

Development Plan Panel

Tuesday, 18th July, 2023

PRESENT: Councillor C Gruen in the Chair

Councillors J Akhtar, B Anderson,
K Brooks, P Carlill, H Hayden, J McKenna
and H Bithell

1 Apologies for Absence

Apologies for absence were received from Councillors C Campbell, A Carter and R Finnigan.

Prior to the commencement of the meeting Councillors H Hayden, J Akhtar and C Gruen indicated they may be late to the meeting. As Councillor C Gruen was the nominated Chair, Councillor H Bithell's nomination to the Chair was agreed for the start of the meeting.

2 Appeals Against Refusal of Inspection of Documents

There were no appeals.

3 Exempt Information - Possible Exclusion of the Press and Public

There were no exempt items.

4 Late Items

There were no late items.

5 Declaration of Interests

Members did not declare any interests at the meeting.

6 Minutes of the Previous Meeting - 4th of April 2023

RESOLVED- That the minutes of the Development Plan Panel meeting held on the 4th of April 2023 be approved as an accurate record.

7 Biodiversity and Nature Recovery Update

The report of the Chief Planning Officer provided an update about emerging, new and revised approaches to protecting and enhancing biodiversity in Leeds.

The Head of Strategic Planning presented the report, providing Members with the following information:

- The report had been brought before Panel Members due to a changed national response to the bio-diversity crisis and the mandatory requirement of The Environment Act 2021 for the introduction of Biodiversity Net Gain (BNG) by November 2023.
- BNG required a 10% net gain improvement on land, at time of receipt of an application, so developments left habitats in a better state for wildlife than before.

- As part of The Environment Act 2021, Local Nature Recovery Strategies (LNRS) had been enacted, with the process started in West Yorkshire.
- Paragraphs 1 to 5 of the report detailed the importance of biodiversity and its protection in supporting eco-systems and humans, alongside the impact of climate change. The importance of understanding the need to recover biodiversity was outlined.
- Paragraph 6 of the report detailed the Government's 25-year plan and response to restore lost biodiversity and supporting the future natural world.
- Paragraph 7 outlined planning policy in aid of conserving biodiversity, referencing policy G8, *protection of important habitats and species* and policy G9, *biodiversity improvements*. The Environment Act 2021 was noted to go further than any current policy, stating biodiversity net gain should be a 10% proportionate increase for a given development site.
- Paragraph 8 noted emerging Local Plan Update (LPU) policies which had themes of biodiversity, particularly green and blue infrastructure policy, with the intention to strengthen these policies alongside changes being applied to the biodiversity agenda.
- Paragraphs 9 to 11 set out existing work related to biodiversity protection and enhancement, including the Biodiversity Action Plan (BAP), management of important sites, including the 14 nature reserves within the Leeds District and the Net Zero challenge and associated tree planting.
- The impact of BNG was noted to have two key effects, firstly, the impact of technical scrutiny that biodiversity will receive through the planning system and secondly, the opportunity for the Council to act as a broker with the purchase and sale of biodiversity units for developers to fulfill policy obligations.
- The Environment Act 2021 had set out a system for habitat banks, where the impact of development will be calculated and then it will be determined whether BNG can be achieved on or off site. If off site units can be sold and funds, then spent on appropriate enhancement projects.
- Paragraphs 13 to 36 and appendix 1 set out how the BNG unit system will work, with paragraph 17 detailing specifics for the Leeds district and the strategic planning systems approach and engagement with West Yorkshire partners, including the West Yorkshire Combined Authority (WYCA) to develop a best delivery model.
- The delivery model included a match making map, so developers will be able to research appropriate sites for biodiversity enhancement. The planning application stage will include a Government metric to determine what units can be used and the appropriate habitat enhancement can be made dependent on the development site, particularly if net gain will be off site.
- The general process for off site BNG was summarized between paragraph 19 to 23, and in detail at appendix 3. Requirements included the match making map, engagement with applicants at the pre-application stage, different options for habitat brokers for developers as this will be a private market operation. If using the Council as a broker a habitat delivery partnership will be established, potentially involving Climate, Energy and Green Spaces, Asset Management, Flood Risk Management and Highways.

