

# Public Document Pack



**North  
Northamptonshire  
Council**

**Meeting:** EAP Climate Change, Environment & Growth

**Date:** Wednesday 27th April 2022


**Time:** 9.30 am

**Venue:** Remote Meeting via Zoom (this meeting is not the subject of public meeting requirements)

The meeting will be available for the public to view live at the 'Democratic Services North Northants' YouTube channel.

To members of the EAP Climate Change, Environment & Growth

Councillor Harriet Pentland (Chair), Councillor Tim Allebone, Councillor Jennie Bone, Councillor Dez Dell, Councillor Anne Lee and Councillor Jan O'Hara

<b>Agenda</b>			
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04	Biodiversity Net Gain	Sue Bateman/ Andra Stopforth	7 - 32
05	Corby Station Link Road & Smart & Connected Corby Project (to follow)	Victoria Phillipson/ Valerie Finke	
06	Close of Meeting		
<p>Adele Wylie, Monitoring Officer North Northamptonshire Council</p>  <p><b>Proper Officer</b> <b>19<sup>th</sup> April 2022</b></p>			

This agenda has been published by Democratic Services.

Committee Administrator: Raj Sohal

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This meeting will be held using the Zoom platform.

### **Members' Declarations of Interest**

Members are reminded of their duty to ensure they abide by the approved Member Code of Conduct whilst undertaking their role as a Councillor. Where a matter arises at a meeting which **relates to** a Disclosable Pecuniary Interest, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless granted a dispensation.

Where a matter arises at a meeting which **relates to** other Registerable Interests, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but must not take part in any vote on the matter unless you have been granted a dispensation.

Where a matter arises at a meeting which **relates to** your own financial interest (and is not a Disclosable Pecuniary Interest) or **relates to** a financial interest of a relative, friend or close associate, you must disclose the interest and not vote on the matter unless granted a dispensation. You may speak on the matter only if members of the public are also allowed to speak at the meeting.

Members are reminded that they should continue to adhere to the Council's approved rules and protocols during the conduct of meetings. These are contained in the Council's approved Constitution.

If Members have any queries as to whether a Declaration of Interest should be made please contact the Monitoring Officer at – [monitoringofficer@northnorthants.gov.uk](mailto:monitoringofficer@northnorthants.gov.uk)

### **Press & Media Enquiries**

Any press or media enquiries should be directed through the Council's Communications Team to [NNU-Comms-Team@northnorthants.gov.uk](mailto:NNU-Comms-Team@northnorthants.gov.uk)

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## **Minutes of a meeting of the EAP Climate Change Environment & Growth** Held as a Remote Meeting via Zoom at 9.30 am on Wednesday 16th March 2022

### **Present:-**

#### Members

Councillor Harriet Pentland (Chair)  
Councillor Jennie Bone  
Councillor Jan O'Hara

Councillor Tim Allebone  
Councillor Dez Dell  
Councillor Anne Lee

#### Officers

George Candler  
Beth Gordon  
Rob Harbour  
Greg Haynes  
Graeme Kane  
Carol Mundy  
Raj Sohal

Executive Director Place/Economy  
Operations Manager  
Assistant Director Growth/Regeneration  
Climate Change Officer  
Assistant Director Highways/Waste  
Senior Democratic Services Officer  
Democratic Services Officer

Also in attendance – Councillor Graham Lawman

#### **42 Apologies for Absence**

No apologies were received.

#### **43 Members' Declarations of Interest**

No declarations were made.

#### **44 Minutes from Meeting held on 23 February 2022**

RESOLVED that:

The minutes of the meeting held on 23<sup>rd</sup> February 2022 were approved as a correct record.

#### **45 Garden Waste - Process and Recycling Rates and Impact (to follow)**

The EAP considered a presentation by the Operations Manager, which provided members with an update concerning garden waste collection services in North Northamptonshire. The presentation also outlined the objectives of the ongoing consultation, regarding garden waste collection, and the potential impacts of this consultation.

During discussion, members queried:

- How much influence the responses from the consultation would have on the authority's decision making, if it were to provide clear opinions of the majority of local residents?

