

Report title	Biodiversity Net Gain and Nature Recovery in Wolverhampton	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Stephen Simkins Leader of the Council	
Key decision	Yes	
In forward plan	Yes	
Wards affected	All Wards	
Accountable Director	Richard Lawrence, Director of City Development	
Originating service	City Planning	
Accountable employee	Michele Ross	Lead Planning Manager
	Tel	01902 554038
	Email	Michele.ross@wolverhampton.gov.uk
Report to be/has been considered by	Regeneration Leadership Team	18 September 2023
	Investment and Economy Board	28 September 2023

Recommendations for decision:

The Cabinet is recommended to:

1. Adopt the Black Country Local Nature Recovery Map and Strategy attached as Appendix 1 to this report for planning purposes, including strategic delivery of biodiversity net gain in Wolverhampton.
2. Delegate authority to the Leader of the Council and the Cabinet Member for Resources in consultation with the Director of City Development and Director of Finance to authorise completion of Conservation Covenants between the Council and an appropriate responsible body for Pendeford Open Space, Ladymoor Pool and Abbeyfield Parklands (or parts thereof) as detailed in para 4.2 of this report, and the addition of these sites to the national Biodiversity Gain Site Register.
3. Approve the Statement of Community Involvement, attached as Appendix 2 to this report, to come into effect from 24 October 2023.

This report is PUBLIC
[NOT PROTECTIVELY MARKED]

4. Approve submission of Biodiversity Net Gain grant claims and subsequent establishment and spend of supplementary budgets in line with the grant funding conditions.

1.0 Purpose

- 1.1 To explain the implications of the Local Nature Recovery Strategy (LNRS) and biodiversity net gain (BNG) elements of the Environment Act 2021 for development planning and the emerging Wolverhampton Local Plan, and to approve adoption of the Black Country Local Nature Recovery Map and Strategy for planning purposes and the addition of three Council-owned sites to the national BNG register, as and when this is required.
- 1.2 To approve an up-to-date Statement of Community Involvement to meet statutory planning requirements and support the emerging Wolverhampton Local Plan.

2.0 Background

- 2.1 It is a requirement of Natural Environment and Rural Communities (NERC) Act 2006 that all public bodies must have regard to biodiversity conservation when carrying out their duties and functions. The Nature Recovery Network (NRN) is a major commitment in the Government's 25 Year Environment Plan (2018) designed to help wildlife recover by providing more habitat, in better condition, in bigger patches that are more closely connected, as set out in Making Space for Nature (2010).
- 2.2 The Environment Act 2021 (the Act) introduces mandatory Local Nature Recovery Strategies (LNRSs) to support spatial planning for nature and reverse the national decline in biodiversity. LNRSs will be prepared for 48 areas covering the whole of England and are intended to help deliver the NRN. Responsible authorities, chosen by the Government to prepare LNRSs, are required to work with stakeholders across the public, private and voluntary sectors to:
 - map the most valuable existing areas for nature;
 - agree nature recovery priorities;
 - agree what actions should be taken to recover nature and where.
- 2.3 The Act also requires certain types of development to achieve 10% biodiversity net gain (BNG), either on site or (if this is not possible) off site, to be secured for at least 30 years. The 10% uplift must be calculated using a national biodiversity metric which has been produced by Natural England. BNG will apply to all eligible planning applications submitted for major developments from January 2024 onwards (date to be confirmed), and minor developments from April 2024 onwards (date to be confirmed). For minor developments a simpler metric can be used which does not require the developer to employ a qualified ecologist. A small amount of grant has been allocated to each local authority to support the introduction of BNG. LNRSs should help ensure delivery of BNG in the best locations to help nature recovery.
- 2.4 It is important to maximise the potential for any off site BNG to be delivered within Wolverhampton and benefit local residents. To achieve this, sites appropriate for BNG delivery must be identified and BNG delivery on these sites must be secured through a

