

For publication

Biodiversity Net Gain Receptor Sites Pilot

Meeting:	Cabinet
Date:	19 July 2022
Cabinet portfolio:	Cabinet Members for Economic Growth and Leisure, Culture and Community Wellbeing
Directorate:	Economic Growth and Leisure, Culture and Community Wellbeing
For publication	

1.0 Purpose of the report

1.1 This report seeks approval for the council to pilot the conservation and enhancement of biodiversity on its landholdings as a paid service in order to support delivery of Biodiversity Net Gain (BNG) policy, in cases where planning proposals are unable to deliver the required measurable net gain in biodiversity 'on-site'. Delegated powers are sought to enable officers to instigate and implement net gain schemes on a basket of Public Open Space (POS) sites for a pilot period.

2.0 Recommendations

2.1 It is recommended that Cabinet:

2.2 Authorise officers to implement a pilot scheme which seeks to create units for biodiversity enhancement to be used to support off-site provision of habitat where applicants have been unable to provide a measurable net gain in biodiversity on-site as part of applications for planning permission.

2.3 Authorise officers to assess the council's full land portfolio in order to identify potential medium-long term Biodiversity Net Gain opportunity sites which could form a 'habitat bank' to support nature recovery across the borough, dependent on subsequent Cabinet approval following an evaluation of the pilot schemes.

2.4 Authorise officers to work with partners to determine sites of strategic significance for biodiversity within the borough, with the aim that officers bring back a future strategy document for BNG to Cabinet which is informed by the results of the pilot.

3.0 Reason for recommendations

3.1 Enabling the council to become a provider of off-site Biodiversity Net Gain (BNG) will:

- i. support the delivery of Local Plan policy CLP16 ,
- ii. support housing delivery and economic growth through the provision of a clear and accessible solution to achieving planning compliance where applicants have demonstrated that they are unable to provide BNG on-site,
- iii. support the creation and retention of appropriate habitat types within the borough, enhancing local communities and reducing the risk of developers seeking solutions outside of the borough,
- iv. support implementation of the Climate Change Action Plan.

3.2 A number of planning applications currently under consideration have demonstrated that they are unable to meet the entirety of their BNG requirement on-site. Timely assessment of sites shortlisted as suitable for re-wilding through scoping work initially undertaken by Derbyshire Wildlife Trust will maximise opportunity to deliver BNG and maintain housing growth across the borough, however further investigation is recommended around the number of BNG units these sites can accommodate. The procurement of further assessment would ensure that the council is able to sustain an offer of biodiversity units throughout the pilot period.

3.3 When the Environment Act makes BNG mandatory (which is expected to be Winter 2023) the demand for off-site biodiversity opportunities is likely to increase. Establishing a habitat bank within the council's landholdings provides an opportunity to gain best value by identifying suitable land capable of accommodating a range of habitat types, in locations which are strategically important for nature.

4.0 Report details

4.1 There is growing recognition that the natural environment has been negatively affected by development. The fragmented and incoherent nature of habitats and wildlife sites within the UK has been highlighted through research, which points to the shrinking of non-designated habitats and a continuing decline in biodiversity¹. The government response to this includes the Environment Act (November 2021) which introduces a mandatory requirement for development to provide a net gain in biodiversity following a transition period of up to two years.

4.2 Biodiversity Net Gain is an approach to planning which requires new developments to measurably improve habitats. The Environment Act makes

¹ Making Space for Nature, Lawton (2010) <https://www.gov.uk/government/news/making-space-for-nature-a-review-of-englands-wildlife-sites-published-today>

BNG of 10% a mandatory condition for most development and requires that it is calculated through use of the Defra biodiversity Metric. Applicants for planning permission should identify enhancements through a biodiversity net gain plan. Habitat created or enhanced through the application of a biodiversity net gain plan must be secured for at least thirty years through a legal agreement required as part of the planning process.

- 4.3 The council is already committed to the implementation of the BNG approach through the adopted Chesterfield Borough Local Plan (2018-2035) and the ongoing production of Biodiversity Net Gain Supplementary Planning Document. Local Plan Policy CLP16 recognises the importance of biodiversity and expects development proposals to provide a net measurable gain in biodiversity, albeit not to any prescribed level.
- 4.4 The requirement for mandatory biodiversity net gain supports the council's commitments to the environment, particularly aiding the implementation of its Climate Change Action Plan. This report sets out a proposed approach to facilitate net gain and seeks Cabinet approval to continue with its implementation, ensuring that planning applications received are able to deliver biodiversity enhancements that benefit both biodiversity within Chesterfield and the wider ecological network.