- What the 'take-up rate' was in east Northamptonshire, regarding the collection of funds from the paid subscription garden waste collection service, and how this varied between seasons?
- whether the authority had considered to have an opt-in process for residents, regarding garden waste collection services
- Whether people with no gardens, such as those residing in flats, were allocated, or had access to, garden waste bins anyway?
- If garden waste collection was a legal obligation of the local authority, under the Environment Act?
- Whether the authority had considered to implement electric vehicles into the service, since current waste collection vehicles achieved a fuel economy of 5 to 8 miles per gallons?

In response, the Operations Manager clarified that:

- At the time of meeting, east Northamptonshire had 12,000 subscribers for its garden waste collection service. During the winter period, the amount of garden waste collected decreased significantly, in comparison to the spring and summer seasons. Green waste being placed in black waste bins was prohibited under the council's policies.
- To manage garden waste collection as an opt-in service would generate a huge amount of data, which would have to be processed and relayed to collection crews, who would most likely be collecting from all streets regardless.
- Residents with no garden access were not allocated waste bins. Although, in some instances, bins were provided for communal garden areas.
- The Environment Act required authorities to collect garden waste as a separate material. Therefore, North Northamptonshire council had this legal responsibility.
- Electric vehicles had been considered for implementation into the garden waste collection service however, the service covered a large area and concerns existed around the travel range of such vehicles. The capital cost of supporting electric vehicles would also be substantial. Nevertheless, North Northamptonshire council would continue to consider electric vehicles for future use, when feasible.

In response, the Executive Director of Place and Economy clarified that:

- The consultation would not be a direct vote but rather, an opportunity for the authority to consider the views of local residents, balanced against the financial cost of the service, when making decisions.
- The results of the consultation would be brought back to the Climate Change, Environment & Growth EAP before July 2022.

RESOLVED that:

The EAP noted the report.

#### **46 Council Paper - 31st March (verbal update)**

The EAP considered a verbal update by the Executive Director of Place and Economy regarding a report, which would be going to full council on 31st March. This report was drafted in response to North Northamptonshire's declaration of a climate and environmental emergency in July 2021 and its commitment to provide a progress update, concerning work being undertaken around carbon neutrality.

#### **Agenda Item 6 – Bus Strategy Update (Additional Item)\***

The EAP considered a presentation by the Team Leader for Transport Planning, which provided an update regarding the funding announcement of the Bus Service Improvement Plan, results of the Enhanced Partnership Stakeholder Consultation and the continuation of the Bus Recovery Grant.

During discussion, members queried:

- What the capital cost of electric buses would be and if a full trial of electric buses was to be run, whether this would be carried out solely by private operators or if the local authority would also have to contribute financially towards this?

One member posited that with continued rising fuel costs, more residents would use bus services for local transport. The member also suggested that the authority could consider the use of hydrogen or methane powered buses in the future.

In response, the Team Leader for Transport Planning clarified that:

- Electric buses were significantly more expensive to purchase than diesel ones and also more costly to run and maintain. This was primarily due to the fact that it was unknown when the batteries of such electric vehicles would need to be replaced.

The executive member clarified that it was the operators' decision which buses to use and also that electric vehicles were better suited to urban routes.

#### **47 Close of Meeting**

It was noted that the next meeting of the Climate Change, Environment & Growth Executive Advisory Panel would be held virtually, via Zoom, on Wednesday 27<sup>th</sup> April at 9:30am.

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## Executive Advisory Panel

### Climate Change, Environment & Growth 27 April 2022

Report Title	Consultation on Biodiversity Net Gain Regulations and Implementation
Report Author	Sue Bateman, Senior Planning Officer, <a href="mailto:sue.bateman@northnorthants.gov.uk">sue.bateman@northnorthants.gov.uk</a> and Andra Stopforth, Principal Planning Officer <a href="mailto:Andra.stopforth@northnorthants.gov.uk">Andra.stopforth@northnorthants.gov.uk</a>
Executive Member	Councillor Harriet Pentland – Executive Member for Climate & Green Environment

#### List of Appendices

**Appendix A - Summary process diagram for proposals as they would apply to Town and Country Planning Act development**

**Appendix B – Response to Consultation on Biodiversity Net Gain Regulations and Implementation**

#### **1. Purpose of Report**

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1.1. To raise awareness of the implications of biodiversity net gain.