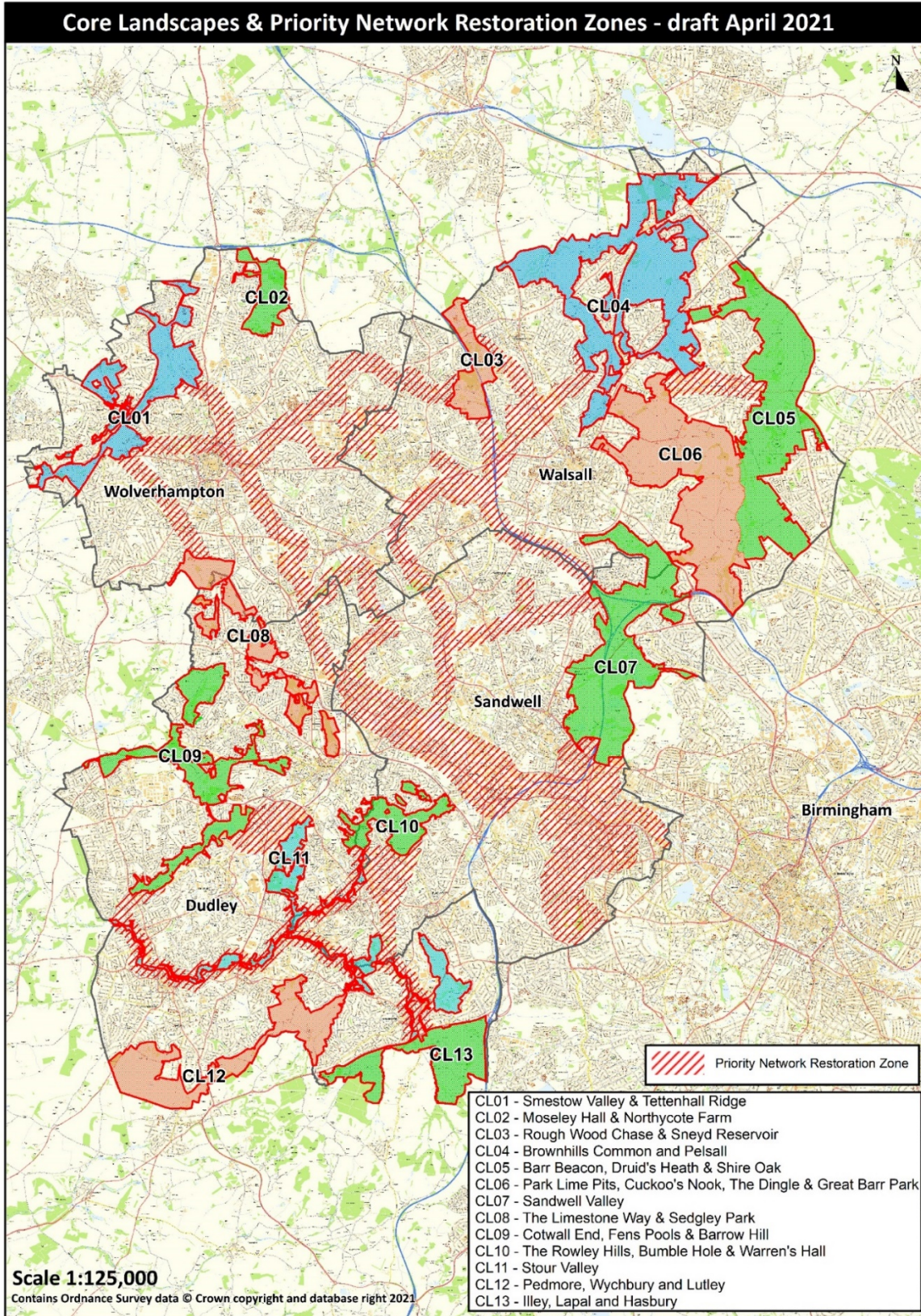
Conservation Covenant for 30 years. The sites must then be added to a national Biodiversity Gain Site Register (BGSR), which will be managed by Natural England.

- 2.5 In June 2023, the Government appointed West Midlands Combined Authority (WMCA) as the responsible authority to produce a LNRS for the WMCA area, which includes Wolverhampton. The WMCA LNRS will be an evidence-driven spatial plan for nature recovery and natural environment outcomes, developed through an ongoing process of consultation, including with local authorities, and will be finalised by early 2025. However, in the interim, LNRS evidence is needed to support the introduction of BNG in January 2024 and preparation of the Wolverhampton Local Plan (WLP) during 2023-24. An update of the Wolverhampton Statement of Community Involvement (2018) is also required to progress the WLP.

