



Report to: Cabinet Meeting: 9 September 2025

Portfolio Holder: Councillor Paul Peacock – Strategy, Performance & Finance  
Councillor Simon Forde – Climate & the Environment

Director Lead: Matt Lamb, Director – Planning & Growth

Lead Officer: Nick Law, Biodiversity and Ecology Lead Officer, Ext. 5333

Report Summary	
<b>Type of Report</b>	<p>Open report / Key Decision (Exempt Appendix)</p> <p>The exempt appendix contains exempt information as defined under Schedule 12A of the Local Government Act 1972, Paragraph 3 under which the Cabinet has the power to exclude the press and public if it so wishes.</p> <p>It is considered that the need to treat the information in this report as exempt outweighs the public interest in disclosure because it contains information which is commercially sensitive.</p>
<b>Report Title</b>	Progression of Biodiversity Net Gain Habitat Banks for Newark & Sherwood District Council
<b>Purpose of Report</b>	To identify existing Council land assets with the potential to be used for the purpose of Biodiversity Net Gain (BNG), including recommendations and associated budget to progress these opportunities.
<b>Recommendations</b>	<p>That Cabinet:</p> <ul style="list-style-type: none"><li>a) note and welcome the updates on BNG and the Council's Land Assets review;</li><li>b) approve the four 'NSDC BNG sites' identified be progressed for the purpose of generating biodiversity net gain (BNG) 'biodiversity units', to be used firstly for NSDC's own planning application BNG obligations; secondly for NSDC supported projects, and finally (and subject to unit capacity) for sale of BNG units to other third-party developments in discharge of their BNG responsibilities;</li><li>c) approve a revenue budget of up to £25,000 to allow the implementation of the four NSDC BNG sites funded from the Change Management Reserve in 2025/26;</li></ul>

	<p>d) approve a further revenue budget of £45,000 to allow the implementation of the four NSDC BNG sites in 2026/27 funded from the Change Management Reserve;</p> <p>e) approve delegated authority be given to the Director - Planning &amp; Growth, in consultation with the Portfolio Holders for Strategy, Finance &amp; Performance and Climate Change &amp; Environment, to enter into necessary legal arrangements to secure the BNG Habitat Banks via the Governments Biodiversity Gain Site Register, including any appropriate habitat(s) to be created, as detailed below; and</p> <p>f) agree that a report is brought back to Cabinet prior to NSDC selling BNG units as detailed in recommendation b) above in order to set appropriate BNG unit fees.</p>
<b>Alternative Options Considered</b>	NSDC could choose not to enter the BNG market in favour of the national credit route or awaiting a local market for BNG units becoming available. These are discounted on the basis of a need to proactively create a local mechanism to secure BNG enhancements, including demonstrable cost-savings for the Council's own developments.
<b>Reason for Recommendations</b>	To secure local and responsible BNG Habitats to mitigate the impacts of new developments and to enhance NSDC land-assets and the overall biodiversity of the District.

## 1.0 **Background**

### **Purpose of the Report**

- 1.1. Mandatory Biodiversity Net Gain (BNG) requiring developments to provide a minimum 10% measurable BNG has been in force for all major developments since 12 February 2024 and for all 'small site' developments since 02 April 2024.
- 1.2. Mandatory BNG can be provided either within the development site, at an off-site location (either other land in the developer's ownership or via the purchase of Biodiversity Units from a third-party 'Habitat Bank'), or by the purchase of national 'Statutory Biodiversity Credits'. Developments should follow the Biodiversity Gain Hierarchy, which is to maximise on-site BNG before utilising off-site sources, with use of the Statutory Biodiversity Credits considered a last resort. BNG can be provided by one or a combination of these routes.
- 1.3. Many developments will be unable to provide their full BNG requirement onsite, so the process is dependent on the development of commercially operated Habitat Banks. In response to this, NSDC undertook a 'Call for sites – expressions of interest' exercise in March 2024 to both temperature-check this emerging market and to act as a catalyst to stimulate development of the Habitat Bank market. There was a good initial response but after launching the exercise there was a notable reduction in the number of

planning applications that would, if granted planning permission, be subject to mandatory BNG. The assumption was that this was due to a combination of developers taking time to familiarise themselves with the BNG legislation and then waiting to see the outcome of the unexpected early general election. During this period, the Planning Development Team received very few enquiries from developers enquiring about the potential source of off-site Biodiversity Units within the District – a situation that has continued to the present time. This presented a moral dilemma; should NSDC be actively encouraging the development of off-site Habitat Banks with no evidence (or certainly a time-lag) of any quantifiable demand for Biodiversity Units. This dilemma was compounded by the knowledge that considerable investment is needed by a landowner to reach a position to be able to sell Biodiversity Units. Therefore, a conscious decision was made to respond to and support emerging Habitat Banks where they were actively pursuing such projects after having made their own commercial decisions, rather than actively promoting the development of Habitat Banks ourselves. At the time of writing, eighteen months since the onset of mandatory BNG there are no commercially operating Habitat Banks in Nottinghamshire. We are aware of two emerging Habitat Banks in the Newark and Sherwood District, both of which are in the advanced stages of development with an anticipation that they will be operating as a Habitat Bank and selling Biodiversity Units by the end of 2025/early 2026. We do not yet know the going rate for purchase of a full or part BNG unit.