Implementing Biodiversity Net Gain

- 4.5 Following the Environment Act 2021 coming into force, it is expected that secondary legislation and regulations will be released to set out more detail on how BNG will be delivered and monitored. However, as the existing Chesterfield Borough Local Plan (2018-2035) requires that developments demonstrate a net measurable gain in biodiversity, the authority has chosen to apply the BNG approach prior to the legislative requirements coming into force.
- 4.6 In order to demonstrate that a development is delivering a measurable net gain in biodiversity it is necessary for applicants to take a baseline measurement and compare it against a measure of the anticipated post-development outcome. The Biodiversity Metric (3.0)² – (the Metric) uses data on habitat features (including hedges, rivers and terrestrial habitat) to calculate a biodiversity value which is measured in 'units'. The Metric provides a means of assessing changes in biodiversity value in a consistent way,
- 4.7 Chesterfield Borough Council asks that the Metric is completed for all major development proposals and for all proposals that have the potential to affect a site with nature conservation interest. Applicants are expected to submit the Metric in full so that the Council is able to evidence that the policy requirement for a net measurable gain in biodiversity is to be met. The measures to be undertaken by the developer to provide a net measurable

² <http://publications.naturalengland.org.uk/publication/6049804846366720>

gain in biodiversity are submitted as part of a Biodiversity Net Gain Plan alongside a management plan and monitoring schedule.

- 4.8 Applicants for most minor developments are not expected to submit the Metric. Developers are able to use an approach such as the 'Small Sites Biodiversity Metric'³ which will become the normal for smaller development sites when the Environment Act comes into force.
- 4.9 The Local Plan's policies on biodiversity require that applicants follow the 'mitigation hierarchy' by seeking to avoid adverse environmental effects as a priority. This requires the applicant to demonstrate they have made every effort to provide mitigation on site. It would be unacceptable for a developer to compensate without first seeking to avoid and mitigate damage to habitats and species. There may however be instances where it is not possible to meet the full net gain requirements on-site and off-site provision will need to be allocated to the site. This is particularly likely for the borough's more compact development sites, sites with large areas of quality grassland or those that are situated on brownfield land with high value open mosaic habitat.

Off-site Biodiversity Net Gain Provision

- 4.10 Developments which are unable to demonstrate a net gain in biodiversity, and which are unable to accommodate a net gain on the development site are required to find, fund and deliver an appropriate scheme external to the development site. This is known as off-site BNG provision and the area of land benefitting from the provision of net gain is called a 'receptor site'. A developer could choose to use another site within their landholdings or purchase biodiversity units from a broker or agent offering 'off the shelf' BNG units.
- 4.11 Wherever possible, off-site BNG (or 'receptor sites') will be expected to have a close spatial relationship with the development site and the borough's Biodiversity Network. This is particularly important for habitat connectivity which facilitates important ecological processes. The borough has health inequalities and access to greenspace and nature is important in mitigating these. If compensation is delivered at distance, it would not benefit these communities in the same way.
- 4.12 Off-site BNG provision will be considered where the applicant has justified the need for the creation of off-site biodiversity units and has undertaken steps to ensure that the provision is both local to the development site and complementary to the borough's biodiversity network. The responsibility for locating a suitable off-site receptor site lies with the applicant.

³ Small Sites Metric - <http://publications.naturalengland.org.uk/publication/6047259574927360>

- 4.13 Should a developer be unable to arrange their own biodiversity offset project(s), then the council is able to offer biodiversity units in exchange for a financial contribution made to the Council through a S106 Agreement. Following the receipt of the contribution, the council would then take on the responsibility to organise the required off-site biodiversity units, monitor progress towards meeting the required units of biodiversity gain and adapt management where necessary to ensure the gains in biodiversity are achieved and formally report on its progress.

