

**Report to:** EXECUTIVE CABINET

**Date:** 25 October 2023

**Executive Member:** Councillor Jan Jackson, Executive Member (Planning, Transport and Connectivity)  
Councillor Denise Ward, Executive Member (Climate Emergency and Environmental Services)

**Reporting Officer:** Julian Jackson, Director of Place

**Subject:** BIODIVERSITY NET GAIN

**Report Summary:** The report outlines the new mandatory net gain requirement for biodiversity introduced by the Environment Act 2021 becoming a requirement that applies from January 2024 for developments in the Town and Country Planning Act 1990, unless they are exempt, and to small sites from April 2024 applying for planning permission. It further outlines a range of activities which have been undertaken in readiness for the new requirement and details the opportunities which exist to the council as a landowner.

- Recommendations:** Executive Cabinet are recommended to:
1. Note the impending requirement for biodiversity net gain for most new development and the consequential demand this will create for biodiversity offsetting;
  2. Note the process required to bring Tameside owned sites forward to be ready to provide potential biodiversity offset locations as set out within Section 3 of this report;
  3. Note the outcomes of the supply and demand work as set out in **Appendix 1**;
  4. Endorse the approach of assessing our own land with the principal that this be used as a potential offset site, subject to further member reporting.

**Corporate Plan:** Biodiversity Net Gain assists the corporate plan priorities around infrastructure and environment, in particular by ensuring a sustainable environment that works for all and future generations.

**Policy Implications:** Net gain requirements for biodiversity have been introduced by the Environment Act 2021, becoming a requirement that applies from January 2024 for developments in the Town and Country Planning Act 1990, unless they are exempt, and to small sites from April 2024 applying for planning permission. This report does not seek to introduce new policy in-itself but seeks to maximise the potential opportunities which present themselves through the new legislation whilst minimising a number of risks.

**Financial Implications:** (Authorised by the statutory Section 151 Officer & Chief Finance Officer)

The Council have been allocated revenue grant funding from Defra to support Biodiversity Net Gain readiness works in both 22/23 and 23/24. The table overleaf shows the remaining balance available from 22/23 and the allocation for 23/24.

Year	£
22/23 carried forward	£15,807

23/24	£26,807
<b>Total</b>	<b>£42,614</b>

One of the ways in which the Council can ready itself for the biodiversity net gain requirements is by carrying out full assessments on the pieces of Council owned land identified in **Appendix 2**. It is expected that the cost of these assessments, of approximately £31,000, will be fully funded through the allocated grant. As the available grant is greater than the costs of the assessments, there is not an expectation this will cause pressure to the General Fund revenue position. Cost overruns will have to be constrained within existing resources in Place.

Once the assessments are completed, the Council may be able to market and sell offsetting credits to developers. This will be subject to further Member reporting to consider the outcomes of the assessments and suitability of the identified sites for achieving net gain for biodiversity. Subsequently, further work will also be needed to determine an appropriate charge that could be levied for a unit, considering all potential costs and market pricing. The outcome of this costing exercise will also be subject to further Member approval, which will be sought at the same time as seeking authority to put the Council's land into the marketplace.

There is the potential that in developing and maintaining offsetting sites as a chargeable service, the Council could reduce some existing costs associated with managing these sites resulting in a favourable impact on revenue budgets, or reduced pressure on existing capacity, within the Place directorate. This will need to be monitored with any ongoing reduction in cost factored into the Medium Term Financial Strategy.

It is expected the new national requirement will not place significant pressures on capacity within the Planning Department and instead, most resourcing pressures will fall upon the Greater Manchester Ecology Unit (GMEU) as the Council's ecological advisors. The Council pay an annual contribution to the GMEU of £16,586 which supports the review of statutory ecological assessments currently carried out as part of considering planning applications. This contribution is made as part of the Council's payment to GMCA and the budget sits within the Governance Directorate. As a result of the increased resource pressures on GMEU, an additional contribution has been requested through GMCA equating to £3,500 from each Local Authority. Subject to this being approved at both a local and Greater Manchester level, this can be funded from the Biodiversity Net Gain funding already received as a one off in year. Any recurrent variation to the agreement between the Council and GMEU must be managed within existing budgets.