- 1.4. Mandatory BNG will apply to some of NSDC's own developments and therefore some requirement for off-site Biodiversity Units is inevitable. Like other developments, NSDC has the same options to achieve this, as outlined above. In other words to approach a Habitat Bank in the market place (noting there are currently none within Nottinghamshire) or purchase national Statutory Biodiversity Credits. The way the metric works is to disincentivise the use of Statutory Biodiversity Credits by applying a x2 multiplier to the number of units needed and an expensive tariff with units costing between £42,000 and £230,000 per unit typically (noting this is wholly dependent on the habitat type being mitigated). The other option is for NSDC to utilise its own land to create off-site Habitat Bank(s). This is attractive as it would offer a BNG pipeline to NSDC priority developments and it would safeguard against market pricing for units being high if and when there are players in the market place who may have an initial monopoly. This option would also provide the potential for NSDC to enter the commercial market and sell Biodiversity Units to other developments/developers, noting that this will be a free market (save for lawful restrictions such as an NSDC or regional geography) so any developer could purchase BNG units irrespective of whether the development in question is politically supported. To investigate this potential, a review of NSDC's landholdings has been undertaken with the objective to create a short-list of land that could potentially be used for a NSDC BNG Habitat Bank.
- 1.5. The purpose of this report is to inform of the proposed short-list of sites and seek approval for the Council to progress 4 sites as BNG Habitat Banks, including securing necessary capital and revenue budgets.

### **Development of a Short-List of Potential Sites**

- 1.6. The methodology undertaken to produce the short-list of sites is provided in **Appendix A**.
- 1.7. The site locations are provided in Plans BNG\_NSDC\_HB\_01\_RevA and BNG\_NSDC\_HB\_02\_RevA.
- 1.8. Summary details of the short-listed sites are provided in Table 1 below.

**Table 1: Site Short List**

<b>Site Name &amp; Location</b>	<b>Area</b>	<b>Current Use</b>	<b>Constraints/Comments</b>
<b>Mill Field,</b> Moor Lane, South Clifton	1.68 Ha (4.16 acres)	None. Vacant and unmanaged grassland and a pond.	Long-standing discussions between NSDC and the local community regarding the possibility of the development of allotments and community greenspace area. It is considered and agreed in principle with the community that the site can accommodate both the community wishes in the form of allotments and an ability for the site to contribute to providing BNG units.
Woodland, South of <b>New Lane,</b> Blidworth	2.22 Ha (5.48 acres)	None. Old refuse tip now woodland, bounded by security fencing.	Site is within NSDC's ownership. Liabilities regarding former tip unknown. Secured by modern security fencing, but with some areas of storm damage.
Land off Newark Road, <b>Wellow</b>	2.2 Ha (5.5 acres)	Agricultural, arable crops	Existing agricultural tenancy. Notice has now been served enabling this land to become available to NSDC on 01 December 2025. The existing tenant is views the potential loss of the land for agriculture negatively but is interested in having discussions with NSDC regarding potential assistance with managing the land it progress for BNG purposes.

Site Name & Location	Area	Current Use	Constraints/Comments
Land south and north of <b>Corkhill Lane</b> , Normanton	(i) 4.37Ha (10.8 acres) (ii) 0.89Ha (2.2 acres)	Agricultural, arable crops	Existing agricultural tenancy. Notice has now been served enabling this land to become available to NSDC on 01 May 2026. The existing tenant doesn't consider the land to be a vital core element of its farming operations and is interested in discussing their potential involvement with assisting NSDC with management of the land should it be used for BNG purposes.

- 1.9. Two other areas were close to being included but are better considered for a future Phase 2 approach. Intake Wood, Clipstone, which is a relatively large woodland with an existing management plan being managed by Environmental Services. Development of this for potential BNG use will require careful consideration with the Environmental Team to integrate with existing proposals etc. Land at Epperstone, which has access issues (potentially not suitable to enable management) and other potential issues indicated by Corporate Services. Other sites already managed as green spaces, parks and other areas were considered but due to existing management net gains would be marginal.
- 1.10. Table 1 is structured with sites ordered by the time when they would be available for BNG and it is recommended that the sites are brought forward in this order, subject to Cabinet approval for the creation of the sites as BNG Habitat Banks. Cabinet will note that BNG potential is highest where the current use is at the lower end of the scale in terms of its existing biodiversity value, hence agricultural land is a prime candidate to achieve maximum uplift. It is not lost on Officers that there are now many competing interests for agricultural land, including solar, battery storage, tree planting, and now BNG.