#### **2. Executive Summary**

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2.1. The report sets out details of the recent consultation from the Department for Environment Food & Rural Affairs (DEFRA) on proposals for how biodiversity net gain will work in practice. Feedback from the consultation is intended to shape developing legislation, processes and guidance. This will help ensure the requirement for mandatory biodiversity net gain delivers positive outcomes for nature, improves the process for developers, and creates better places for local communities.

2.2. A draft response to the consultation was considered by the Planning Policy Executive Advisory Panel on 24 March 2022 and a council response to the

consultation was submitted following the agreement of the Executive Member for Growth and Regeneration in consultation with the Executive Director of Place and Economy.

- 2.3. The report also sets out some of the potential implications for the council of the introduction of biodiversity net gain.

### **3. Recommendations**

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- 3.1. It is recommended that the panel considers the report and provides any feedback.
  
- 3.2. *(Reason for Recommendations – to raise awareness of biodiversity net gain*
  
  
- 3.3. *(Alternative Options Considered – this matter could have just been raised with the Planning Policy Executive Advisory Panel, but as it addresses many cross-cutting themes relating to the environment it was considered beneficial to bring the topic before both executive advisory panels).*



## 4. Report Background

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- 4.1. The Environment Act 2021 passed into UK law in November 2021. It sets out legislation to protect and enhance our environment for future generations. This included measures to clean up the country's air, restore natural habitats, increase biodiversity, reduce waste and make better use of our resources. These changes will be driven by new legally binding environmental targets enforced by a new independent Office for Environmental Protection (OEP) which will hold government and public bodies to account on their environmental obligations.
- 4.2. A key requirement of the Act is to ensure that developments deliver at least a 10% increase in biodiversity. A recent consultation from DEFRA relates to the practical and legal implementation details of this new biodiversity net gain requirement for development. The Act sets out the framework for biodiversity net gain requirements but leaves some detail to be provided through secondary legislation, policy and guidance. The Environment Act's biodiversity net gain provisions apply:
- for development for which planning permission is granted under the Town and Country Planning Act 1990
  - for Nationally Significant Infrastructure Projects consented under the Planning Act 2008
- 4.3. Biodiversity net gain is an approach to development which means that habitats for wildlife must be left in a measurably better state than they were in before the development. Achieving biodiversity net gain means that natural habitats will be extended or improved as part of a development or project. Development will be designed in a way that provides benefits to people and nature and reduces its impacts on the wider environment. Mandating biodiversity net gain through the Environment Act is intended to establish a consistent set of requirements and necessary exemptions which give developers clarity as to how they can meet their net gain obligations.
- 4.4. Mandatory biodiversity net gain policy and processes will fundamentally change the way that habitat losses are considered as part of development. There is currently uncertainty in practice about what biodiversity net gain means, the responses to this consultation will shape the secondary legislation, policy and delivery plans which will deliver the Environment Act's aims.
- 4.5. Mandatory biodiversity net gain is not the only policy being developed to meet the ambitions set out in the Government's 25 Year Environment Plan. It is helpful to consider wider policy proposals and planning reforms when considering the implications of biodiversity net gain. The most relevant of these policies are outlined below:
- **conservation covenants** – a new voluntary, and standalone legal mechanism that can secure long term conservation management obligations on land to secure habitat enhancements for biodiversity gain.

