



Doncaster Council

Report

Date: 18th October 2022

To Members of Planning Committee

DONCASTER COUNCIL – ADOPTION OF SUPPLEMENTARY PLANNING DOCUMENT ON BIODIVERSITY NET GAIN

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Cllr Nigel Ball & Cllr Mark Houlbrook	All	No

EXECUTIVE SUMMARY

1. This report notifies Members of the Planning Committee of the recent adoption of the new Supplementary Planning Document (SPD) on Biodiversity Net Gain.

EXEMPT REPORT

2. This report is not exempt.

RECOMMENDATIONS

3. Members of Planning Committee are recommended to:
 - i) Note the contents of this report.
 - ii) Note that the newly adopted Biodiversity Net Gain Supplementary Planning Document is a material consideration when determining planning applications.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

4. The Biodiversity Net Gain SPD will be helpful for local businesses and outside investors wanting to develop in Doncaster, by providing clear and comprehensive guidance on how Biodiversity Net Gain will need to be demonstrated within planning applications. The money collected from biodiversity offsetting fees will allow new habitat creation projects to take place across Doncaster. Habitat creation can have a range of benefits including improving air quality, better mental health and improved public access to green networks. It will also contribute significantly to borough wide nature conservation strategies.

BACKGROUND

Background on Biodiversity and Net Gain

5. The Environment Act amends the Town and Country Planning Act 1990. It will mean that all new developments will be legally required to demonstrate a minimum net gain of 10% and secure those gains for a minimum of 30 years. A two year transition period for this requirement is included in the Act, with provision for secondary legislation to set a date for the requirement to come into force. This is expected to be by winter 2023.
6. National Planning Policy Framework (NPPF) paragraph 174 part d already requires planning decisions to provide net gains in biodiversity. The adopted Doncaster Local Plan, Policy 30, goes further than the NPPF and requires planning proposals to deliver a minimum 10% net gain in biodiversity.

The Role of the Biodiversity Net Gain Supplementary Planning Document

7. Part 5 of the Town and Country Planning (Local Planning) (England) Regulations 2012 set out the requirements for producing Supplementary Planning Documents (SPD). There is also guidance on their role in the Government's Planning Practice Guidance on Plan Making. SPD:
 - must relate to adopted plans (providing more detailed advice or guidance)
 - do not form part of the Development Plan;
 - cannot introduce new policies into a Development Plan;
 - are a material consideration in decision making;
 - must not add unnecessarily to the financial burdens on development; and,
 - must not conflict with the adopted development plan
8. The Biodiversity Net Gain SPD expands on Policy 30 of the Local Plan and provides guidance to developers on the Council's expectations with respect to biodiversity net gain and help to shape more sustainable development.
9. Following feedback from Elected Members on the need for a local first approach to delivery of Biodiversity Net Gain, the SPD sets out a sequential approach to how the Council will expect Biodiversity Units to be delivered, with developers being asked to show how each of the following measures has been taken in turn. This was designed to ensure that local options for delivering Biodiversity Units are prioritised.
 1. Firstly, demonstrate how negative impacts have been avoided wherever possible through site choice and good design.
 2. Secondly, explain mitigation measures taken to lessen any unavoidable harmful impacts.
 3. Thirdly, show how delivery of new habitat/compensation has been maximised within the red line boundary of the planning application.
 4. Fourthly, demonstrate a local first approach to offsite BNG delivery by seeking opportunities to secure offsite biodiversity as

close to the proposed development as possible. (This may be through bespoke developer led, council led or privately led BNG schemes).

5. Finally, if no offsite biodiversity net gain projects can be found within Doncaster:

Prior to Statutory Credits being available to buy from Central Government (anticipated Winter 2023):

- Pay the Council a Biodiversity Net Gain Contribution of £25,000 per Biodiversity Unit.

Post Statutory Credits being available from Central Government:

- Provide details of a BNG project that will be secured outside of Doncaster.
- Or
- State the intention to purchase statutory credits from the Secretary of State. These would be used to deliver habitat creation schemes outside of Doncaster, potentially anywhere in the country.

Why is there a need for a Supplementary Planning Document on Biodiversity Net Gain?

10. The SPD is designed to offer clarity to developers on what the expectations are with respect to Biodiversity Net Gain in Doncaster. It sets out what information must be provided to support a planning application, as well as detailing when certain pieces of information will be needed.
11. At present it is very difficult for some planning applications to demonstrate how they are going to deliver net gain. Particularly for smaller developments, where only a handful of units are required, it is not cost effective to develop bespoke offsite net gain projects and there is not yet a market of habitat banks for developers to buy units from. This leaves some developers with very limited ways in which they can show how they achieve biodiversity net gain and this can lead to delays in planning decisions, or permissions being granted that are open to legal challenge on the grounds that biodiversity concerns have not been properly addressed. The statutory credits system is proposed by government in order to prevent development stalling in situations where no biodiversity units are available for sale. However, this system is not expected to be available until winter 2023. The temporary introduction of Biodiversity Offsetting Contribution fees outlined within the SPD will ensure planning applications can be determined expediently. It will provide developers with certainty of what is expected, prior to land transactions being negotiated, and give a level playing field to developers across Doncaster during this transition period. It will also mean planning decisions can demonstrate how they are meeting both national and local planning policy requirements.
12. The Biodiversity Net Gain SPD is also intended to help stimulate the market for third parties delivering offsetting schemes. This is vital so that once the transition period ends, and statutory credits are introduced, there is a robust market of local providers delivering biodiversity units for sale. If this does not happen then, following the transition period, money will be directed via

