



Report to:	Climate, Energy and Environment Committee
Date:	25 March 2025
Subject:	Biodiversity Net Gain Responsible Body Service
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Is this a key decision?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in by Scrutiny?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information or appendices?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If the report does contain exempt information, what is the reason for exemption: <i>(indicate in the adjacent box the relevant paragraph of Schedule 12A, Local Government Act 1972, Part 1 – see Access to Information Rules)</i>	

1. Purpose of this Report

- 1.1 The purpose of this report is to provide an update to the Climate, Energy, and Environment Committee (CEEC) on the development of the Biodiversity Net Gain (BNG) Responsible Body (RB) Service for Bradford, Calderdale, Kirklees and Wakefield.
- 1.2 The report also sets out the projected timescales for implementation.

2. Recommendations

- 2.1 That the Committee supports the proposed Biodiversity Net Gain (BNG) approach, prior to seeking Combined Authority approval of the Service's Business Justification Case on 3 April 2025.
- 2.2 That the Committee notes continued support from Bradford, Calderdale, Kirklees and Wakefield in delivering the Combined Authority's Responsible Body (RB) role in partnership and ongoing alignment with Leeds City Council's approach to BNG.

3. Information

National and Policy Context

- 3.1 The introduction of BNG as a statutory requirement under the Environment Act 2021 mandates that all new developments must achieve a minimum 10% net gain in biodiversity. The LNRS report (included in this Agenda Pack) outlines some of the key national policy and legislative considerations for nature recovery.
- 3.2. BNG aligns with national and regional policy priorities, including the West Yorkshire Climate and Environment Plan (CEP) and Local Nature Recovery Strategy (LNRS). Both strategies aim to support the restoration of habitats and support the transition to a climate-resilient region.

BNG in West Yorkshire and Role of the Responsible Body

- 3.3 A Responsible Body is an organisation designed by the Department of Environment, Food and Rural Affairs (DEFRA) under the Environment Act 2021 to create, manage and monitor conservation covenants. Conservation covenants are a contract relating to a site (referred to as a Habitat Bank) between the Responsible Body and a landowner. In this case the landowner will be a local authority (Bradford, Calderdale, Kirklees or Wakefield¹).
- 3.4 A Responsible Body is required to comply with BNG regulations and remove any potential conflicts of interest where a local planning authority is also acting as landowner within the BNG process. The Responsible Body role will offer a streamlined way for local authorities to deliver nature enhancements on land within their ownership. This may include existing areas of urban greenspace, parks, local wildlife sites or underutilised sites with potential to host nature enhancements. The Responsible Body role has the potential to accelerate local delivery of nature recovery within Habitat Bank locations and allow development proposals to meet any requirements for off-site BNG offsetting on quality investment-ready local sites. In summary, a Responsible Body:
 - Creates a site-specific conservation covenant (legal contract) with the aim to protect, restore or enhance the natural features.
 - Registers the covenant (and Habitat Bank site) with DEFRA.
 - Ensures the landowner (a local authority) carries out the covenant measures through monitoring arrangements and/or site visits by an ecologist.
 - Submits an annual return to DEFRA on the delivery of nature improvements to Habitat Bank sites within local authority ownership.

¹ Hereafter referred to as 'the four local authorities' for the purposes of this report.

- Considers arrangements for any unplanned changes that could impact the delivery or management of a covenant and the associated Habitat Bank site. This may include remedial measures (e.g. redesigning or replanting the proposed nature restoration works) and enforcement action as a last resort.
- 3.5. West Yorkshire Combined Authority has been working with the four local authorities to establish a Service to oversee the delivery of BNG on Local Authority-owned land (which would be referred to as 'Habitat Banks'). As mandated under national legislation a Responsible Body function is one of the mechanisms required when local authorities wish to deliver BNG improvements on their land assets.
- 3.6. Leeds City Council (LCC) has taken a different approach by developing a Special Purpose Vehicle (SPV) to manage its BNG commitments independently. LCC have taken this approach due to local circumstances. This includes the significant quantum of development occurring in Leeds district which means the authority needed to mobilise rapidly to service their own needs to ensure any potential adverse impacts on the pace of delivery were minimised. The development of the Service has been based on close collaboration with all West Yorkshire districts, including with LCC's approach. As the Service moves into delivery later this year further work will be undertaken to ensure the West Yorkshire offer is clearly articulated and presents a straightforward and user-friendly approach for developers and investors e.g. via aligned communications and marketing approaches.

