

Report subject	Biodiversity Net Gain Task Force Recommendations
Meeting date	27 July 2022
Status	Public Report
Executive summary	<p>Biodiversity Net Gain (BNG) is an approach to development and / or land management that aims to leave biodiversity in a measurably better state than before. BNG in the development process is now a statutory requirement following Environment Act coming into force in November 2021. The Act proposes to require all development to deliver a mandatory 10% BNG to be maintained for at least 30 years. However, the Government are continuing to consult on the practical and legal details of the BNG requirements as part of secondary legislation.</p> <p>Cabinet considered a report in December 2021 outlining initial actions to implement BNG on a wider scale in the BCP Council area. This report updates the previous report and makes further recommendations.</p> <p>The BNG Guidance Note is an interim position pending the national introduction of BNG. If Cabinet and Council supports its adoption it will be used to ensure that all new relevant development contributes to BNG in advance of the Act taking effect as encouraged by the National Planning Policy Framework (NPPF) and current planning policies across the three legacy areas.</p> <p>A review of the Council's estate to understand the existing and potential biodiversity will allow the Council to undertake BNG projects that could be part funded by developers.</p> <p>The preparation of a BNG strategy and implementation plan would enable the Council to plan for BNG across the Council estate and wider area in a joined coherent manner.</p> <p>These proposals will play an important part in the work in progress of developing an effective BNG strategy in the BCP area. £90,000 has been identified for this project for 2022/23. To implement these proposals will require the appointment of a temporary ecologist for 18 months and so Cabinet is asked to extend the funding into 2023/24.</p>
Recommendations	<p>It is RECOMMENDED that Cabinet:</p> <p>a. Endorse the Biodiversity Net Gain Guidance Note to</p>

	<p>enable the early implementation of BNG on applicable development and delegate its publication to the Director of Planning;</p> <p>b. Request the Planning and Environment Directorates to work jointly to prepare a Biodiversity Net Gain Strategy and an Implementation Plan;</p> <p>c. Support a review of the Council’s estate to understand what biodiversity exists and what opportunities there are to enhance biodiversity; and</p> <p>d. Roll forward to 2023/24 any remaining monies of the £90,000 earmarked for this project unspent in 2022/23.</p>
Reason for recommendations	To enable the Council to be at the forefront of Biodiversity Net Gain delivery and meet the statutory obligations arising from the Environment Act and to have in place relevant policies and procedures.
Portfolio Holder(s):	Councillor Philip Broadhead - Deputy Leader of the Council and Portfolio Holder for Development, Growth and Regeneration Councillor Mark Anderson - Portfolio Holder for Environment and Place
Corporate Director	Jess Gibbons, Chief Operations Officer
Report Authors	Malcolm Hodges, Senior Planning Officer Martin Whitchurch, Strategic Lead Greenspace and Conservation Steve Dring, Interim Planning Policy Manager.
Wards	Council-wide
Classification	For Decision

Background

1. BCP Council formally declared a climate and ecological emergency in July 2019 and subsequently published an Action Plan containing 153 climate change actions. These actions included commitments to improve biodiversity and more specifically develop policies in the new BCP Local Plan to create BNG. BNG is an approach to development and / or land management that results in the net improvement to biodiversity of that land when compared to its state beforehand.
2. The Environment Act came into force in November 2021 and includes a mandatory requirement for development (with some likely exemptions) requiring planning permission to achieve a 10% BNG that can be maintained for at least 30 years. Although the Environment Act is in force the government are continuing to develop and consult on the practical and legal implementation details of the BNG

requirements for development. Against this background it is essential to continue to plan how we can secure effective BNG in new development in the BCP area. This is a work in progress while full details of the national measures are finalised.

3. In December 2021 Cabinet considered and agreed a report on BNG. Cabinet supported the principle of BNG and endorsed its early delivery where possible in advance of the Act taking effect in the BCP area, noted the formation of an officer task force and supported the request for £90,000 of revenue funding requested for 2022/23, to sufficiently resource the services required to help deliver BNG. This report is an update from the officer task force.
4. The existing local plans for the legacy council areas contain policies which address the issue of BNG to some extent. However, the production of the new local plan allows for the development of a consistent, more up to date approach across the whole of the BCP area.