the statutory credit system to habitat creation projects in other parts of the country.

Public Consultation

13. The draft SPD was published for public consultation from April 21st to May 20th 2022. The documents were published on the Council's website, and made available for inspection at the Council's Civic Office during normal office hours. Interested parties, including everyone on the Planning Policy database and those listed in Appendix A of the Statement of Community Involvement, Ward Members and Parish and Town Councils were notified of the consultation. The consultation was also advertised using an advert in the press and a post on Twitter.
14. There were 18 responses to the public consultation, including from statutory consultees, members of the development industry and members of the public. A Consultation Statement was prepared that summarised the comments raised and how these were addressed. The majority of the changes made to the draft SPD were for the purpose of clarifying points in order to avoid potential confusion over issues or to add additional detail. The comments from the Environment Agency raised questions over the lack of information in the draft with respect to how Biodiversity Net Gain in relation to rivers and streams was proposed to be dealt with. In light of this, paragraphs were added to the document to cover this topic. In addition, the information on the circumstances of when the Council would accept Biodiversity Offsetting contributions was clarified. This included explicitly excluding the acceptance of payments for all rivers and streams units and all high or very high distinctiveness habitats. Finally, a glossary was added to the document to help define some of the more technical terms specifically relating to Biodiversity Net Gain.

OPTIONS CONSIDERED

15. The following options are proposed for consideration by members of the Planning Committee.
 - **OPTION 1 (RECOMMENDED)** – Use the adopted Supplementary Planning Document on Biodiversity Net Gain as a material consideration in helping to determine planning applications.
 - **OPTION 2 (NOT RECOMMENDED)** – Do not use the adopted Supplementary Planning Document on Biodiversity Net Gain as a material consideration in helping to determine planning applications.




REASONS FOR RECOMMENDED OPTION

16. The adoption of this SPD provides much needed clarity for both officers and applicants and help ensure consistency in approach to demonstrating Biodiversity Net Gain in line with current Planning Policy and the forthcoming Environment Act.
17. The use of the Biodiversity Net Gain SPD in helping to determine planning applications is recommended for the reasons summarised below.

- It will drive the local delivery of BNG by requiring developers to show how they have prioritised local BNG opportunities.
- It will provide a fall back option to secure BNG on planning applications.
- It gives an additional way to demonstrate National and Local Planning Policy are being followed.
- It reduces the risk of legal challenge by demonstrating Biodiversity is being properly considered.
- It will prevent planning decisions from being delayed allowing them to be determined more expediently.
- It provides a level playing field for developers.
- It gives certainty to developers regarding the Council's expectations.
- It will help to stimulate the market for third parties to bring forward possible Biodiversity Offsetting Schemes.
- It reduces the risk of offsetting projects not being available following the transition period and hence Doncaster's offsetting contributions being directed to schemes elsewhere in the Country.
- It will demonstrate the Council's commitment to its declaration of a Climate and Biodiversity Crisis and provide a mechanism to help secure more sustainable development in Doncaster.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

18. The use of the Biodiversity Net Gain SPD as a material planning consideration in determining planning applications is considered to impact on Doncaster Council's key outcomes as follows:

Great 8 Priority	Positive Overall	Mix of Positive & Negative	Trade-offs to consider – negative overall	Neutral or No implications
 Tackling Climate Change	✓			
<p>As well as helping to deliver biodiversity and better ecological networks, new habitats can also provide investment in other ecosystem services such as flood alleviation, carbon storage and improved air quality. These additional ecosystem services will help Doncaster to limit the negative impacts of and adapt to climate change.</p>				
 Developing the skills to thrive in life and in work				✓
N/A				
 Making Doncaster the best place to do business and create good jobs	✓			

Inward investment in habitat creation in strategic locations within Doncaster as well as ongoing management of these new habitats will provide work within the borough. The introduction of a Biodiversity Offsetting Contribution fee will also help stimulate development by expediting planning decisions, providing clarity to developers on the Council's expectations in terms of Biodiversity Net Gain, help prepare the development industry for the forthcoming changes to the industry brought about by the Environment Act.