## **2.0 Proposal/Options Considered and Reasons for Recommendation**

### **Do Nothing Option**

- 2.1. As NSDC will invariably require offsite BNG units for some of its developments, as will its partner Arkwood Developments or other priority developments being delivered by partners (such as Levelling Up projects for example), to do nothing will mean that at the time that these units are required the cost of units will be determined by availability and market forces. If there are no suitable biodiversity units available within the district or the National Character Area in which the development is located, a multiplier is applied and the number of biodiversity units is multiplied by 1.3 or 2.0 depending on the location of the offsite Habitat Bank used. The Newark and Sherwood District falls within two National Character Areas, Sherwood NCA and Trent and Belvoir Vales NCA, as shown on Plan BNG\_NSDC\_HB\_03\_RevA.

- 2.2. One of the actions of Ambition 6 of the Community Plan 2023-2027 is to *“Play an active role in biodiversity net gain for the district, including the potential to own our own biodiversity offset sites, as well as looking at how our own developments can contribute”*. Therefore, to do nothing is contrary to delivery of the Community Plan.

#### **Purchase Land Option**

- 2.3. This is not recommended at this time. NSDC has existing land assets that would be appropriate for BNG Habitat Banks and would allow proof of concept in an emerging market without the need for additional land purchase. This option could be explored moving forward, a matter that would be subject to further Cabinet approval(s).

#### **Mill Field**

- 2.4. Mill Field has a long history of planning enforcement which culminated in the removal of unlawful uses, including GRT and commercial operations following NSDC’s purchase of the site from the Crown. Since that time there is an expectation from the local community that some or all the land would come under their control, based on ongoing discussions with Council Officers that commenced well in advance of mandatory BNG. It is considered that both BNG and community uses can be accommodated in the form of allotments and shared access into the remainder of the field that will provide a BNG Habitat Bank. All other proposed sites will be used solely for BNG.

#### **Potential Habitats for Creation and/or Enhancement**

- 2.5. Should Cabinet approve all 4 sites for BNG Habitat Banks the type of habitat created would be a matter for the Council’s Biodiversity & Ecology Lead Officer; each site will be influenced by many issues. The habitats created or enhanced will have to be managed in accordance with a Habitat Management and Monitoring Plan (HMMP), for at least 30-years, and secured by an appropriate legal agreement. Different habitat types have different capital costs for creation, and maintenance and management costs are similarly variable depending on the habitat type and the proposed target habitat condition. The 30 years applies every time a BNG unit is purchased, meaning this is a very long-term commitment should Members elect to proceed as recommended.
- 2.6. In addition to fiscal considerations, some sites might lend themselves to community involvement either through assistance with habitat creation and enhancement measures or just for community access as local greenspace, and again this has the potential to influence proposed habitat types. However, for one site, New Lane Wood, there is only one feasible proposal; that is enhancement of the woodland which forms the entirety of the site. A reasonable Capital budget is requested below, in accordance with indicative habitat types detailed in Exempt Appendix A. Some potential income is also detailed in this Appendix, albeit as noted in the Financial implications (in Exempt Appendix A), the primary purpose of bringing NSDC BNG Habitat Banks to the market in the first instance will be in order to absorb BNG requirements from NSDC’s own developments or those which are identified priorities. Thus, initial BNG units provided will be a saving to NSDC rather than generating income. Income is envisaged at a later

date, in line with BNG unit fees and charges that will be subject to a future report to Cabinet.

### **Process**

- 2.7. To be able to sell Biodiversity Units or use them for our own purpose as 'offsite' units, the land (sites) (i.e., the Habitat Bank) would have to be registered on the Government's Biodiversity Gain Sites Register. To get on the Register, the landowner must have entered into a legal agreement that ensures that the proposed habitat creation and enhancement measures are monitored and delivered over the 30-year period, with the ability for enforcement action if required. In most instances this would be via a Section 106 Agreement, but as a local authority we cannot have such an agreement with ourselves. Possible options to resolve this are:

### **Delegated Powers**

- 2.8. Delegate section 106 powers to another local authority as allowed by Section 101(1)(b) of the Local Government Act 1972. This is a mechanism that is familiar to local authorities for other purposes. However, the impending devolution proposals, are a potential consideration and recently, for a non-mandatory BNG issue, one of our neighbouring local authorities declined to assist with such a transfer of powers.

