Yorkshire Dales National Park Authority **Item 11**

Authority Meeting

24 June 2025

Biodiversity Net Gain Section 106 Agreements

Purpose of the Report

1. To seek Member's authority to enter into Section 106 agreements to secure the creation and monitoring of Biodiversity Gain Sites (Habitat Banks) and to charge appropriate fees to recover the Authority's costs.

Recommendation

2. That Members agree the delegation arrangements set out in the Appendix to enable the Authority to enter into s106 agreements for 'Biodiversity Gain Sites' within the National Park.

Strategic Framework

3. The information and recommendation(s) contained in this report are consistent with the Authority's statutory purposes and support the strategic planning framework:

    - Corporate Plan Objective 23.
      "Provide an efficient development management service that supports appropriate opportunities for economic and community development whilst helping to conserve and enhance the special qualities of the National Park…"

Background

4. The Environment Act 2021 introduced Biodiversity Net Gain (BNG) which is a mandatory requirement that most types of new development should provide a 10% uplift in the biodiversity value of the development site. Planning permissions are subject to a condition requiring the provision of a 'BNG plan' which details how the uplift will be achieved on the site or, if that is not possible, off-site .

5. Regulations allow developers to deliver off-site BNG through the purchase of BNG units from a third-party landowner who has registered a Biodiversity Gain Site, often referred to as a Habitat Bank. To register a Biodiversity Gain Site a landowner must enter into a Section 106 agreement with the planning authority where the site is located (or into a 'conservation covenant' with a responsible body) to create or improve habitat

and maintain it for a minimum of 30 years. The agreement would include a commitment from the planning authority to approve a plan for the creation of the habitat and to monitor the management of the site over the 30-year period. Planning authorities can charge the owner of the site for this service.

6. The small scale of most development within the National Park is unlikely to generate a significant demand for BNG units with most BNG contributions being delivered by the developer on site or on other land within the same ownership. However, Biodiversity Gain Site owners can sell BNG units to developers who need to secure units for their sites even if they are located outside of the National Park. This presents a significant opportunity for the National Park (and its farmers and landowners) to benefit from habitat creation and improvement funded by development elsewhere.

7. The Authority has already been contacted by several landowners with potential Biodiversity Gain Sites who would like to enter into Section 106 agreements with the Authority. Section 106 agreements are normally used in connection with a planning application and as such are authorised when that application is determined (by Planning Committee or the Head of Development Management). However, there is no delegated authority to enter into “stand alone” Section106 agreements to secure Biodiversity Gain Sites. It is, therefore, proposed that:
    a. authority to enter into such agreements is delegated to the Head of Development Management; and,
    b. that Director of Conservation and Community is authorised to set the level of fees and charges associated with securing the agreement and monitoring the habitat works.

8. The relevant wording of the changes are set out in the **Appendix**.

Financial Implications

9. Section 93 of the Local Government Act 2003 gives local authorities power to charge for providing discretionary services. Charges may be set at whatever level the Authority sees fit, providing the charge does not exceed the cost of providing it.

10. The Authority has recruited a Planning Ecologist who will deal with the additional ecological work generated by the BNG regime. The postholder would be engaged in the approval, review and monitoring of Biodiversity Gain Sites with fees based on the cost to the Authority of providing that service contributing to the long-term funding of the post.

Legal Implications

11. Entering into Section106 agreements to provide Biodiversity Gain Sites will impose a long-standing monitoring and enforcement obligation on the Authority. As such it is important that the agreements include adequate and appropriate monitoring, enforcement and cost recovery provisions.

Equality, Diversity and Inclusion Implications

12. None.

Conclusion

13. The creation or improvement of important habitats by establishing Biodiversity Gain Sites could make a significant contribution towards achieving the updated National Park Management Plan objectives for nature recovery and for supporting viable farm businesses. By entering into Section 106 agreements with landowners, the Authority will be able to validate and monitor the work over a 30-year period, and recover its full costs for doing so.

Richard Graham
Head of Development Management

Proposed additions to the Scheme of Delegation

C4 Director of Conservation and Community

C4.2 The Director of Conservation and Community is authorised to act as follows:

y) to set fees and charges in connection with securing and monitoring s106 agreements for Biodiversity Net Gain.

C6 Head of Development Management

C6.6 The Head of Development Management is authorised to authorise s106 agreements to secure off-site Biodiversity Net Gain units (Biodiversity Gain Sites).