

## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	Department for Environment, Food & Rural Affairs (DEFRA) – Biodiversity Net Gain Funding
<b>Decision Maker:</b>	Andrew Blake-Herbert – Chief Executive
<b>Cabinet Member:</b>	Councillor Graham Williamson- Cabinet Member for Development and Regeneration
<b>SLT Lead:</b>	Neil Stubbings – Director of Regeneration
<b>Report Author and contact details:</b>	Lauren Miller Team Leader Development Planning <a href="mailto:lauren.miller@havering.gov.uk">lauren.miller@havering.gov.uk</a> 01708 433051
<b>Policy context:</b>	National Planning Policy Framework 2021 London Plan 2021 Havering Local Plan 2016-2031
<b>Financial summary:</b>	The DEFRA Biodiversity grant funding award is £26,807 for 2022/23. This is external funding being received by the Council.
<b>Relevant OSC:</b>	Places
<b>Is this decision exempt from being called-in?</b>	The decision will be exempt from call in as it is a Non key Decision

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**The subject matter of this report deals with the following Council Objectives**

People - Things that matter for residents x

Place - A great place to live, work and enjoy x

Resources - A well run Council that delivers for People and Place. x

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This report seeks approval to:

- Accept grant funding of £26,807 from the DEFRA Biodiversity Net Gain Fund.

### AUTHORITY UNDER WHICH DECISION IS MADE

Paragraph 25 (Grant Funded Expenditure) of Part 4.4 (Contract Procedure Rules) of the Constitution:

*25.3 For grants under £500,000 approval will be in accordance with the Scheme of Delegation. Account will be taken in contracts let, in whole or in part, as a result of grant funding, of the terms and conditions and accountability of the Council, and will also have provision to terminate an awarded contract in the event of the grant funding ceasing, in whole or in part.*

Paragraph 3.10.3 (s151 Officer Functions) of Part 3 (Responsibility for Functions) of the Constitution:

*(m) To accept grants and the terms and conditions thereof for and on behalf of the Council.*

Paragraph 3.2 (Powers of the Chief Executive) of Part 3 (Responsibility for Functions) of the Constitution

*(b) To exercise the powers delegated to any member of staff so far as the law allows.*

### STATEMENT OF THE REASONS FOR THE DECISION

#### 1. Background

1.1 Biodiversity net gain (BNG) is an approach to development and land management, that aims to leave the natural environment in a measurably better state than it was prior to development taking place. This may be achieved by better management of existing habitats or the creation of new habitats, or a combination of both.

1.2 The Environment Act 2021 requires net gain to achieve an improvement of at least 10%. Regulations to implement the provisions in the Environment Act are expected to be in place in late 2023 and will make the 10% BNG mandatory for most development from November 2023.

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### **2. Biodiversity Net Gain Grant**

- 2.1 The Government distributed £4.18 million to local authorities in 2021/22 to help local planning authorities in England (and other local authorities in England with planning oversight) prepare for mandatory Biodiversity Net Gain in the planning system.
- 2.2 Further funding of up to a maximum of £16.71 million has been announced, for the 19-month period from April 2022 to October 2023. This covers the transition period up until mandatory BNG becomes a requirement in November 2023.
- 2.3 Havering London Borough has been allocated a grant of £26,807 for BNG preparation work carried out in 2022/23. The grant amount for each local authority includes:
- 1) One off set up and preparation costs – core tasks in the transition period including familiarisation with guidance and adjustment of existing processes and systems to accept net gain data from the metric/biodiversity gain information.
  - 2) Preparation for BNG assessment - an amount per authority to prepare to assess biodiversity gain plans from November 2023