Environment Act 2021

5. Currently development is required by the National Planning Policy Framework (NPPF) to follow the Mitigation Hierarchy when considering wildlife impacts and to provide measurable net gains for biodiversity.
6. Following the Royal Assent of the Environment Act in 2021, BNG has entered planning legislation and subject to the thresholds laid out within the Town and Country Planning Act expected in 2023, all development will be required to utilise the national BNG metric to deliver 10% BNG. Given the importance of biodiversity net gain, it is recognised that there is considerable benefit for the BCP area and delivery of corporate objectives to promote the implementation of net gain principles in advance of the Act taking formal effect. This paper sets out an approach to do that on applicable development during before the 2023 statutory implementation date.

Exemption Thresholds

7. In order to promote the early implementation of Biodiversity Net Gain it is necessary to understand how Government expect it to be delivered in practice, and to which types of development, once the Act takes effect in 2023. In this regard, the January 2022 consultation document produced by the Department for the Environment Food and Rural Affairs (DEFRA) sets out the following exemptions that are expected to be made to the biodiversity net gain requirements:
 - developments impacting habitat areas below a 'de minimis' (minimal) threshold -It is not clear what the threshold would be at this time, but the consultation document suggests the exemption would be based on the total areas of habitat within a site and the threshold could be as little as 2sqm, or as much as 50sqm.
 - householder applications for extensions, roof alterations etc.
 - change of use applications
8. The consultation document is also considering the exemption of self-build and custom housebuilding, although this would only be if evidence suggests that their inclusion would present a significant barrier to self-build development.

9. An initial exercise has been carried out using application data from recent years. This indicates that once the thresholds have been applied to the average number of applications received in a year at BCP Council, we can expect around 15% of all applications received will result in the use of the national BNG metric to deliver 10% net gain.

Planning Application Process

10. Developers will be required to demonstrate that they will deliver a minimum of 10% BNG through the submission of a BNG plan. A national biodiversity metric will be used to calculate the existing 'biodiversity units' that a site has compared with those as a result of the development.
11. The guidance indicates that in the first instance, the following core biodiversity gain information will be required and mandatory as part of national validation requirements when an application is submitted:
 - Details of how the development has taken steps to avoid and minimise adverse impacts on biodiversity;
 - The proposed approach to enhancing biodiversity on-site;
 - the pre-development and post-development biodiversity value of on-site habitats; and
 - any proposed off-site biodiversity enhancements (including the use of credits) that have been planned or arranged for the development.
12. A more detailed 'Biodiversity Net Gain Plan' can also be provided upfront as part of the initial application submission or during the process of the application. Alternatively, if the detailed information is not available during the application process, a standard condition (details of which will be set out in the secondary legislation) will be added requiring the submission and approval of the Biodiversity Net Gain Plan before commencement of any development.
13. In all cases the Biodiversity Net Gain Plan will need to have been finalised and agreed with the local planning authority prior to the commencement of development, and the local planning authority will approve the Biodiversity Net Gain Plan once they are satisfied that it and the completed biodiversity metric demonstrate a measurable net gain of at least 10% and any on-site and/or off-site gains have been appropriately secured, a clear timeframe for delivery, and details of how they will be managed and monitored agreed. Implementation should be secured within 12 months of the commencement of development where possible, or otherwise prior to occupation.
14. To support the early implementation of net gain, it is intended that BNG information will be added to the BCP validation checklist later this year as part of the registration process for new planning applications. The information provided will be assessed by Council ecologists in terms of meeting BNG objectives and compliance with existing local plan policies (where applicable).