3.0 Local Nature Recovery Strategy (LNRS) evidence for Wolverhampton

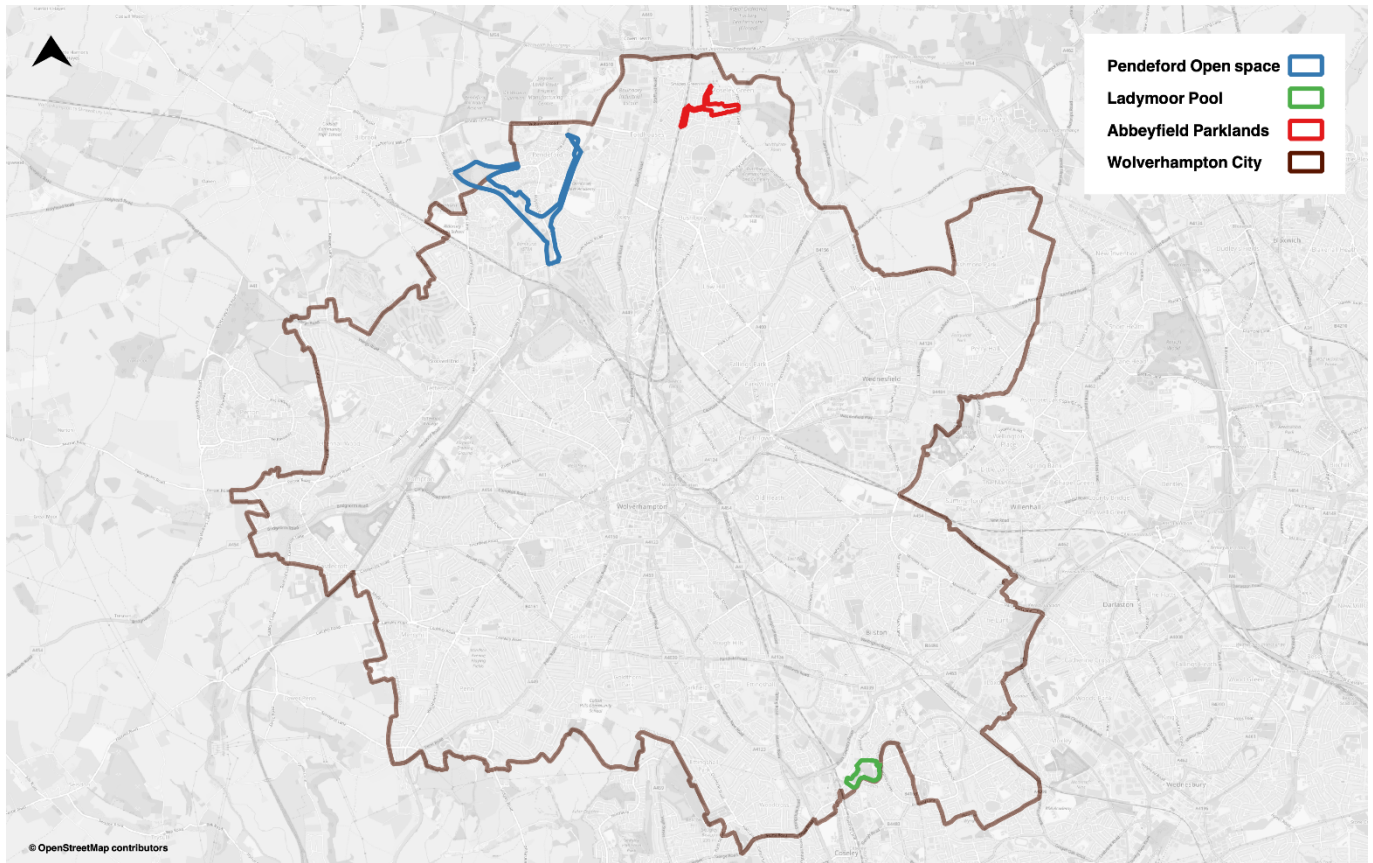
- 3.1 During 2021-2022, the Birmingham and Black Country Wildlife Trust was commissioned by the four Black Country authorities to prepare “Black Country Local Nature Recovery Map and Strategy: An Emerging Approach” (BC LNRS) as interim LNRS evidence to support the introduction of BNG and the emerging Black Country Plan (which has now been replaced by the WLP for Wolverhampton).
- 3.2 The BC LNRS (attached as Appendix 1, with relevant Technical Appendices provided at www.wolverhampton.gov.uk/planning/planning-policies/evidence-base-studies) first sets out a comprehensive habitat baseline for the Black Country, developed using satellite imagery and existing survey data. Using this baseline, a Local Nature Recovery Opportunity Map has been produced which reflects how ecological value varies across the area and the strength of connections between habitats. This Map defines Core Landscapes (CLs) - the most valuable habitats which are a priority for protection and restoration - and Priority Network Restoration Zones (PNRZs) – which link CLs into a coherent network for nature recovery. As shown on the map overleaf there are three CLs in Wolverhampton (Smestow Valley and Tettenhall Ridge; Moseley Hall & Northycote Farm; The Limestone Way & Sedgley Park) and a number of PNRZs which cross Wolverhampton broadly from west to east.
- 3.3 The BC LNRS followed the methodology being developed for national LNRSs at the time. As a result, the WMCA LNRS to be produced during 2023-2025 is likely to reflect the majority of the BC LNRS methodology, evidence and outputs. Therefore, it is proposed that the Council adopt the BC LNRS to use for planning purposes, including strategic delivery of biodiversity net gain in Wolverhampton, whilst awaiting finalisation of the WMCA LNRS. This approach is in accordance with current national advice.
- 3.4 Adoption of the BC LNRS would not supersede or alter the current system of protections for designated nature conservation sites in Wolverhampton, including Sites of Importance for Nature Conservation, Sites of Local Importance for Nature Conservation and Local Nature Reserves. The CLs and PNRZs in the BC LNRS do not currently have any specific protections through local or national policy. However, upon adoption, these