Options Appraisal

- 3.7. Combined Authority officers have developed the proposed Service following consideration of a range of options. This included undertaking the following steps:
- Engagement with local authority partners to understand their capacity and capabilities.
 - Discussions with other MCAs/city regions to understand how they have approached this issue and share learning.
 - Discussions internally to develop the options and understand the implications of each scenario across the organisation.
- 3.8 The assumptions underpinning the options appraisal have focused on a scenario where each Local Authority has a maximum of five Habitat Bank sites per district. This was agreed as being an appropriate scale. Noting this is a new Service and work area for the Authority. We also note that the pipeline of Habitat Bank sites will take time to develop, therefore there is unlikely to be more than five sites per district within the initial three-year period (prior to monitoring and evaluation of the Service). In summary the Options considered were:

- a) **Business as Usual (No Responsible Body for the Four Local Authorities):** Under this option, no Responsible Body is established for Bradford, Calderdale, Wakefield, or Kirklees. Each Local Authority would manage its own BNG responsibilities independently.
- b) **Leeds City Council as Responsible Body via a SPV:** Leeds City Council would act as the central authority for BNG across West Yorkshire, managing projects through an existing SPV – a separate legal entity set up to handle specific tasks independently from the council's core operations.
- c) **Reciprocal Responsible Body Arrangements Between the Four Local Authorities:** Each Local Authority would apply separately for Responsible Body status while agreeing to reciprocal arrangements to collaborate across boundaries.
- d) **West Yorkshire Combined Authority as the Responsible Body (Preferred Option):** The Combined Authority would act as a Responsible Body for BNG across Bradford, Calderdale, Kirklees, and Wakefield.

3.9 The preferred and recommended option is that the Combined Authority act as a Responsible Body due to its strong alignment with the project's spending objectives and critical success factors. This option ensures robust governance and oversight across the four Local Authorities allowing for the consistent application of BNG principles and effective coordination.

3.10 The preferred and recommended option is that the Combined Authority act as a Responsible Body due to it providing:

- Strong alignment with the project's spending objectives and critical success factors
- Robust governance and oversight.
- Strategic alignment with the LNRS, ensuring that BNG investment is targeted at priority areas to accelerate nature recovery and enhance climate resilience.
- A simplified process for developers by creating a uniform and streamlined approach, reducing administrative burdens and fostering compliance.
- Short-term deliverability, leveraging existing infrastructure and partnerships within the Authority to achieve quick implementation.
- A cost-effective solution by centralising resources and maximising public sector benefits while ensuring political and financial accountability.