Preparing BCP Council for Biodiversity Net Gain

15. The aim is to ensure that BCP Council is set up to respond to the launch of BNG in 2023 and to implement BNG in advance where possible. To do this we need to;

- Adopt a BNG Guidance Note (Appendix 1) to ensure that all new relevant development contributes to BNG as encouraged by the NPPF and the current local plan policies across the three legacy areas. This is an interim position pending the national introduction of BNG which allows the Council to implement BNG in developments immediately. Although the guidance note is not subject to public consultation it follows best practice currently in place in other local authorities.
 - Review our own landholdings to assess existing biodiversity and identify opportunities to enhance biodiversity. We propose to use consultants to undertake this work.
 - To prepare a BNG strategy and implementation plan. We will need to decide what weight we give to the strategy and it could form a Supplementary Planning Document; and
 - To employ a senior ecologist to lead the project for 18 months.
16. These measures will enable us to be prepared for the national policy requirement of BNG and consider how locally different strategies for use of our land holdings and investment can deliver BNG on our estate.

Links to other Strategies and Projects

17. The following pieces of work are complementary and will build BCP Council's resilience and strategy to not only deliver BNG, but to create policy around Green Infrastructure and greenspace standards and to understand the possibilities of 'green finance' and natural capital services.

BCP's Green Infrastructure Strategy and Design Guide – sets out the council's ambitions for investing in green infrastructure across Bournemouth, Christchurch and Poole over the next ten years. It reflects the council's objectives to support a sustainable environment, dynamic places, connected communities, brighter futures and fulfilled lives. The full strategy will come before Cabinet in September 2022.

Local Nature Recovery Strategy (Dorset) – a new England-wide system of spatial strategies that will establish priorities and map proposals for specific actions to drive nature's recovery and provide wider environmental benefits. BCP Council are working with Dorset Council on a county-wide Dorset response.

Natural Environment Readiness Fund (NEIRF) – a Defra competitive grant scheme that aims to stimulate private investment and market-based mechanisms, to improve and safeguard domestic natural environments by helping 'projects' (work, using generated private investment, to deliver improvements to the natural environment that result in BNG sellable credits) get ready for investment. Successful bid submitted by National Trust (on behalf of the Future Parks Accelerator Project), with BCP Council as a partner, to create a National Urban Nature Fund.

Landscape Recovery Scheme (Stour Valley Park) - bid submitted with BCP Council as the applicant, awaiting outcome. One of three new Defra led environmental land management schemes providing funding for long-term, large-scale change and habitat restoration projects in England, to enhance landscapes and support ecosystem recovery. For landowners and managers who want to take a more radical and large-scale approach to delivering a range of environmental benefits

and climate goods on their land. The Stour Valley Park (SVP) is seen as a nationally significant opportunity and BCP Council are working with the National Trust (NT) to appoint a Programme Manager (funded by NT) to progress the SVP project, regardless of the success of the Landscape Recovery Scheme application.

Tree and Woodland Strategy – consultant appointed and currently in the early stages of development with the initial draft due June 2023. An accessible document providing a long-term framework (i.e. 10 to 25 years) and supported by a shorter-term action plan to be subject to regular revisions and updates. Any future tree planting target will need to be considered as part of the strategy document.

Options Appraisal

Option 1 – as per the recommendations above.

Pros

- a. This recommendation would ensure the council is prepared for the national roll out of Biodiversity Net Gain in 2023, the production of a guidance note and strategy will allow the early adoption of BNG and allow staff to be trained before it becomes a national requirement. The implementation plan will allow a seamless transition into the approaches that Government will require the council to use when determining future planning applications.
- b. The opportunity is provided for BCP Council to take their place in addressing the Climate and Ecological emergency, through the appraisal of the Council's existing estate for opportunities to increase biodiversity, BCP Council can provide leadership through example for landowners in the BCP area.
- c. Provides additional support to the ecology team in the face of a significant increase in workload through the need to evaluate BNG schemes. The additional resource of a further ecologist will allow BCP Council to ensure that biodiversity net gain can be appropriately assessed and BCP to receive good quality biodiversity net gain.
- d. It will enable us to have a plan in place to maximise the biodiversity of the Council's estate in readiness for the receipt of any developer contributions.