designations would become a material consideration when determining planning applications and may acquire greater weight when the Levelling Up and Regeneration Bill is enacted (due in late 2023).



4.0 Biodiversity Net Gain (BNG) Delivery in Wolverhampton

- 4.1 The national BNG requirement will apply to all planning applications which include more than 25 sqm of habitat, or 5m of linear habitat such as hedgerows. As most development in Wolverhampton takes place on previously developed land, it is likely that BNG will apply to a small proportion of developments. National guidance states that, where possible, BNG should be secured on site. However, where developers can fully justify why BNG cannot be delivered on site, developers can work with others to deliver off site BNG, where this has been created since 2020 and then maintained for a minimum of 30 years. Delivering off site BNG on sites in Wolverhampton, as far as possible, would maximise benefits for local residents and local wildlife. National guidance states that developers can choose how and where to deliver BNG off site, however if local sites are available they will generate more value through the national metric and so will generally provide a cheaper option for the developer.
- 4.2 Three Council-owned sites have been identified (as shown on the plan below) where BNG delivery (either since 2020 or in future) would support the BC LNRS, and where management of parts of the site for nature conservation purposes for at least 30 years would be compatible with on-going use as public open space. Part of Pendeford Open Space is located in South Staffordshire, however it serves Wolverhampton residents. For each site, an ecological survey has been completed to establish a biodiversity baseline and a menu of biodiversity improvements developed. It is proposed to add these sites to the Biodiversity Gain Site Register (BGSR) as and when this is required to deliver off site BNG.
- 4.3 In order to do this, the Council will need to enter into one or more Conservation Covenants with an independent “responsible body”, such as a Wildlife Trust. The role of the responsible body is to receive periodic monitoring reports and ensure that BNG is secured and delivered for at least 30 years. Conservation Covenants are private, legally binding agreements with clauses to be agreed between the land owner and the responsible body. It is likely that the Wildlife Trust for Birmingham and the Black Country will apply to become a responsible body and will agree to become the responsible body for the three Council-owned sites, however this is not guaranteed and an alternative responsible body may need to be approached.
- 4.4 Depending on the number and scale of off site BNG projects required for Wolverhampton developments, separate Conservation Covenants may need to be completed for specific parts of the three Council-owned sites, and further Council-owned sites may need to be identified in future years. Given current uncertainties regarding the nature, content and timing of the Conservation Covenants required, it is proposed that Cabinet grant delegated authority to approve the detail of and sign Conservation Covenants, and to add the three sites (or parts of these sites) to the BGSR at appropriate points in the future.



5.0 Statement of Community Involvement (SCI) Update

5.1 In order to meet statutory planning requirements and progress the emerging WLP, it is essential that Wolverhampton has an up-to-date Statement of Community Involvement (SCI), which sets out when and how the Council intends to involve communities and other key partners in the planning process, including consultation on various Development Plan Documents. The current SCI was adopted in 2018. Section 18 of the Planning and Compulsory Purchase Act 2004 and Regulation 4 of the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017 require SCIs to be reviewed and updated at least every five years. An updated Wolverhampton SCI is attached as Appendix 2 which has the same content as the SCI adopted in 2018.