Whilst the budget for the GMCA contribution sits within Governance, it should be noted that the revenue budget for Planning is supported by income generated through fees and charges. As planning fees are set nationally, the Council do not have the authority to increase fees to recover any additional costs and it is not yet known if there will be any national increase to reflect the new requirements linked to biodiversity net gain which could support this request on a recurrent basis.

**Legal Implications:**

The legal implications are contained in the main body of the report

**(Authorised by the  
Borough Solicitor)**

**Risk Management:**

The report seeks to manage risk to the council across a number of areas. Most notably that if there is not consideration of making use of council land to receive off-site investment in ecological mitigation from development, there is the potential that this investment leaves Tameside which has both financial and reputational risks but also ecological too. Further to which there are risks that if off-site opportunities are not readily available the development pipeline becomes stifled as off-site opportunities become more challenging to come by and as a consequence so does achieving planning permission. In addition, there are risks with taking forward council owned land for potential biodiversity offsetting, including financial, reputation and liability and further work will need to be undertaken to fully understand and manage these risks.

**Access to Information:**

**Appendix 1** sites considered as part of desk-based assessment.

**Appendix 2** potential opportunity sites.

**Background Information:**

The background papers relating to this report can be inspected by contacting Graham Holland, Planning Policy Manager or Nicola Marshall, Greenspace Development Manager



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## **1. INTRODUCTION**

- 1.1 The Environment Act 2021 legislates for mandatory net gain for biodiversity as a requirement of most new development consented by a local planning authority. Biodiversity net gain is a significant part of the government's objective to improve the environment for future generations as endorsed by the 25 Year Environment Plan<sup>1</sup> as it is a way to contribute to the recovery of nature whilst developing land.
- 1.2 The net gain requirement was to apply from November 2023, however this has moved back to January 2024 through recent government announcement<sup>2</sup>, for developments in the Town and Country Planning Act 1990, unless they are exempt, and to small sites from April 2024. The requirement to achieve a measurable uplift in biodiversity of at least 10% compared to the baseline of a site before development has implications for a range of parties, most notably local planning authorities and developers, but also land managers.
- 1.3 The Council as a local planning authority will have to approve a biodiversity net gain plan where this forms a requirement of an application for planning permission to ensure that a net gain will be achieved. In doing so it will consult with the Greater Manchester Ecology Unit who service Tameside, amongst the other Greater Manchester boroughs, with specialist ecological advice.
- 1.4 In readiness for the new requirement being introduced across England, several council officers have and continue to be involved in a range of work streams with the GMCA, GM Ecology Unit, peers across the other GM districts and a range of statutory and advisory bodies including Natural England and the Planning Advisory Service to ensure a smooth introduction to the new requirements.
- 1.5 Further to the above, government grant funding of close to £60,000 has been successfully accessed for the financial years 2022/23 and 2023/24 to assist in delivering a range of associated activities and training, some of which form the basis of this report, to ensure Tameside is ready for the introduction of the net gain requirement.

## **2. BIODIVERSITY OFFSETTING**

- 2.1 As a developer the new requirement continues to advocate that the loss of habitats should be avoided in the first instance and that net gain should first be delivered on the development site itself, through avoidance, minimising loss and seeking restoration of what already exists. If however this cannot be achieved they must create a habitat either on-site or off-site. The process to determine and measure what the requirement is applies what is known as a biodiversity metric. The metric establishes a baseline, scoring the ecological value of a site against a set of nationally standardised criteria.
- 2.2 Where enhancement is to be provided on site, this should be provided within the red edge of an application. Off-site gains however can be on any land away from the development site, either within a developer's direct control or where a biodiversity unit has been bought from a third-party land manager. As a last resort, where off site land is not available, credits can be bought directly from the government, who will then invest this money in habitat creation as appropriate nationally. All of these options may occur in combination to achieve an overall net gain of at least 10%.
- 2.3 Developers will be able to choose how to source off-site credits. They will not be in the form of a payment to the local planning authority, but instead there will be an open market for biodiversity credits with developers able to choose who they wish to achieve their off-site

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

<sup>2</sup> <https://www.gov.uk/government/news/biodiversity-net-gain-moves-step-closer-with-timetable-set-out>

credit with. Given the general challenges and constraints of bringing development land forward there is expected to be significant demand for off-site credits.