Identified Opportunity Sites for Biodiversity Net Gain

- 4.14 At present the opportunities for off-site BNG creation in the borough are limited as mandatory net gain is yet to come into force and a statutory biodiversity units scheme is yet to be established. There are however several planning applications currently under consideration where the applicant has evidenced that they are unable to meet the entirety of their BNG provision on-site. If the applications were to be approved, the council has no formal list of sites which are considered to be optimal locations for BNG.
- 4.15 There is therefore a risk that either the approval of a planning application might be frustrated, delayed or refused, or the developer may seek to achieve policy compliance through purchasing BNG units outside of the borough. This would enable the applicant to gain planning permission but would have a negative impact locally and result in a net loss of biodiversity within the Chesterfield Borough Council area.
- 4.16 In order to determine locations within the borough that might benefit from habitat enhancement and/or creation the Strategic Planning team undertook a piece of work in conjunction with Derbyshire Wildlife Trust during 2021 (funded through the Green Recovery Challenge Fund). The work sought to identify whether the borough's network of public open spaces presented opportunities for BNG owing to certainty regarding land ownership details and their status as allocated open spaces within the Chesterfield Borough Local Plan (2018-2035).
- 4.17 A number of potential biodiversity opportunity sites were initially identified using Natural England's Combined Habitats Network data which identifies the locations that provide the greatest opportunity for potential network enhancement and expansion. Following this desktop review, the selected sites were assessed using technical criteria.
- 4.18 The desk-based research highlighted seven sites across the borough which were particularly suited to BNG, with the potential to deliver other benefits including natural flood management and nature recovery. Following the desktop review and site survey work a number of net gain opportunity plans were created by Derbyshire Wildlife Trust to provide recommendations for

habitat enhancement with the aim of creating sites of high ecological value (see Appendix 1).

Pilot BNG Scheme on Public Open Space Sites

- 4.19 It is proposed that the sites identified by Derbyshire Wildlife Trust are taken forward through a pilot scheme. The scheme would involve establishing a cross service programme board under the leadership of service director to fix terms of reference and oversee the governance of the pilot scheme. It is anticipated that the terms of reference will cover:
- detailed investigation of the baseline position and net gain capacity for each site following procurement of an ecologist/consultant.
 - the development of a thirty-year habitat management plan setting out the required maintenance regime for each site.
 - engagement with members in wards where pilot biodiversity receptor sites are proposed.
 - the development of a structured programme and implementation of the management plans; - this will most likely require
 - initial creation of defined habitat
 - habitat maintained over thirty years in strict accordance with the management plan
 - offering and advertising the scheme to developers in need of off-site BNG units.
- 4.20 The terms of reference will also set out the process for assessing the potential suitability of the Council's wider land holding for BNG, for example on sites currently used for grazing. Insights obtained through the delivery of the receptor site pilot will form the base of a future report to Cabinet, containing a recommended medium-term approach to providing BNG receptor sites.
- 4.21 One of the identified sites (Loundsley Green Road Amenity Space) was selected for detailed investigation and an independent ecologist was commissioned to carry out a detailed assessment to understand the baseline biodiversity value, 'potential site capacity' (in biodiversity units) and maintenance plan needed to achieve biodiversity enhancement on this site. The work undertaken includes a schedule of the actions required to create (and/or enhance) and maintain the habitats for a period of thirty years.
- 4.22 The cost of creating and maintaining this site has been estimated by the Principal Open Space Manager in consultation with his team. These costs have been estimated using internal service cost data, seeking measured prices from external contractors and benchmarked against similar works carried out across the borough.

- 4.23 Alongside the cost of the works, there are two further areas of cost input required to establish an estimated 'total cost' of creating a BNG unit. These cost areas are the:
- i. cost of land – per acre, per year for 30 years;
 - ii. facilitation, administration and strategic development cost – i.e. the costs of managing and procuring site assessments and management plans, registering, reporting and monitoring credits.
- 4.24 Advice has been sought from BNP Paribas as an independent surveyor to establish an anticipated land value, based on emerging national market for similar land. Furthermore, facilitation and strategic development costs have been gaged with reference to work carried out on the sample site at Loundsley Green Road.
- 4.25 As a result of developing a detailed plan and costings for enhancing the biodiversity value of the Loundsley Green Road Amenity Space, the council is now in a position to offer to carry out this work should the need (and developer funding) for biodiversity units come forward. It is proposed that the council brings forward units on these sites through the pilot net gain scheme described at 4.19.
- 4.26 Through the pilot scheme the land would need to be specifically allocated for habitat creation and management for a period of at least thirty years through the use of a legal agreement or conservation covenant. This would support the pending determination of planning applications and ensure that the council is ready to provide an additional service offering to those seeking to invest within the borough.
- 4.27 Granting authority to assess and implement BNG on receptor sites across the borough would support the delivery of sites allocated for residential housing growth and regeneration within the Local Plan (such as Linacre Road) and other locations within the borough, where applicants have demonstrated that the possibility for on-site mitigation has been exhausted. It will also support the development of land designated for other uses, such as employment.
- 4.28 It is important to note that the local planning authority would not be able to direct developers to purchase biodiversity units from the council in preference to other vendors. Any payments taken for enhancements would need to be registered and allocated to the development site for a minimum of thirty years.