Building opportunities for healthier, happier and longer lives for all



The loss of species and habitats poses as much a danger to life on Earth as climate change does. As well as underpinning the food we eat and the air we breathe, we depend on it for protection from other threats, like pollution, flooding and climate breakdown. The biggest driver of biodiversity loss is 'land-use change': specifically, converting and managing wild land for agriculture and development. The adoption of a Biodiversity Net Gain SPD Fee will help to alleviate the impacts biodiversity loss from land use change and hence help the public health of Doncaster's communities.



Creating safer, stronger, greener and cleaner communities where everyone belongs



The adoption of the Biodiversity Net Gain SPD will provide a more transparent mechanism to show how biodiversity is being taken into account in planning applications near people's homes. It will provide funding for habitat creation projects that could help to bring wildlife closer to communities while at the same time delivering other ecosystem services that will make communities safer by delivering ecosystem services such as flood alleviation, clean air and carbon storage all of which will be increasing important in mitigating the negative impacts of climate change.



Nurturing a child and family-friendly borough




Access to nature and green spaces have proven benefits for people's mental health and personal well being. The Biodiversity Net Gain SPD will help to kick start a net gain system within Doncaster and see the creation of new wildlife rich habitats that can help to connect children and families to nature.



Building Transport and digital connections fit for the future



N/A

 Promoting the borough and its cultural, sporting, and heritage opportunities				✓
N/A				
Fair & Inclusive				✓
<p>In line with the corporate approach for compliance against the Equality Act 2011 due regard must be shown across all activity within the Council. As the adoption of a Biodiversity Net Gain SPD is a high level strategic decision there are no detailed impacts on any people, groups or individuals on which to base a due regard statement. However as biodiversity net gain becomes further developed, a due regard statement may need to be completed and reported as and when appropriate.</p>				

LEGAL IMPLICATIONS [Officer Initials SC Date 6.10.22]

19. SPDs are prepared by a Local Planning Authority to build upon and provide more detailed advice or guidance on adopted Local Plan policies and they must therefore be consistent with those policies. They do not form part of the development plan and cannot introduce new policies nor add unnecessarily to the financial burdens of development, but SPDs (once adopted) are material considerations to be taken into account in determining planning applications. The SPD has recently been adopted and therefore can be attributed weight as a material consideration in planning decisions.

FINANCIAL IMPLICATIONS [Officer Initials OB Date 6.10.22]

- 20. There are no financial implications directly associated with this decision to formally adopt the Supplementary Planning Document (SPD) on Biodiversity Net Gain (BNG).
- 21. Doncaster's preparation for BNG has included the approval of the development of a habitat bank at Torne Valley via ODR EE21 0213 in June 2021 and, on 10th August 2022, Cabinet approved the introduction of a £25,000 BNG Contribution Fee as part of the SPD and the inclusion of this fee on the Council's published list of fees and charges.
- 22. This payment would be secured as part of a Section 106 Agreement and used to procure biodiversity units within Doncaster.
- 23. It is hoped that the SDP will also encourage local providers to start to deliver biodiversity units so that the benefits of BNG will remain within the Doncaster area and avoid money being redirected to habitat creation projects in other parts of the country once the statutory credit scheme is introduced.

HUMAN RESOURCES IMPLICATIONS [Officer Initials DK Date 30.09.22]

24. There are no direct HR implications in relation to this report.

TECHNOLOGY IMPLICATIONS [Officer Initials PW Date 04.10.22]

25. There are no technology implications in relation to this report.

RISKS AND ASSUMPTIONS

26. There are no direct risks identified from this decision. To the contrary, providing clarity through the adoption of an SPD puts the Council in a much better position in terms of challenges to decisions via Appeals where applications may be refused. As set out in the main body of this Report, the SPD will also help provide upfront certainty for the development industry and help guide successful planning applications

CONSULTATION

27. As set out above, the adopted SPD has been subject to full public consultation in line with the Regulations and the Council's Statement of Community Involvement. This itself was subject to its own separate decision earlier this year and included engagement with relevant Portfolio Holders and ELT/Exec Board.

28. Following the public consultation on the SPD, a report was prepared for ELT (4th July 2022), Exec Board (20th July 2022) and Cabinet (10th August 2022) on the principle of introducing a Biodiversity Offsetting Compensation Fee as part of the Biodiversity Net Gain SPD and including this in the published list of Council fees and charges. An informal briefing was also undertaken with Members of Overview and Scrutiny prior to Exec Board.

29. In addition, following the public consultation, a Portfolio Holder briefing has also taken place (24th August 2022) to provide feedback on the issues raised about the SPD during the consultation and how these have been addressed in the document prior to its adoption.

BACKGROUND PAPERS

[Biodiversity Net Gain Supplementary Planning Document](#) – Adopted September 2022

[Biodiversity Net Gain SPD Consultation Summary](#) – September 2022

GLOSSARY OF ACRONYMS AND ABBREVIATIONS

BNG – Biodiversity Net Gain

SPD – Supplementary Planning Document.

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