

## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	Biodiversity Net Gain Grant 2024/25 - Section 31 Grant Determination 31/7104
<b>Decision Maker:</b>	Helen Oakerbee - Director of Planning & Public Protection
<b>Cabinet Member:</b>	Councillor Graham Williamson - Cabinet Member for Development and Regeneration
<b>ELT Lead:</b>	Helen Oakerbee - Director of Planning & Public Protection
<b>Report Author and contact details:</b>	Linda Beard Senior Planning Policy Officer, Development Planning <a href="mailto:linda.beard@havering.gov.uk">linda.beard@havering.gov.uk</a> 01708 433131
<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 1 April 2024 to 31 March 2025. This is external funding being received by the Council.
<b>Relevant Overview &amp; Scrutiny Sub Committee:</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 - Supporting our residents to stay safe and well	x
Place - A great place to live, work and enjoy	x
Resources - Enabling a resident-focused and resilient Council	x

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### Part A – Report seeking decision

#### **DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION**

This report seeks approval to:

- Accept and spend grant funding of £26,807 from the Department for Environment, Food & Rural Affairs (DEFRA) Biodiversity Net Gain Grant and sign the Grant Determination letter and Grant Acceptance statement appended to this report at appendices 1 and 2 accepting the terms of the Grant

#### **AUTHORITY UNDER WHICH DECISION IS MADE**

##### **Part 3 of the Council's Constitution**

##### **3.3 Scheme of Delegations – Functions delegated to officers**

##### **Scheme 3.3.3 Powers common to all Strategic Directors**

##### **5. Grants**

5.1 To apply for, accept and thereafter spend / allocate any grant funding connected with their directorate provided that any match funding or residual liabilities can be met from the existing budget of the directorate. For the avoidance of doubt this delegation shall allow the acceptance of any grant offered / allocated to the Council without any application.

#### **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 an improvement of at least 10%. Regulations to implement the provisions in the Environment Act which were made in January 2024. The requirement for 10% BNG became mandatory for most major developments on 12 February 2024 and for most minor development on 2 April 2024.

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

2.1 A total of up to £10.55 million is being made available to local planning authorities in England to support BNG in the 2024/25 financial year. The purpose of the grant is to provide support to local authorities in England towards expenditure lawfully incurred or to be incurred by them to apply a minimum 10% increase in biodiversity to planning permissions (unless

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otherwise exempt) granted under the Town and Country Planning Act 1990. The funding is ring fenced for this purpose.

2.2 The funding allocated for the 2024/25 grant is a maximum of £10.55 million.

2.3 The London Borough of Havering has been allocated a grant of £26,807 to deliver measures that apply 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.

### **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 delegated officer of each of the recipient authorities is required to sign and return to the Department for the Environment, Food and Rural Affairs the Grant Acceptance Form, to be received no later than 28 June 2024.

3.3 The completed Grant Acceptance Form 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 2024 and 31 March 2025 to deliver measures that apply 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.

3.5 An authority must confirm agreement to the conditions by 28 June 2024 and provide evidence of spend incurred against the condition set out in 3.4 above by 15 October 2024 (for the period 1 April 2024 to 30 September 2024) and by 15 March 2025 (for the period 1 October 2024 to 31 March 2025).

### **Next Steps**

3.6 Once the grant has been accepted, officers will develop a programme setting out how the grant money will be spent in order to deliver measures that apply 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.

## **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**

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Not Applicable

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

Name: Linda Beard

Designation: Senior Planning Policy Officer

Signature: *Linda Beard*

Date: 21 June 2024

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### Part B - Assessment of implications and risks

#### **LEGAL IMPLICATIONS AND RISKS**

Under s98 of the Environment Act 2021 (the Act), schedule 14, the Council has several duties related to the biodiversity net gain in the planning process. It mandates that new developments must achieve at least a 10 percent net gain in biodiversity. It aims to integrate biodiversity net gain into the planning and development process, thereby promoting environmental sustainability and enhancing biodiversity. The Council intends to fulfil its duty under the Act by accepting the grant from DEFRA as outlined above.

Section 1 of the Localism Act 2011 gives the Council a general power of competence to do anything an individual can do. The recommendations in this report are in keeping with this power and the Council has the power to accept grant funding.

The use of the grant sums will need to be made pursuant to the grant terms and conditions including but not limited to the use of the grant funding, the monitoring requirements and potential recovery of grant funding in the event of a breach of the grant conditions.

The Grant is allowable under the Council's Contract Procedure Rules 25.1 and 25.4 which states: 25.1 Where the council receives Grant Funding and is named as the accountable body for the expenditure of monies, and where the terms of the grant permits the Council to directly carry out Works, or buy Services or Supplies, any procurement will be conducted in line with CPR.

25.4 Where the funding is for use by a third party, the obligation to account for the funding contained in the grant terms will be included in the agreement with the third party. Furthermore, the terms of making the grant shall include a clause to competitively tender for Services, Supplies or Works and reflect the Council's strategies, policies and objectives in so much as they apply to, or are compatible with, the funding objectives as set out in the grant terms imposed on the Council and CPR.

For the reasons set out above, the Council may proceed and accept the grant funding of £26,807 from DEFRA.

#### **FINANCIAL IMPLICATIONS AND RISKS**

DEFRA have offered the Council £26,807, from the Biodiversity Net Gain Grant 2024/25, 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 2024 and 31 March 2025 to deliver measures that apply 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 the authority fails to comply with any of the conditions of the grant, or if any overpayment is made under this grant or any amount is paid in error, or if any of the events set out in paragraph 20 of the grant determination letter (Appendix 1) occurs, the Secretary of State may reduce, suspend or withhold grant payments or require the repayment of the whole or any part of the grant monies paid, as may be determined by the Secretary of State and notified in writing to the authority. Such sum as has been notified will immediately become repayable to the Secretary of State who may set off the sum against any future amount due to the authority from central

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government.

### **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;
- 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. Dissemination of information and consultation with officers and residents that may result from the use of the grant will provide opportunities to increase awareness of Biodiversity Net Gain across all protected characteristic groups.

### **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

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**APPENDICES**

Appendix 1 – Section 31 (Local Government Act 2003) Grant Determination Letter for Biodiversity Net Gain Grant 2024/25: Grant No. 31/7104.

Appendix 2 – Section 31 Grant Acceptance (Annex C (i)) 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**



Helen Oakerbee  
Director of Planning & Public Protection

Date: 27 June 2024

**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 \_\_\_\_\_