- **Environmental Land Management Schemes (ELMS)** – an agri-environment scheme which will work alongside mandatory biodiversity net gain as another source of income to enhance biodiversity and the wider environment.
- **Environmental Net Gain** – means building on biodiversity net gain and going further to achieve increases in the capacity of affected natural capital to deliver ecosystem services and make a scheme’s wider impacts on natural capital positive.
- **Local Nature Recovery Strategies** – are locally produced spatial planning frameworks for nature, informed by national maps and priorities. Each strategy will, for the area it covers, agree priorities for nature’s recovery, map the most valuable existing areas for nature and map specific proposals for creating or improving habitat for nature and wider environmental goals.
- **Nature Recovery Network** – an expanded, improved and connected network of places for nature that is rich in wildlife and more resilient to climate change.
- **Species abundance target** - an additional legally binding target on species abundance for 2030 to halt the decline of nature. Creating new and better habitats through biodiversity net gain will contribute towards limiting biodiversity loss and accelerating its recovery, thereby supporting the meeting of the new species abundance target.
- **Species conservation strategies and protected site strategies** - are designed to provide a more strategic approach to the complex challenge of protecting and restoring species and habitats. The Act places a duty on planning authorities to cooperate with Natural England, and other planning authorities and public bodies, in the establishment and operation of the strategies.
- **Strengthened biodiversity duty** - Public authorities subject to the duty, including planning authorities, will need to report on how they are considering and enhancing biodiversity. For planning authorities, this must include references to their delivery and support of biodiversity net gain. Public bodies might wish to enhance habitat on their own land in response to this duty and, should this require funding, they may sell the generated ‘biodiversity units’ to fund the enhancement.
- **Planning reforms** - The Planning for the Future White Paper published in August 2020 proposed wider reforms to the planning system and was clear that any reformed planning system will have improving biodiversity as a core objective.

## 5. Issues and Choices

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- 5.1. The consultation from DEFRA opened on 11 January 2022 and closed on 5 April 2022. There was a consultation document supported by an impact assessment, market analysis study and a financial & economic appraisal for major infrastructure projects. In addition to inviting comments on the consultation document targeted stakeholder engagement will take place including on the biodiversity metric. Consultation questions within the document are split into three parts, each of which covers several themes:

- 1) defining the scope of the biodiversity net gain requirement for Town and Country Planning Act 1990 development
    - Exemptions
    - development within statutory designated sites for nature conservation
    - irreplaceable habitat
  - 2) applying the biodiversity gain objective to different types of development
    - phased development and development subject to subsequent applications
    - small sites
    - Nationally Significant Infrastructure Projects (NSIPs)
  - 3) how the mandatory biodiversity net gain requirement will work for Town and Country Planning Act 1990 development
    - biodiversity gain plan
    - off-site biodiversity gains
    - the market for biodiversity units
    - habitat banking
    - the biodiversity gain site register
    - additionality
    - statutory biodiversity credits
    - reporting, evaluation, and monitoring
- 5.2. A draft response to the consultation was considered by the Planning Policy Executive Advisory Panel on 24 March 2022. A council response was submitted following the agreement of the Executive Member for Growth and Regeneration in consultation with the Executive Director of Place and Economy which is included as Appendix B. Key implications of the consultation are discussed below.
- 5.3. As a local planning authority, the sections relating to delivering and evaluating development proposals that require planning permission are of particular interest. The mandatory requirement is to achieve at least a 10% biodiversity net gain increase from the pre-development biodiversity value. The requirement is framed as a pre-commencement condition, meaning that the biodiversity gain condition must be discharged before development can begin.
- 5.4. To discharge the condition, the planning authority must approve the development's biodiversity gain plan. This biodiversity gain plan approval must take place before development starts. However, it is proposed to require applicants for planning permission to include biodiversity gain information with their application. This biodiversity gain information can help aid decision-making by providing planning authorities, and consultees, with an understanding of how proposed development intends to meet the biodiversity gain objective. A summary of how the process is intended to apply is included as Appendix A.