- A detailed technical approach will be utilized to manage BNG projects, as set out in appendix 3, with Council responsibilities to monitor activities for a 30-year period.
- Paragraphs 24 to 26 set out the LNRS, which reflect the state of key designations, particularly significant post-Brexit with European Union laws for nature conservation now covered by the UK Government.
- WYCA will produce a statement of priorities, developed in liaison with the 5 Local Authorities it covers. Relevant parties of LNRS steering groups were detailed at paragraph 25.

Members discussed the following key matters:

- It was noted that the preferred option will be for projects to be delivered on site or within the locality of development to benefit the community a given development will impact.
- For off site BNG units, the price was outlined to be determined by the private market, with the amount other banks will be charging not yet available. The Council will have the opportunity to determine what price they would charge for a unit, but if this was set too high developers may go elsewhere; the intention was to try keep the price the same across the district.
- In response to a query relating to a body to cover West Yorkshire, it was noted that each of the five Local Authorities employed a nature conservation officer which may complicate the ability of development management between authorities but may be appropriate for a shared bank system for BNG units given the match making map will cross district boundaries.
- A conversation between the WYCA authorities was ongoing to determine whether one of five authorities could specialise in river ecology management.
- Management for the cost and delivery of BNG units may offer influence for on site preference, charges may be added through Section 106 agreements for off site provision. The management role will be aimed to be delivered at cost.
- BNG was noted to be a planning function covered by the Council, WYCA's role will be focused on LNRS delivery but this work will overlap with LNRS being incorporated into a spatial map, including the Leeds habitat network, with future planning policy including LPU to accommodate BNG and LNRS.
- The financial monitoring process was noted to be ongoing, with a report due for Executive Board in September 2023 detailing how governance of BNG will be expected to work and what bodies may need setting up within the Council to implement it.
- Reassurance was given that a diverse range of habitats will be included within the scope of the scheme. It was noted that, with the Environment Act 2021, the Council can act as a broker in the BNG unit market and Council strategy will guide appropriate schemes and locations.
- It was confirmed that the 10% BNG will be measured on a given site from the time the application was made and although it will not consider historically what had been lost, the projects may recover neglected areas, particularly inner-city areas, which had experienced greater biodiversity loss.
- The type of habitat for BNG will vary, and quantified proposals will come forward from developers; once further biodiversity strategy had been

adopted, key priorities, for example degraded nature reserves, can be encouraged.

- It was noted that buying land through BNG units was not permitted under the national system and land for improvement will likely be acquired as usual.
- Local public consultation will be carried out via the planning application process and through individual departments of the Council responsible for implementing net gain. This can include consultation with the public through Elected Ward Members and scrutiny of priority plans. The biodiversity proposals will be available on Public Access and all relevant development from November 2023 will have an automatic condition for the 10% BNG, available for public scrutiny.
- Mapping prejudice for existing nature sites projects was noted as a potential issue but the best sites for BNG delivery will be identified, with thought to wider social impacts and public access. A study of the hierarchy of need for nature was proposed.
- To provide biodiversity, as opposed to monoculture, it was noted that the Nature Conservation team will scrutinise submitted BNG plans to ensure plans are appropriate and the BNG will be achievable.
- If a site was to be cleared by a developer before submitting an application, the 10% BNG uplift would be measured against the previous state of the land.
- Members noted that national guidance should support Local Authority choices and strategies to enhance their communities and nature.
- BNG will be delivered with regard to wider Council land allocation for green spaces, sports facilities and nature conservation. BNG is in addition to the provision of green spaces through the planning system but may, in some cases, be delivered in tandem where appropriate e.g for natural type greenspaces.
- Green spaces serve multipurpose functions and although recreation and BNG may coincide it will not be at the expense of local amenity provision.
- As concern was raised regarding losses to community assets for BNG it was outlined that LPU green and blue infrastructure policies, active travel initiatives and health and wellbeing strategies implement comparable narratives and encourage accessibility of natural places.
- Conversations between partners in possession of significant land across the district, such as Yorkshire Water, Yorkshire Wildlife Trust and the RSPB will be needed to establish best practice to benefit biodiversity.
- Concern was raised in relation to the notion that BNG can be provided at unconnected sites and even outside of the district if left to the private market, as referenced in paragraph 20. It was noted this is Government legislation. In cases where the Council was to sell BNG units this would not happen.
- It was noted that if a private habitat bank was involved in a planning application local people be frustrated if there is no requirement for provision to be within Leeds or improve local amenities.
- The model had been developed by the Government for recovering biodiversity through a private market system and the Council can benefit through income streams and investment. The Council can set up methodology, as best use of its resources, in a way that fits the BNG agenda

whilst trying to influence the private market and optimise amenity provision within the district.