Creating a Reserve of Biodiversity Receptor Sites

- 4.29 The work undertaken in identifying opportunity areas for biodiversity on Public Open Spaces is an important first step, but there is significant value in evaluating the council's wider land portfolio in order to determine further opportunities for BNG. This is particularly true of locations where biodiversity

delivery could deliver the greatest benefit for habitat connectivity and maximise the potential for species colonisation. Habitat creation and enhancement opportunities are limited within areas of Public Open Space, owing to the limited size of some of the spaces and the need to retain multifunctionality for other uses (such as for amenity, sports and play provision).

- 4.30 Whilst off-site BNG provision is seen as a last resort, it is likely that some allocated 'brownfield' sites such as the Staveley Corridor (SS5) will carry a significant net gain requirement which may not be achievable on-site owing to the presence of open mosaic habitat. Where on-site losses are considered to be unavoidable, it is preferable that there are a range of sites available for off-site net gain schemes as close to the development site as possible in order to ensure that biodiversity gains are recorded locally.
- 4.31 Evaluating the council's wider land portfolio for BNG opportunities would permit the development of a larger and more meaningful habitat bank which could have the potential to support off-site requirements from several development sites. The council would be able to sell any recorded uplift in biodiversity value to a developer, covering the costs of any management, maintenance, monitoring and administration. Before this option can be fully costed it is necessary to understand which sites in the council's land portfolio might be suitable for use as a habitat bank and evaluate the outcomes of the pilot approach.
- 4.32 The council is also seeking potential biodiversity receptor sites from other landholders in the borough through the Local Plan 'Call for Sites'⁴ process. In these cases, the landowner would commit to managing the land for 30 years from the sale of each unit and would be required to report progress to the Local Planning Authority at a number of pre-identified stages.
- 4.33 Following an evaluation of the pilot scheme and survey of council landholdings, officers will develop a medium-term strategy for BNG and seek approval from Cabinet.

Determining Sites of Strategic Significance

- 4.34 Strategic Significance is a scoring element within the Biodiversity Metric (3.0) and is based on whether the location of a site or the habitats present/ to be created have been identified as significant for nature. Features can be given a score of 'high' 'medium' or 'low' depending on whether the habitat is located in an optimal location, or is of a type, that meets local objectives for biodiversity. The Local Authority is able to determine the local plans and strategies that will be relevant for strategic significance scoring.

⁴ <https://www.chesterfield.gov.uk/call-for-sites-2022>

- 4.35 If the Council formally identifies areas that are of strategic significance for biodiversity these sites / habitats could be attributed with a greater level of weight within Biodiversity Metric calculations. The weighting given to 'Strategic Significance' within the Metric acts as an incentive to locate habitat enhancements in ecologically desirable areas but also carries a multiplier that will disincentivise loss in these areas.
- 4.36 Determining strategic significance is dependent on the mapping of ecological networks including areas for enhancement, restoration or creation. The draft Chesterfield Greenprint⁵ identifies and assesses important habitats and species found within Chesterfield Borough and sets out actions that need to be taken forward to try and protect, enhance, restore or reconnect these habitats or species and their populations. The draft will need to be updated to address biodiversity net gain principles (such as Strategic Significance) and set out opportunity areas spatially for priority habitat types.