6.0 Evaluation of alternative options

6.1 The following alternative options have been considered:

- Option one would be to make no preparations for the introduction of statutory biodiversity net gain and to allow the Statement of Community Involvement to become out of date. This would result in missed opportunities to direct biodiversity net gain to locations of strategic value for nature recovery and which would benefit

local residents, and an inability to progress the Wolverhampton Local Plan, which is needed to progress the regeneration of the City.

- Option two would be to implement the recommendations of this report. This would allow statutory biodiversity net gain to be directed towards locations of strategic value for nature recovery and which would benefit local residents, and preparation of the Wolverhampton Local Plan, which is needed to progress the regeneration of the City.

7.0 Reasons for decisions

- 7.1 Option two has been selected in order to maximise delivery of statutory biodiversity net gain in strategic locations for nature recovery and for the benefit of local residents, and to provide an up-to-date Statement of Community Involvement to meet statutory planning requirements and allow preparation of the Wolverhampton Local Plan to proceed.

8.0 Financial implications

- 8.1 The Government has provided Section 31 grant to help local planning authorities prepare for mandatory BNG in the planning system. In 2022-2023, BNG grant of £20,992 was claimed by the Council as per the below table:

	2022-2023 £
Advice provided by an ecology specialist in the Landscape Team on BNG	2,217
Digitising open space boundaries to form evidence for BNG receptor sites	2,935
Ecological survey work and other services provided by the Birmingham and Black Country Wildlife Trust, including preparation of the Black Country Local Nature Recovery Map and Strategy	15,840
Total	20,992

- 8.2 An additional £32,622 of BNG grant is available to claim against spend in 2023-2024. The report seeks delegated approval to create the necessary supplementary revenue budget up to the value detailed in the table below. The anticipated breakdown of spend for 2023-2024 BNG grant is as per the below table:

	2023-2024 £
Ecological survey work for Council-owned sites (as per para 4.2)	14,892
Ecological advice from Landscape Team and external consultants (if required) related to biodiversity net gain	17,730
Total	32,622

The 2023-2024 BNG grant conditions require two evidence of spend returns to be completed in September 2023 and March 2024.

8.3 It is expected that 2023-2024 BNG grant will be sufficient to cover any additional costs to the Council generated by the introduction of BNG to the planning system during 2023-2024. It is currently anticipated that there will not be BNG grant available in future years. Therefore, it is possible that the need for external ecological advice related to BNG will generate additional costs for the Council in future years, which will be met through City Planning revenue budgets. This will be kept under review and reported back to Cabinet if required.

8.4 Any completed Conservation Covenants for off site BNG to be provided on the three Council-owned sites, will be subject to the completion of one or more Individual Executive Decision Notices under the delegated authority recommended in this report. In line with national guidance and legislation, developer contributions should cover the full cost of delivering and maintaining off site BNG for at least 30 years, including monitoring and legal costs.

[AI/13092023/J]

9.0 Legal implications

9.1 The legal context is set out in the body of the report, in line with the appropriate delegation and in line with the constitution.

[JA/26092023/P]

10.0 Equalities implications

10.1 Having an adopted Local Nature Recovery Map and Strategy in advance of preparation of a WMCA LNRS provides supporting evidence for preparation of the emerging Wolverhampton Local Plan. An equalities impact assessment will be produced for each iteration of the Plan as part of the Sustainability Appraisal. The content of the BC LNRS is a material planning consideration in the determination of planning applications to be weighed in the balance alongside the Council's duties under the Equalities Act.

11.0 All other implications

11.1 The recommendations set out in this report support the Council's Net Zero ambitions.

11.2 The national BNG requirement will apply to all Council-owned and Council-led development sites which require planning permission.

11.3 Any completed Conservation Covenants for off site BNG to be provided on the three Council-owned sites will be subject to the completion of one or more Individual Executive Decision Notices (IEDNs) under the delegated authority recommended in this report. These IEDNs will highlight the specific implications for future management and maintenance of these three sites.

12.0 Schedule of background papers

12.1 Wolverhampton Statement of Community Involvement 2018

13.0 Appendices

- 13.1 Appendix 1: Black Country Local Nature Recovery Map and Strategy: An Emerging Approach (2022)
- 13.2 Appendix 2: Wolverhampton Statement of Community Involvement 2023