Proposed BNG RB Approach and Implementation

- 3.11. The design of the Service has been developed in close collaboration with the four local authorities. Key aspects include:
- **Governance and Habitat Bank Panel:** A structured governance framework will be in place to oversee decision-making, risk management, and service delivery. It is proposed this Committee will receive annual reports on the Habitat Bank sites as part of the reporting process with Department for Environment, Food and Rural Affairs (DEFRA). This will include a summary relating to all Habitat Bank sites, onsite delivery and any potential monitoring issues. It is proposed that any decisions taken in relation to enforcement are taken by the Assistant Director of Legal Governance and Compliance in consultation with the Director for Policing, Environment and Place.
 - **Habitat Bank Sites:** To ensure quality and scalability, an initial limit of five Habitat Bank sites per authority will be introduced. This will be reevaluated as the Service matures and processes become established. A Habitat Bank Criteria which will be a self-assessment process (undertaken by a Local Authority) which will guide site quality, selection and consistency. The criteria will also ensure the sites are deliverable and minimise risk.
 - **Resourcing:** The RB will be supported by internal resource within the Policing, Environment and Place Directorate's Environment Team, and the Legal Team with regards to the drafting of any required documentation. There will be a potential need for additional recruitment to support the Service as it grows.
 - **Ecological Support:** Based on the options appraisal it was determined that for an initial period (up to three years) it would be appropriate procure external ecological expertise. This due to the work profile currently being unclear until the Service becomes operational. There is also unlikely to be a need for a full-time internal ecologist in the initial phase. The procurement of the ecological support will be a via a competitive tender process in line with the Combined Authority's procedures.
 - **Financial Model:** The Service will operate on a cost-neutral basis. Local administrative fees (for the Combined Authority and Local Authorities) will be included in the costs of BNG units sold to developers by the local authorities. The administrative fee will be reviewed on a six-monthly basis to ensure they are accurate and account for any arising issues.
 - **Communications:** the four local authorities will be responsible for the sale of BNG units. Aligned communications and online resources will be used to raise awareness of the Service and the Habitat Bank sites. Communications and marketing will be aligned with the Leeds City Council's separate SPV.

Milestones and Timeline

3.12. The milestones and anticipated timeline for the Service is as follows:

- **10 February 2025** – Combined Authority submission of BNG RB application to DEFRA.
- **February to May 2025** – Ongoing development work and setup of the RB Service with the four local authorities.
- **3 April 2025 – (this report)** – Seeking Combined Authority approval for the organisation to become a Responsible Body (subject to the outcome of the application to DEFRA)
- **Early May 2025** – Potential approval of the Authority’s RB status. DEFRA have indicated that it will take 12-weeks for review of RB applications (assuming further clarifications are not required).
- **Mid 2025** – Potential BNG RB Service launch.
- **Mid 2028** – Initial service evaluation and review to assess effectiveness.
- **2055 onwards:** Ongoing monitoring and oversight role for 30 years².

4. Risks and Mitigations

- 4.1 The Service presents some risks, which have been carefully assessed and mitigated through the development of the BNG and engagement with the four local authorities.
- 4.2. One key challenge is the availability of ecological expertise, as there is a limited supply of trained ecologists due to increasing pressures in the sector. To address this, it is proposed that ecological support will be procured externally. Some initial soft market testing has been conducted, and a competitive procurement will ensure good value and engagement with a range of potential providers.
- 4.3. There is also a risk that potential Habitat Bank sites may not be suitable for BNG offsetting due to habitat type limitations or size constraints. To mitigate this, partners are developing a ‘Habitat Bank Criteria’ which will act as a self-assessment process for Local Authorities to check their proposed sites are free from constraints and deliverable. Early engagement with partners has also taken place to develop a strong pipeline of viable sites and identify any issues in the supply of sites.
- 4.4. Other risks include changes to BNG legislation, potential conflicts of interest, and financial risks associated with phased developer payments. These are being managed

² The 30 year monitoring period begins from the commencement of delivery on each Habitat Bank site

through regular legislative monitoring, strong legal frameworks, and upfront payments where appropriate.

- 4.5 Additionally, the cost of monitoring Habitat Bank sites over a 30-year timeframe poses a challenge. Detailed cost analysis and contingency funding are incorporated into budget planning. The proposed administrative costs for Local Authorities and the Combined Authority will also be kept under review once the Service is operational and refreshed on a six-monthly basis if required. By implementing these mitigations, the Combined Authority aims to ensure a robust and financially sustainable BNG RB Service that accelerates biodiversity gain across the region.