5.0 Alternative options

- 5.1 The alternate option is to do nothing and wait until later in the Environment Act transition period to determine whether sufficient off-site opportunity areas come forward on private landholdings through the biodiversity unit market. This option has been discounted because it is becoming evident that some current planning applicants are struggling to meet their BNG requirement on-site given the compact nature of the borough. Without having any off-site biodiversity receptor sites identified it is possible that developers will look for options outside the borough. This could lead to a net biodiversity loss within the borough.
- 5.2 Failure to identify potential receptor sites could also potentially increase the costs of development, present a barrier to and constrain housing growth, which could in turn risk development on sites which is unplanned.
- 5.3 A failure to formally identify sites of 'Strategic Significance' would also signify a missed opportunity to disincentivise the loss of habitats that are of importance for the borough's network of green infrastructure.

6.0 Implications for consideration – Financial and value for money

- 6.1 The sites identified as potential receptor sites are currently used as Public Open Space and therefore require general fund and HRA resources to manage and maintain. There is very limited opportunity for an alternative use e.g., development of these sites.
- 6.2 Detailed examination of a sample site at Loundsley Green Road has been carried out to understand potential capacity of BNG units. The findings of this research have been used by the Principal Green Space Manager to calculate a

⁵ <https://www.chesterfield.gov.uk/media/852281/draft-a-greenprint-for-chesterfield-2nd-edition.pdf>

detailed understanding of financial cost for works required to 'create' each BNG units and the subsequent ongoing cost of managing the land for the following 30 years.

- 6.3 It is anticipated that the Council will seek a contribution of £20,000 per BNG unit from developers and applicants for planning permission. This will cover:
- i. 'upfront' capital works to create the habitat,
 - ii. management and maintenance of the land for 30 years,
 - iii. facilitation, monitoring, registration and future development of off-site assessment,
 - iv. a nominal 'rent' for use of the land.
- 6.4 It is also anticipated that if approved, financial contributions from applicants would be paid 'upfront' as a lump sum before any development would commence. This would enable efficient use of resources across a pilot programme as the payment would represent spend over a 30-year period and provide initial funds to service a pipeline ahead of expected contributions on future off-site schemes.
- 6.5 If the management of some POS sites is to be achieved through a funded BNG scheme, it is likely that there will be potential for reallocation of resources to increase focus on other areas of non BNG funded open space.
- 6.6 It is recommended that an amount of £1,500 per BNG units is set aside for facilitation and administered jointly between the Strategic Planning and Open Space teams. This sum would initially enable the procurement of specialist ecologist advice to assess in detail the remaining sites initially identified by DWT and subsequently to establish capacity and implementation plans. Following initial assessment this sum would fund the council's responsibilities in maintaining a net gain site database and research into nature recovery and net gain opportunities within the borough.

7.0 Implications for consideration – Legal

- 7.1 It is anticipated that most off-site BNG requirements will need to be secured for the length of the net gain agreement through the use of a Section 106 agreement which will need to be prepared in collaboration with Legal Services. Additionally, the council would need to enter into a legal agreement with any landowners if it were to supply any off-site biodiversity units derived from enhancements carried out by the CBC Open Spaces team on council landholdings.

8.0 Implications for consideration – Human resources

- 8.1 Implementing the net gain pilot will be a substantial piece of work which will require collaboration between a number of council teams. Although the Open

Spaces team already manage the pilot sites, the net gain approach will require new planting, equipment and methods of management which will deviate from the existing approach. Administrating the scheme and looking at the use of the council's wider land portfolio would involve several council departments (Asset Management, Strategic Planning, Leisure, Housing and Legal), but the approach has the potential to become a modest source of revenue.

- 8.2 Initial consideration of a sample scheme at Loundsley Green Road by the Principal Open Space Manager has identified that there will be no initial requirement for additional staff resourcing. The impact on resourcing is to be carefully monitored through the pilot process.
- 8.3 A detailed desktop review and assessment of wider Council land holding will require collaboration between several internal departments.

