b) Land owned by a third party who the developer has approached to request use of their land
 - c) Land made available by a private Habitat Bank
 - d) Land made available by the Council

6. Options “a” and “b” do not involve the purchase of Biodiversity Units but will need securing through a S106 obligation to enable Enforcement action (if subsequently required). Option “c” will require the developer to purchase Biodiversity Units from a private habitat bank (costs of these on the private market are currently unknown) and will also need securing through a S106 agreement. Option “d” will require the developer to purchase Biodiversity Units from the Council. However, option “d” only exists if the Council chooses to enter the market to sell Biodiversity Units to developers. Without this option there is no existing option to secure BNG monies from developers to deliver Biodiversity Units on Council land. It is important to note that developers are free to choose whichever option they wish.
7. The option of purchasing Habitat Biodiversity Units from the Council has been temporarily made available since 2020 because the private habitat bank market was not then developed to offer the other options. This has enabled the Council to already fund habitat biodiversity enhancements on Council land and provided considerable learning experience in the process.
8. To assist developers the Council has developed an on-line mapping tool known as a “matchmaking map” to align development proposals with biodiversity improvement opportunities. This has the benefits of:
 - showing a range of potential options for BNG across the District which can be continually developed (at the moment all Climate, Energy & Green Spaces Service land is mapped but further land assets in wider Council ownership with potential will also be mapped inc. flood risk management, transport and asset management – as well as land owned by like-minded partners such as Yorkshire Wildlife Trust and the RSPB)
 - identifying land which is close to development opportunities so that off-site net gain can be close to where it is lost
 - identify approximate numbers of Habitat Biodiversity Units and filter sites with Low, Medium or High BNG potential

Selling Council Biodiversity Units

9. The process of the Council selling Biodiversity Units would occur via the S106 process and involve:
 - a) **BNG 30-year Monitoring & Reporting Body** – this would be performed by the Planning Service and require overseeing off-site delivery for a period of 30 years scrutinising submission of a BNG Management Plan (and its progress reports) and periodic Habitat Monitoring reports (as well as checking the site has been entered onto the National Sites Register and reporting back to the Secretary of State on implementation of BNG). A proportion of the Unit cost would cover this.
 - b) **BNG 30-year Management Plan and Habitat Monitoring** – this would be performed by the Council Service responsible for delivering the net gain (the Habitat Delivery Partner). They would survey the site and produce a BNG Management Plan that demonstrates delivery of the required numbers of Biodiversity Units. Habitat Monitoring in years 1, 3, 5, 10, 20 and 30 will also be needed by an independent ecological consultant. A proportion of the Unit cost would cover this.
 - c) **BNG 30-year Implementation** – this would be the sum required by the Habitat Delivery Partner to carry out the habitat creation (if required) and subsequent 30 years management to achieve the approved number of Habitat Biodiversity Units stated in the S106 and 30-year BNG Management Plan. The majority of the Unit cost would cover this.

Capturing Off-site Monitoring & Reporting Body role costs where not on Council land

10. Where developers choose to deliver Biodiversity Units on their own land or via private habitat banks (instead of purchasing Biodiversity Units from the Council as outlined above) there will need to be a sum agreed in the S106 to cover the costs of the BNG Monitoring & Reporting Body role. Instead of this being a cost per Biodiversity Unit it is proposed to be a charge levied on the planning application via S106.
11. Note that there is no mechanism for charging for on-site Biodiversity Unit delivery being proposed in this report; but this will need to be reviewed and may need to be considered where “significant” on-site numbers of Biodiversity Units are being delivered (it would rely on a suitable charging mechanism and definition of “significant”).

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