### **Lease the Land to a Trusted Third Party.**

- 2.9. The tenant then enters into a S106 with the local authority and they are responsible for delivering the proposed BNG units. The local authority then has the obligation to monitor and, if necessary, enforce the delivery of the BNG. An important factor to consider is that there has to be confidence that the tenant is suitable and able to deliver the required habitat creation and management works for the 30-year period. There are risks this route, albeit it will not be discounted with the right tenant.

### **Enter into a Conservation Covenant with a Responsible Body.**

- 2.10. The responsible body will then have the responsibility to monitor and, if necessary, enforce delivery of the proposed BNG units. For large scale developers that operate nationally, and which are developing their own habitat banks, this is increasingly the preferred option as they then only have to deal with one organisation for their multiple sites, as opposed to having multiple S106 agreements with different local authorities. It is understood that the Staffordshire Wildlife Trust has been granted Responsible Body status (acting on behalf of all Wildlife Trusts nationally) and would potentially be a suitable partner organisation. It is recommended that dialogue continues with a view exploring this option further.

### **Resources**

- 2.11. The NSDC Ecology Team have the relevant expertise to undertake the detailed baseline assessments and develop the Habitat Management and Monitoring Plan, and given the relatively small number of sites, their size and existing habitat types, the team also has the capacity to undertake this work as part of their roles. Therefore, no

additional expenditure is needed for this element of the development process, an effective saving on consultancy costs.

- 2.12. Having prepared the Habitat Management and Monitoring Plan, it is considered that the Ecology Team would be suitably placed to organise and manage external contractors to deliver the habitat creation and management plans. Again, given the number of sites involved it is considered that the Team would find the capacity to do this work, so no initial cost would be needed above and beyond the recommended capital budget.
- 2.13. An estimated cost for external legal fees for work on the required legal agreement to get the sites onto the Biodiversity Gain Site register is contained within the recommended revenue ask.
- 2.14. There is the potential for habitat creation/enhancement works to begin before the end of the 2025-26 financial year. This is contained within the recommended capital budget.

### **3.0 Implications**

In writing this report and in putting forward recommendations, officers have considered the following implications: Data Protection, Digital and Cyber Security, Equality and Diversity, Financial, Human Resources, Human Rights, Legal, Safeguarding and Sustainability, and where appropriate they have made reference to these implications and added suitable expert comment below where appropriate.

#### **Financial Implications (FIN25-26/8242)**

- 3.1. These are provided in Exempt Appendix A

#### **Legal Implications - LEG2526/9587**

- 3.2. These have been discussed in the preceding section. The main legal consideration is that NSDC will have entered into a legal obligation to deliver the proposed BNG for each site and the agency with whom that legal agreement has made, will have the power to enforce delivery if necessary.
- 3.3. Depending on what mechanism is used for the process to obtain the required legal agreement as discussed under 'Process', there may be other legal implications.
- 3.4. Legal colleagues will need to be instructed to carry out further work.

### **Background Papers**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

[Parks for London - A guide to setting up an urban Habitat Bank](#)



## Appendix A: Assessment Methodology

- Land Registry digitised boundaries of NSDC's ownership provided to the Ecology Team by Corporate Property
- Boundaries added as a layer to the Ecology Teams Quantum GIS (QGIS) constraints workspace.
- Visual screening undertaken initially looking for:
  - Arable land as this has a low biodiversity baseline and provides the best opportunities for generating biodiversity gain;
  - Areas of grassland that were unlikely being used for existing recreational or public open space provision as these would have the potential to be of relatively low biodiversity value and unlikely to have any potential conflicts with existing use;
  - Areas of woodland as even if these are already being used for public open space provision the management to achieve biodiversity gain would generally not conflict with that existing use.
- Consultation undertaken with the Business Manager – Planning Policy & Infrastructure to screen out any initially short-listed land that was considered to have short or medium-term development potential.
- General screening against constraint layers to check for any potential ecological constraints.
- Short-listed sites sent to Law & Information Governance Team to undertake due-diligence background searches to check for existing tenancy agreements, potentially restrictive covenants, wayleaves or easements.
- Consultation with the Corporate Property Asset Manager & Business Unit Manager regarding existing tenancies on two of the short-listed sites, Land north of Newark Road, Wellow and Land north and south of Corkhill Lane.
  - NOTE: Following this consultation the Manager arranged for notices for termination of the tenancies to be issued, to enable the land to become available to NSDC at the earliest opportunity should it be required for the purposes of BNG Habitat Banking. The Asset Manager & Business Unit Manager and Biodiversity and Ecology Lead Officer undertook site meetings with tenants to explain the reasoning for the notices and to explore whether tenants would be interested in assisting with future management of the land if it were used for the purpose of BNG Habitat Banking.