5. Tackling the Climate Emergency Implications

- 5.1 By delivering biodiversity improvements, BNG improves the range of ecosystems services we gain from increased or richer nature coverage. These interventions can help reduce flooding risks, help provide shade and lower temperatures in urban spaces, improve air quality, and increase soil health – all key factors that affect how well-prepared we are to cope with the impacts of future climate events.
- 5.2. Climate resilience is a key part of the emerging Climate and Environment Plan (2025-28) and aligns with the emerging LNRS. Using tools like BNG to accelerate nature recovery is one of the delivery mechanisms outlined to help future-proof West Yorkshire's communities, businesses and landscapes from the impacts of climate change

6. Inclusive Growth Implications

- 6.1 The Service will encourage accelerated delivery of biodiversity improvements on local authority owned land (where it is identified as a Habitat Bank). The Habitat Bank sites will align with our inclusive growth aspirations, by encouraging local, long-term investment in key habitats and landscapes.
- 6.2. The biodiversity improvement on Habitat Bank sites will contribute to wider activities to make our urban and rural areas more resilient to climate change, helping mitigate the impacts on West Yorkshire's communities.

7. Equity and Diversity Implications

- 7.1. The purpose of the Service is to ensure that BNG units are sold by the four local authorities are delivered correctly on local authority owned land to deliver nature recovery. The delivery of additional nature recovery in West Yorkshire will help spread the benefits of this investment across the region. This nature recovery, alongside a range of co-benefits including access, health/wellbeing, climate resilience, flood risk management and air quality.
- 7.2. The proposed 'Habitat Bank Criteria' set out the expectations and quality of sites that will be accepted into the Habitat Bank. It outlines that sites should make provision for

improving access to green spaces wherever possible, providing it does not risk damaging the restored habitat, which will provide significant health and wellbeing benefits to the region's residents.

- 7.3. An Equality Impact Assessment (EqIA) (Stage 1 Initial Screening) has been carried out as part of the assurance process which considers these benefits and implications in more detail.

8. Financial Implications

- 8.1 The management of the Service will be included in the Place and Environment Policy service area (part of the Policing, Environment and Place Directorate). The Authority's business planning process notes that up to two additional officer posts may be required to meet the demand of this Service alongside other forthcoming commitments e.g. coordinating delivery of the LNRS.
- 8.2 The Service will operate on a cost-neutral basis, with all costs recouped through an administrative fee that will be included in the pricing of BNG units sold by Local Authorities. This ensures the financial sustainability of the Service without placing additional strain on the Authority's core budget.
- 8.3. To facilitate the establishment of the Service a limited amount of Gainshare funding will be allocated to 'cash flow' the process. It is being provided initially on the basis that it will be paid back within a three-year period. It is currently estimated that this amount will be approximately £125,000.
- 8.4. A six-monthly review of the administrative fee structure will ensure that it remains competitive and accurately reflects the costs of delivering the Service. Adjustments will be made if necessary to account for inflation, demand changes, or unforeseen costs.
- 8.5. By structuring the Service this way, the Combined Authority ensures that BNG is delivered in a financially sustainable manner, enabling Local Authorities to secure biodiversity investment while maintaining fiscal responsibility.

9. Legal Implications

- 9.1. The Authority's Legal Team will support compliance with all statutory requirements under the Environment Act 2021, including the proper registration, monitoring, and enforcement of Conservation Covenants.
- 9.2 A Memorandum of Understanding (MoU) between the Combined Authority and the four participating Local Authorities has been signed by all parties. The MoU is non-legally binding, outlining governance arrangements without imposing legal obligations or liabilities on any party.

- 9.3 A further legal framework will be developed between the Combined Authority and the four Local Authorities during the Service's operational phase.
- 9.4 The Authority's Legal Team will draw up Conservation Covenants for each Habitat Bank site. These documents will govern the relationship between the Combined Authority and the host Local Authority for each site and will form part of the documentation required to register each site as a Habitat Bank with DEFRA.

10. External Consultees

- 10.1 In preparation for the development of the Service, extensive engagement has taken place with Local Authority partners (Bradford, Calderdale, Kirklees, and Wakefield), Leeds City Council and other Mayoral Combined Authorities (MCAs) to share best practices, and external ecological consultancies to assess the availability and capacity of specialist expertise required for BNG delivery.

11. Background Documents

- 11.1 There are no background documents referenced in this report.

12. Appendices

- 12.1. None.