### **3. Requirements for receiving the funding**

- 3.1 The offer of Grant Funding is dependent on the Council accepting the requirements as set out in the Grant Determination and signing and returning the Grant Acceptance Form.
- 3.2 The Chief Executive and Chief Internal Auditor of each of the recipient authorities are required to sign and return to the team leader of the Biodiversity Net Gain Team of the Department for the Environment, Food and Rural Affairs a declaration, to be received no later than 30 March 2023, in the following terms:
- “To the best of our knowledge and belief, and having carried out appropriate investigations and checks, in our opinion, in all significant respects, the conditions attached to Biodiversity Net Gain Grant No 31/6499 have been complied with”.*
- 3.3 The completed Grant Acceptance must be sent from the email account of the person accepting the conditions on behalf of the local authority.
- 3.4 The funding must only be used by the local authority between 1 April 2022 and 31 March 2023 to deliver measures that prepare for applying at least a 10% biodiversity net gain, as introduced in the Environment Act 2021, to planning permissions granted under the Town and Country Planning Act 1990.
- 3.5 An authority must confirm agreement to the condition by 30 March 2023 and provide evidence of spend incurred against the condition during this period to SM-Defra.NetGain@defra.gov.uk by 30 March 2023.
- 3.6 If there are funds left over at the end of the financial year they may be carried over into the next financial year. Funds carried over should be accounted for in a Biodiversity Net Gain ring-fenced reserve. All the conditions that apply to the use of the grant will continue to apply

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to any funds carried over. However, where there are large underspends the department reserves the right to reduce allocations in future years.

3.7 Authorities are must also provide evidence of spend incurred during the grant period (April 2022 – March 2023) against the grant conditions. An Evidence of spend report should be sent to DEFRA by 30<sup>th</sup> March 2023.

### **Next Steps**

3.8 Once the grant has been accepted, officers will develop a programme setting out how the grant money will be spent in order to prepare for the introduction of Biodiversity Net Gain in November 2023.

3.9 Notification of the grant was only received at the end of February 2023. It will not be possible to spend the Grant by 30<sup>th</sup> March 2023 and therefore the grant will be carried over until the 2023/24 financial year in line with the conditions of the grant as set out in section 3.6 of this report.

### **OTHER OPTIONS CONSIDERED AND REJECTED**

The option of not either submitting a funding application or receiving the awarded grants has been rejected because the Council has a statutory requirement to implement Biodiversity Net Gain through its planning functions.

### **PRE-DECISION CONSULTATION**

Not Applicable

### **NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Lauren

Designation: Team Leader Transport Planning

Signature:



Date: 22 March 2023

## Part B - Assessment of implications and risks

### **LEGAL IMPLICATIONS AND RISKS**

There are no specific legal implications or risks arising directly from this submission and subsequent award of funding.

### **FINANCIAL IMPLICATIONS AND RISKS**

DEFRA have offered the Council £26,807 from the Biodiversity Net gain Grant 2022/23, subject to the council agreeing and complying with the terms and conditions requirements as set out in the grant determination and signing and returning the Grant acceptance form.

The grant conditions set out that the funding must only be used by the local authority between 1 April 2022 and 31 March 2023 to deliver measures that prepare for applying at least a 10% biodiversity net gain, as introduced in the Environment Act 2021, to planning permissions (unless otherwise exempt) granted under the Town and Country Planning Act 1990.

If there are funds left over at the end of the financial year they may be carried over into the next financial year 2023/24. Funds carried over should be accounted for in a Biodiversity Net Gain ring-fenced reserve. All the conditions that apply to the use of the grant will continue to apply to any funds carried over. However, where there are large underspends the department reserves the right to reduce allocations in future years.

As stated at 4.2 the grant will not be spent by 30<sup>th</sup> March 2023, if funds are received in 2022/23 they will be carried over for use in 2023/24.

### **HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There are no Human Resources implications as a result of this decision.

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

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- The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- Foster good relations between those who have protected characteristics and those who do not.

'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

The DEFRA Biodiversity Net Gain Grant will help the Council with delivering its equality and diversity commitments.

### **ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

The funding awarded will help Havering with implementing Biodiversity Net Gain which will have positive environmental impacts through improvements to the ecosystem and wildlife conservation. It can also help to improve air quality and contribute to temperature moderation, flood management and soil stability.

### **BACKGROUND PAPERS**

None

### **APPENDICIES**

Appendix 1 – Grant Determination No. 31/6499 for Biodiversity Net Gain Grant 2022/23.  
Appendix 2 – Grant Acceptance statement

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**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

**Details of decision maker**



Signed

Name: Andrew Blake-Herbert  
Chief Executive

Date: 29<sup>th</sup> March 2023

**Lodging this notice**

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_