Cons

- a. Secondary Legislation detailing BNG has not yet gone through, with the mechanics around BNG having recently been consulted upon. There is a chance that any changes to it may not be in line with BCP Council's strategy.
- b. The guidance note has not been subject to public consultation.

Option 2- do nothing

Pros

- a. In advance of the secondary legislation being finalised we do not know the full requirements that will be placed on the Council and therefore may avoid abortive work.

Cons

- a. BNG is mandatory government legislation, its progression is popular and likely to happen. Not preparing for its introduction will put BCP Council behind other Councils who are already proactively embedding this requirement, it will also make

it more difficult for Development Management to determine applications which meet the threshold therefore increasing delays in planning decisions.

- b. Not responding to ecological emergency which was declared by BCP council on 16 July 2019.

- 18 In conclusion Option 1 is preferable. It will allow us to address the Climate and Ecological emergency rather than wait for national legislation. The guidance note is an interim position that expands on existing local plan policies to help developers to ensure their developments enhance biodiversity. The guidance note is also consistent with national policy. Although no specific consultation has taken place on the guidance note it uses best practice used by other local authorities and can be implemented without delay.

Summary of financial implications

- 19. Cabinet has identified £90,000 to spend within 2022/23 with a further £20,000 grant from government. We propose using this money to appoint an ecologist for 18 months to work on the project (circa £60k) and employ WSP under a procurement framework to review our estate (circa £50K). The £90,000 is an in-year budget for 2022/23. By the time we appoint an ecologist there will only be six months of the year remaining. We are therefore requesting the roll forward of the remaining monies to 2023/24.
- 20. Listed costs are estimates only at this stage and additional costs may be required.

Summary of legal implications

- 21. The Environment Act will put a duty on Councils to deliver BNG. This report is setting out how we go about preparing for BNG in the BCP area so that we are prepared for its launch in 2023.

Summary of human resources implications

- 22. We propose to employ an ecologist in house on an 18-month temporary contract to work as BNG project officer. This will require recruitment in summer/autumn 2022.

Summary of sustainability impact

- 23. The Council has declared a Climate and Ecological Emergency. Securing BNG from developers and implementing projects within our own estate will help towards these ambitions.
- 24. The Decision Impact Assessment has been submitted under proposal ID 422.

Summary of public health implications

25. The enhancement of biodiversity across BCP area will have public health benefits from enjoyment of the Council's estate as well helping to provide cleaner air. The projects will need to ensure that a balance is struck between new planting and the need to retain space for public recreational use.

Summary of equality implications

26. Due to the nature of the project, there will be little to no equality implications on users of the biodiversity net gain strategy. Following the EIA Screening conversation, it has been established that the additional requirements for planning applications will not adversely impact those with protected characteristics. Increased biodiversity within the conurbation will allow greater access to nature for those from protected characteristics. The guidance note will be produced and published in line with the agreed accessibility regulations therefore addressing any issues that may be faced when accessing or interpreting the strategy.

Summary of risk assessment

27. There is a risk that we may not be able to secure an ecologist for this 18 month post due to the high demand for ecologists and lack of qualified ecologists available. If we are unable to secure a suitable candidate, we could increase the period to two years and seek additional funding. Another option would be to appoint two ecologists at a lower grade with the available funds. Alternatively, we could appoint WSP to complete all of the project work.
28. Not being prepared for the government launch of BNG risks the government seeking repayment of a £20,000 grant and puts the Council in a difficult position to seek developer contributions and spend them in a joined up coherent manner. Therefore, this report plans to ensure we are prepared for such an eventuality.
29. There is a risk that the parameters for BNG may be changed by government before its launch. However, the Council has declared an Ecological Emergency and this project will still provide an ecological strategy for the Council area that can be implemented anyway.

Background papers

Consultation on Biodiversity Net Gain Regulations and Implementation January 2022 – DEFRA (Published works)

The Environment Act 2021 (Published works)

Appendices

Appendix 1 – Draft Biodiversity Net Gain Guidance Note