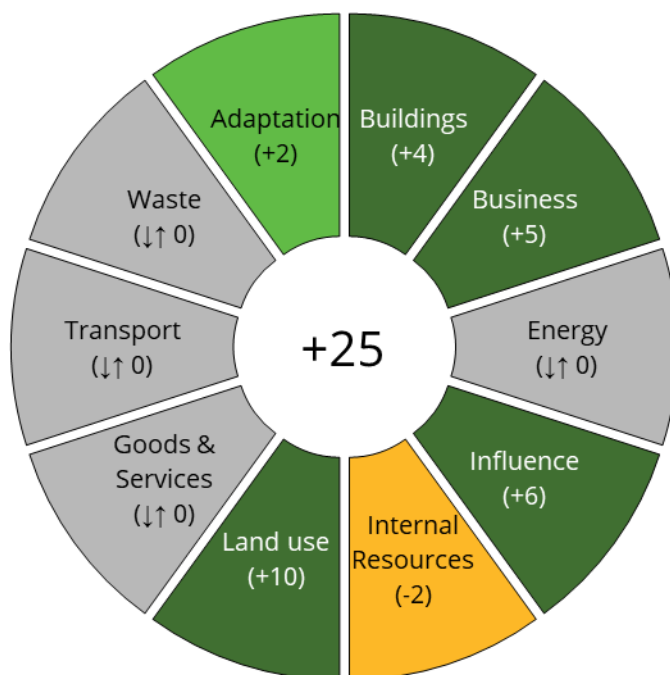
9.0 Implications for consideration – Council plan

- 9.1 The delivery of BNG will have a positive impact on sustainability. In particular it will support the Council Plan objective of developing '*an inclusive and environmentally sustainable approach to growth*' as the approach recognises that development must mitigate against impacts on nature and seek to leave it in a measurably improved state.
- 9.2 Enhancements to the natural environment provided through the biodiversity net gain approach will have positive public health implications improving the quality of life for local people. The creation and enhancement of habitat within the borough is likely to improve access to the ecosystem services associated with nature such as improved mental wellbeing.

10.0 Implications for consideration – Climate change

- 10.1 The implementation of biodiversity net gain schemes on council owned public open spaces is anticipated to have a positive impact on the borough's resilience to climate change. The scheme will result in measurable gains in biodiversity through the provision of habitat, hedgerow and river units (via habitat creation and / enhancement).
- 10.2 Desk-based research indicated that the sites chosen for the pilot work were most suited for biodiversity net gain and had the potential to deliver other benefits including natural flood management and nature recovery network expansion. Habitat creation can increase interception and infiltration of rainwater, reducing run off - acting as a natural flood management measure.
- 10.3 The scheme will involve the use of council resources such as equipment to enable planting and maintenance, however this is expected to result in improved environmental outcomes overall.

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Chesterfield Borough Council has committed to being a carbon neutral organisation by 2030 (7 years and 6 months away).

11.0 Implications for consideration – Equality and diversity

11.1 None identified.

12.0 Implications for consideration – Risk management

12.1 Below is a table of possible risks and mitigation actions which may arise as a result of approving the pilot scheme:

Description of the Risk	Impact	Likelihood	Mitigating Action	Impact	Likelihood
Public perception – delivering BNG requires the use of open space and may create the appearance that the land is 'unkempt' leading to possible public dissatisfaction.	Medium	Medium	Detailed communication plan prior to be established prior to commencement (aimed at both Members and the public). All areas of BNG to have information boards and explore potential community engagement.		
Costs of creating and managing BNG units are higher or more complicated than anticipated.	Medium	High	A target site at Loundsley Green Road has been assessed in detail with advice procured from an external ecologist. The management plan has	low	med

			been thoroughly costed by Principal open space manager; the pilot will be carefully monitored.		
Enhancement works will not create the anticipated number of biodiversity units.	High	High	Early commissioning of ecologist assessment of the remaining suggested pilot sites, a clear understanding will be achieved at pace and minimal cost c£15-20k. Adaptive management approach to be implemented to review progress and required management practices.	low	low
Low demand – resources invested and limited future demand for units	Medium	Low	There is a visible pipeline of planning applications signalling an off-site solution will be needed. If units are not required, for development off setting, the enhancements will still achieve nature recovery strategy and assist climate change objectives. Once created and registered, The Council would have the option to 'sell' these credits to developers located anywhere in the UK.	low	low
Land used as a receptor site may develop high biodiversity value and may be precluded from future development.			Ensure that receptor site selection process takes future development needs into account.		

Decision information

Key decision number	1106
Wards affected	All

Document information

Report author
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Background documents

These are unpublished works which have been relied on to a material extent when the report was prepared.

This must be made available to the public for up to 4 years.

Appendices to the report

Appendix 1	Chesterfield Borough Council - Biodiversity Net Gain Opportunities
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