- 5.5. It is currently intended that mandatory 10% biodiversity net gain will commence two years after royal assent of the Act, so in November 2023. The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) already encourage net gains and it is sought by Policy 4 of the North Northamptonshire Joint Core Strategy. This means that this authority can already ask for biodiversity net gain as part of development proposals. There is however at this current time no specific local target or agreed method of measuring it.
- 5.6. Mandatory net gain will be implemented through the planning system. Developers will be required to demonstrate that they will deliver a minimum 10% net gain of biodiversity units for area-based habitats and any relevant linear habitats (hedgerows, lines of trees, and watercourses). The 10% will be a mandatory requirement but should not be viewed as a cap on the aspirations of developers that want to voluntarily go further or for local planning authorities seeking a higher aspiration through policies.
- 5.7. The biodiversity gains and losses of a development will be measured in 'biodiversity units', using a metric which uses habitats as a proxy for biodiversity and calculates units by taking account of the type, extent and condition of habitats. Natural England has recently published a biodiversity metric (known as [Biodiversity Metric 3.0](#)) which, subject to further consultation and any further updates, is expected to be the metric specified for mandatory biodiversity net gain.
- 5.8. Biodiversity net gain complements and works with the biodiversity mitigation hierarchy set out in the National Planning Policy Framework paragraph 180a. To achieve net gain in a way that is consistent with the mitigation hierarchy and reflecting the 'spatial hierarchy' preference for local enhancements, developers should follow these steps in order:
1. aim to avoid or reduce biodiversity impacts through site selection and layout
  2. enhance and restore biodiversity on-site
  3. create or enhance off-site habitats, either on their own land or by purchasing biodiversity units on the market, and
  4. as a last resort to prevent undue delays, purchase statutory biodiversity credits from the UK Government where they can demonstrate that they are unable to achieve biodiversity net gain through the available on-site and off-site options.
- 5.9. The UK Government published a biodiversity net gain impact assessment in 2019 which outlined their analysis of the costs and benefits. This recognised that implementing mandatory biodiversity net gain will place additional demands on local authority resources. The UK Government has committed to fully fund new burdens placed upon planning authorities arising from the new mandatory biodiversity net gain requirement.
- 5.10. As part of the press release relating to this consultation a new funding pot of over £4 million was announced to help local planning authorities to prepare for biodiversity net gain. The funding is intended to help authorities expand ecological resource and upskill ecologist teams. The council has recently

received notification of a grant award of £20,094 from this funding source. The accompanying information says that this funding complements existing local planning authority (LPA) resources and is part of a wider package of measures aimed at helping LPAs to prepare for and implement mandatory biodiversity net gain, including the provision of guidance, support through the Planning Advisory Service and gain plan templates to facilitate consistency. DEFRA says it is working with LPAs to implement the measures in the Environment Act and is currently considering what further funding can be provided to LPAs to assist them in their preparations for mandatory biodiversity net gain.

- 5.11. Ecological support for planning applications is currently provided through a joint service available to both the North and West Northamptonshire Councils. The service is hosted by NNC but both Councils pay to use it. Assessing the required biodiversity metric and biodiversity plans to ensure they are robust would provide additional demands upon the service for which there is no current capacity.
- 5.12. Where it is not possible to avoid negative impacts and mitigate impacts on-site, developers will be able to create or enhance habitat off-site. The establishment of a market for purchasing biodiversity units will ensure that a supply of off-site biodiversity units is available to developments that need them. Landowners or managers who can create or enhance habitat to the required standards on their land will be able to sell the resulting biodiversity units to developers. Intermediaries such as brokers may facilitate these transactions.
- 5.13. Market analysis estimated that the introduction of mandatory biodiversity net gain would generate annual demand for around 6,200 off-site biodiversity units with a market value in the region of £135 million. It concluded that the market has the potential to meet demand for off-site biodiversity gains. However, shortages of supply are a risk in the early years of the market and for highly urban areas, islands, and some habitat types. The consultation document expects that most instances of local shortages are likely to be alleviated by allowing development to use biodiversity units purchased from outside of the local area.
- 5.14. Policy and guidance will encourage off-site biodiversity gains to be delivered locally to the development site, which is incentivised by the biodiversity metric's spatial risk multiplier. Where the available local opportunities for off-site habitat creation or enhancement are insufficient for developers to meet their net gain requirements, off-site delivery outside of the local area will be allowed.
- 5.15. Spatial nature strategies, such as Local Nature Recovery Strategies, should be used to target delivery of off-site biodiversity gains, and habitat delivery in strategic areas will be incentivised by the biodiversity metric's strategic significance score.