- In response to a question regarding off site BNG being incorporated to Section 106 agreements, it was noted that, BNG is separate to green space contribution, it was dependant on whether BNG was delivered by private habitat banks or the Council but off site BNG units can be delivered through the section 106 process.
- Legal advice noted, green space provision and BNG delivery as two separate legal obligations and BNG delivery will be monitored for a 30-year period as contractually agreed within a section 106.
- Supplementary planning guidance was in development and will establish expectations for BNG delivery by developers. This was expected to be available within 6 months.
- Retrofitting living green walls and roofs may appropriate BNG delivery however, the metrics will need to be determined before a planning application was approved.
- Members noted that it may be useful to provide explanation for the public regarding the differences between beauty and utility for BNG delivery as some purposeful projects may provide good biodiversity advantages (which is the chief purpose) while providing limited public amenity.
- It was confirmed that there was no intention for BNG units to be sold for developments outside of the Council's geographical jurisdiction.
- It was noted that the metrics for determining the price of a BNG unit was to be set up by the Government. The metric will be a complex tool and will not require all like for like habitat replacement but for a higher distinctive habitat.
- Off site BNG delivery will go on a national sites register to allow medium or large preferred site networks to be tracked and pockets of land to be improved and joined up. Members noted this may not be as effective for inner city wards where green space and natural land is limited and broken up. However, the Leeds Habitat Network does cover a significant part of Leeds including the inner area.
- Members outlined a strategy for BNG delivery within the inner city may be appropriate. The river corridor was an important set area which could be developed to facilitate nature and public use in inner areas.
- For brown field site developments, it may be difficult to deliver any BNG as a 10% uplift on potentially zero biodiversity measured on a site would not equate to a BNG requirement. It was noted by Members this may enhance biodiversity inequality, but that a strategy for improvement can address this.
- Members noted the possibility of BNG delivery being unconnected and outside of the Leeds district as problematic and outlined provision should strive to be within the district and as close to development sites as possible.
- Future maintenance of onsite delivery for land within the Council's jurisdiction will be subject to monitoring for the 30 years and will include ongoing costs which were to be reviewed over the time period.
- The cost of managing a new site, for example a nature reserve requiring staff, may be incurred by developers. There were a multitude of partners, charities and conservation organisations that own and manage sites across the district that would need to be involved in the conversation.

- The Council needed to develop BNG strategies to influence BNG plans against the Governments model and the private market to improve biodiversity and public amenity spaces in Leeds.
- It was agreed that paragraph 20 of the report will be reviewed in order to be more explicit as to what was set by the Government and what the Council were seeking. Feedback from Members will be incorporated into the report, brought back to the Panel in September before it will be submitted to the Executive Board.
- A hierarchy for areas most in need for improved biodiversity may assist with provision being within Leeds. Four key priority habitats were included in Policy G9 (which was part of the LPU policy) noting strategic significance. Watercourse BNG units may be used more widely across Local Authority boundaries.
- As there may be an interim period where the Council was engaged with the BNG market and had not yet fully adopted LPU policies, challenges may arise in applying policy G9.
- It was noted the Council had no power to control land within the ownership of public sector institutions however, matchmaking maps and discussion may alleviate competition and work in favour of BNG.
- A natural environment map was a public online tool displaying natural land networks across the district. This map was being updated as part of the LPU policy update process and could be used to outline preference for provision in key strategic areas. Ongoing work will be conducted to identify key sites and networks.

(Councillors H Hayden, J Akhtar and C Gruen joined the meeting during consideration of this item, with Councillor C Gruen taking the Chair)

RESOLVED – That the report, along with Members comments, be noted.

8 Date and Time of Next Meeting

RESOLVED – To note the date and time of the next meeting as 26th September 2023 at 1.30pm. (it was noted that this date was to be reviewed during the meeting)