

BIODIVERSITY NET GAIN PROTOCOL

Item HP 23/27 referred from Housing and Planning Scrutiny Select Committee of 26 September 2023

The report of the Director of Planning, Housing and Environmental Health presented a Protocol to provide guidance for applicants, agents and decision makers on how biodiversity net gain would be taken into account within the development process.

Biodiversity Net Gain (BNG) was an approach to development and/or land management that aimed to leave the natural environment in a measurably better state than it was beforehand. Under the Environment Act 2021 all major planning permissions granted in England would have to deliver 10% BNG from November 2023. However, applying BNG to smaller sites had been delayed until April 2024. Further detailed guidance from Government was expected to clarify a range of outstanding issues.

The Borough Council's adopted Development Plan did not contain a policy on BNG and although the emerging Local Plan would include a policy setting out its approach this would not be adopted by November 2023.

Members attention was drawn to the Kent BNG Register developed by the Kent Wildlife Trust, in collaboration with Kent County Council and District Councils, to establish an online forum where landowners could identify local land available for purchase for BNG units and where applicants could search for available opportunities. This was currently being test and was due to be operational from November 2023. Whilst other habitat banks were available the aim of the Kent BNG Register was to identify local opportunities.

Finally, it was reported that DEFRA had allocated a series of grants to allow local authorities to prepare for BNG. Between 2021/22 and 2023/24 the Borough Council had been awarded £63,661 of which £53,614 was ring fenced for BNG.

Consideration was given to the Protocol attached at Annex 1, the financial and value for money and legal implications and it was noted that not having an adopted local approach to BNG represented a higher risk that off site measures associated with development within Tonbridge and Malling could be delivered outside of the borough.

Members welcomed the principle of a BNG Protocol and noted that a number of inconsistencies had been raised with DEFRA for clarification and/or correction; noted

the potential for the Borough Council to 'land bank' sites for BNG and recognised that better management of habitat types would improve biodiversity net gain. Officers also addressed points related to legal agreements, monitoring and enforcement and advised that the Protocol would be kept under review pending further guidance from Government.

The Cabinet Member for Planning indicated that bio-diversity net gain and green infrastructure remained very important and the introduction of a Protocol started to address these issues. There was also some reassurance around allocating land for BNG use which offered some protection for 30 years.

RECOMMENDED:* That

- (1) the Biodiversity Net Gain Protocol (attached at Annex 1) be approved for decision making purposes; and
- (2) authority be delegated to the Director of Planning, Housing and Environmental Health in consultation with the Cabinet Member for Planning, to make any minor amendments or updates to the Protocol in response to updates from Government.

***Referred to Cabinet**