- 2.4 The way in which the biodiversity metric works means that units created closer to a development site will be weighted more favourably than those further away or of a lesser ecological priority. This in effect incentivises a developer to shop closer to home when looking for off-site credits.
- 2.5 However, there is a risk that sites outside of Tameside, either in other Greater Manchester districts or even beyond the city region, could be used to offset biodiversity losses caused by development here, particularly if local options do not materialise. Further, risk exists of losing investment in Tameside habitats and ecological priorities, encouraging a process of localised ecological decline if local off-set sites are not ready, available and competitive within the biodiversity net gain off-site marketplace.
- 2.6 It is therefore considered imperative, in managing the above risks, that where the Council has land, over which it has a direct ability to influence its management, that these should be explored as potential off-set sites where developers could invest in to achieve their net gain requirements.

### **3. GREENSPACE**

- 3.1 The Council owns and manages a portfolio of greenspace sites with a diverse range of habitats including mixed deciduous woodland at river valley sites such as Hulmes and Hardy Wood; modified grassland at Copperas Fields; ponds and upland acid grassland at Carrbrook.
- 3.2 The Council currently maintains these sites within the resources available through Operations and Greenspace staff and with the assistance of Greenspace Volunteers. Whilst the management of all sites is acceptable, and in some cases good, resources do not allow the Council to enhance these habitats to their full potential. The Council's resources are rightly focused on maintaining safe public access and conservation work is carried out with the assistance of volunteers.
- 3.3 Biodiversity Net Gain is a great opportunity for the Council to receive external funding to enhance the biodiversity standards on its own land. This will not only enhance the sites but can also assist the Council in meeting its targets around sustainability and achieving carbon net zero.
- 3.4 The land available for enhancement will remain in Council ownership and there will be a contract in place which commits the Council and/or its partners to carry out the enhancement work and then maintain the site for 30 years to the relevant standard as set out in a Management Plan. Therefore, the Council needs to carefully consider the land where it makes units available for sale; once the land is part of a biodiversity net gain agreement it will not be available for sale or commercial/residential development for 30 years. On this basis Officers are currently focusing assessment work on existing recreation areas and countryside sites to be considered for enhancement through net gain. Officers have consulted with Estates and Planning on the list of sites.
- 3.5 In order to understand the amount of biodiversity units available, and the likely cost per unit, Officers worked with colleagues in Greater Manchester Ecology Unit to carry out a desk-based assessment of Council owned land, as well as three sites where there is Council owned land adjacent to land in the ownership of Land Care Ltd and the Hyde War Memorial Trust. The Greater Manchester Ecology Unit looked at the type and condition of habitat on each site and the size of each site in order to establish how many units may be available.

- 3.6 The work carried out by Greater Manchester Ecology Unit demonstrated that within Tameside there was likely to be a need for over 300 units from potential development looking forward. A realistic assessment of the number of units available from the 15 sites listed at **Appendix 1** is 400 units. This is across both Council and non-Council land.
- 3.7 Following the desk-based exercise carried out by the Ecology Unit the Council has commissioned Greater Manchester Environment Fund to carry out full biodiversity net gain assessments on 5 Council sites listed at **Appendix 2**. These sites were identified as they are likely to offer most units, are distributed across the Borough and are within the Council's gift to manage accordingly. This work is to be funded through the government grant referred to above at 1.5 and through the Greenspace revenue budget if this becomes necessary. A further 5 sites are to be assessed in 2024, these sites are listed at **Appendix 2**.
- 3.8 The outcomes of the full assessments of the first 5 sites will be available in October, at which point Officers will be able to publish these sites on the Greater Manchester Unit catalogue which will be maintained by Greater Manchester Ecology Unit and will be available to developers, subject to further member reporting as set out in recommendation 4. The Council could then enter into agreements with developers for these sites.

#### **4. CONCLUSION**

- 4.1 The mandatory requirement for new development to provide a demonstrable net gain in biodiversity will have implications for developers and the council both as local planning authority and landowner. A range of activities have been undertaken to prepare for this new requirement as detailed in this report, and work is ongoing to take advantage of the opportunities available to the council. It is expected that as preparatory work continues, notably in regard to assessing and committing council-owned land for offsetting opportunities, that this will be updated through further reporting.

#### **5. RECOMMENDATIONS**

- 5.1 As set out at the front of the report.