



## Portfolio Holder Report

The portfolio holder will make a decision on this item after seven days have elapsed (including the date of publication).

Report of:	Portfolio Holder	Date of publication
Marianne Hesketh, Corporate Director Communities	Councillor David Henderson, Resources Portfolio Holder and Councillor Alice Collinson, Planning Policy and Economic Development Portfolio Holder	9 March 2023

### Biodiversity Net Gain – Procurement of Services and Grant Funding

#### 1. Purpose of report

- 1.1 To seek approval to implement biodiversity net gain and accept grant funding.
- 1.2 To seek approval for an exemption to the Council's financial procedure rules for the procurement of consultancy services to support the delivery of biodiversity net gain.

#### 2. Outcomes

- 2.1 To implement biodiversity net gain and local nature recovery requirements set out in the Environment Act.

#### 3. Recommendations

- 3.1 That the council accepts additional biodiversity net gain extra burdens grant funding when available from government and make this funding available to the Planning Department to support the delivery of biodiversity net gain services.
- 3.2 That the Resources Portfolio Holder delegates authority to the Corporate Director Communities to allow for the appointment of consultants under the exemption to Contract Procedures contained within the Financial Regulations and Financial Procedures rules, that the goods, works or services are of a specialised nature carried out by only one or a limited

number of firms with no reasonable satisfactory alternative available, to support the delivery of biodiversity net gain.

- 3.3** That a virement of £10,050 be actioned and following approval of the budget, the amount be transferred into 2023/24.

#### **4. Background**

- 4.1** Biodiversity net gain (BNG) is an approach to development, and/or land management, that aims to leave the natural environment in a measurably better state than it was beforehand.
- 4.2** BNG is not a new concept and the consideration of ecological and biodiversity enhancements is a requirement in existing national planning policy and guidance, which is reflected locally in Policy CDMP4 of the adopted Wyre Local Plan (2011-2031) (incorporating partial update of 2022).
- 4.3** The Environment Act came into force in November 2021 and has introduced a mandatory requirement to consider BNG. Under the Environment Act 2021, all planning permissions granted in England (with a few exemptions) will have to secure at least 10% BNG. It is understood that the Government intend that the 10% uplift in biodiversity will become mandatory from November 2023. Evidently, the mandatory requirement will have significant impact on the planning department, its resources and its users. In anticipation, it is appropriate to consider and be prepared for the mandatory requirement and work is currently underway on its local implementation.
- 4.4** To date, the government have provided the council with a one off payment of just under £10,050 to support the local planning authority in the preparation and implementation of mandatory BNG standards. It is expected that the Department for Environment, Food and Rural Affairs (DEFRA), on behalf of the government will be announcing additional resourcing for the new burdens later this year. It is currently understood that additional grant funding will be short-term only.
- 4.5** To help inform where BNG should be delivered, the Environment Act requires Local Nature Recovery Strategies (LNRS) to be prepared. For Wyre, this is understood to become the responsibility of Lancashire County Council. To date, the government have published draft regulations and further clarification on BNG is expected as part of the final regulations set to be published in Summer 2023.
- 4.6** To support the determination of planning applications, Greater Manchester Ecology Unit (GMEU) currently provide specialist ecological advice to, and on behalf of, Wyre Council to support the current ecological and biodiversity requirements. GMEU have developed local ecological knowledge and expertise in Wyre. They are also currently developing considerable experience of implementation BNG in Greater Manchester, ahead of the mandatory requirements. The GMEU service is

delivered by Tameside MBC on behalf of all Greater Manchester Authorities.

## **5. Key issues and proposals**

- 5.1** To obtain specialist ecological advice, the total estimated value of the contract is over £10,000 and up to £100,000. In accordance with Financial Regulations, three written quotations should normally be obtained.
- 5.2** In accordance with the exemptions to the contract procedures, the services required are of a specialised nature and can only be carried out by Greater Manchester Ecological Unit (GMEU). This is because the consultants will have to appraise previous planning applications and have the local knowledge, skills and expertise to ensure consistency in the planning process. This will also result in time and cost savings compared to developing the local knowledge and expertise with a new consultant, which there are limited consultancy that could be available.
- 5.3** To support the determination of planning applications, specialist ecological advice from GMEU currently cost circa £10,000 annually, dependent upon the number of planning applications that typically require ecological advice. To meet the new mandatory BNG requirement, a 25% increase in annual fee to obtain expanded ecological advice is expected. This is subject to the outcome of the final regulations.
- 5.4** The additional new burdens grant funding from DEFRA will support the establishment of new processes and procedures and will fund additional ecological advice. It will also fund potential additional legal advice to support Section 106 agreements.
- 5.5** Discussions are currently underway with Lancashire County Council to understand the process, timescales and how Wyre will be involved in the development of LNRS, so that it reflects local priorities. Additional consultancy support and advice may be required to develop and understand local priorities in Wyre and contribute to the LNRS.
- 5.6** Implementation of BNG is likely to lead to actions that will reduce the negative impacts of climate change through mitigation and adaptation.

## **6. Delegated functions**

- 6.1** The matters referred to in this report are considered under the following executive function delegated to the Resources Portfolio Holder (as set out in Part 3 of the council's constitution): "to consider departures from rules relating to financial and contractual matters if appropriate".

<b>Financial and legal implications</b>	
Finance	The BNG grant of £10,047 will be transferred from 3591 to 3550 to support the planning department's implementation of mandatory BNG, including commissioning consultancy services to provide specialist ecological advice. It is expected that spend will commence in 2023/24 and therefore the grant will be transferred to the new financial year following approval of the budget. Additional BNG grant funding will also contribute and is expected to cover the additional resource burden for 2023/24 financial year only.
Legal	A contract will be entered into with any appointed consultant or service provider to comply with the council's Financial Procedure Rules and Contracts Procedures.

### **Other risks/implications: checklist**

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

<b>risks/implications</b>	<b>✓ / x</b>
community safety	<b>x</b>
equality and diversity	<b>x</b>
sustainability	<b>x</b>
health and safety	<b>x</b>

<b>risks/implications</b>	<b>✓ / x</b>
asset management	<b>x</b>
climate change	<b>✓</b>
ICT	<b>x</b>
data protection	<b>x</b>

### **Processing Personal Data**

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

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<b>List of background papers:</b>		
name of document	date	where available for inspection
None		

**List of appendices**

None.