- 5.16. In determining whether to grant permission or approve the plan, whether the developer has adequately considered the on-site and local off-site options before looking further afield may be a relevant consideration.
- 5.17. To count towards a development's net gain requirement, off-site biodiversity gains will need to be secured through a conservation covenant or planning obligation and registered prior to final approval of the biodiversity gain plan. The Environment Act states that biodiversity gain sites (off site) must be maintained for at least 30 years after the completion of the works to create or enhance the habitat.
- 5.18. Any landowners or managers will be able to create or enhance habitat for the purpose of selling biodiversity units, provided that they are able to meet the requirements of the policy, including additionality and register eligibility requirements, and demonstrate no significant adverse impacts on protected and priority habitats.
- 5.19. Suppliers of biodiversity units will be able to sell to developers anywhere in England, provided that the use of those units is appropriate for the development in question and the distance between the development and the off-site habitat is properly accounted for in the biodiversity metric.
- 5.20. Planning authorities will be able to sell biodiversity units from their own land or act as a broker for third party units. Where planning authorities choose to participate in the market, they will be expected to manage any associated conflicts of interest and will need to comply with the same rules and requirements that apply to other biodiversity unit suppliers.
- 5.21. Biodiversity net gain will not enable planning authorities to direct developers to purchase biodiversity units from them in preference to other market suppliers that are able to deliver equivalent or better outcomes in relation to the requirements of the policy. Planning authorities will not be able to charge developers a general tariff for delivery of off-site gains which is not associated with specific gain sites that are registered and allocated to the development in question.
- 5.22. The price for biodiversity units is expected to be agreed between buyers and sellers, and for them to ensure that it is sufficient to cover the costs of creating or enhancing the habitat and maintaining it for a minimum of 30 years. It will also be for the buyer, seller, and any other parties to the agreement to agree payment terms, for example whether there would be one lump-sum payment, staged payments, or payment by results. The market analysis accompanying the consultation used estimates of £20K - £25K per biodiversity unit. This cost however is likely to vary dependent on habitat type and location. Some suggestions are that a figure of £30K+ might be more realistic in this part of the country.
- 5.23. A choice of local options for buying biodiversity units would provide the most benefits to the local environment and the local community as well as offering suitable options to facilitate development. Officers have started to have some initial discussions with potential providers. In order to ensure projects have

the greatest benefit it would be preferable to have these identified through the Nature Recovery Strategy as soon as practical. These provide the opportunity to identify landscape scale creation or restoration projects.

- 5.24. The government has consulted on requirements for Nature Recovery Strategies, but, at present, there are no final decisions on the content or timing. It is likely that the responsibility to produce them will rest with local authorities. This council will be well placed to commence work on a strategy for the area as considerable work has already taken place on Habitat Opportunity Mapping with the Local Nature Partnership. Work has also started on a Natural Capital Investment Plan for Northamptonshire and Peterborough which will feed into this process. Additional resources are however likely to be needed to undertake this important piece of work.
- 5.25. The council will also need to decide as a landowner whether we want to sell biodiversity units. In order to do this a net gain assessment would be needed of relevant council owned land with a view to creating a land bank. This could offer a good opportunity to deliver offsets locally where they would be of most benefit to residents, and it would be able to deal with small offsets. This would, however, involve a significant amount of work including identifying a potential cost per unit, but it could generate much needed funding for council parks for example as well as boosting the delivery of local projects.

## **6. Next Steps**

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- 6.1. Further discussion will be necessary on some of the potential implications for the authority of the introduction of biodiversity net gain and these will be brought back to the advisory panel or Executive as appropriate.

## **7. Implications (including financial implications)**

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### **7.1. Resources and Financial**

- 7.1.1. Additional ecological resource will be required to support the determination of planning applications. The biodiversity metric is only a tool to aid decision making. It requires ecological evaluation and advise alongside it. Development management officers will also have additional implications to consider within their reports to assess the suitability of applications and the discharge of pre-commencement conditions. Additional training is likely to be necessary to support this. There are also monitoring requirements which need to be set as planning conditions or obligations. Failure to deliver outcomes may result in the need for the authority to undertake enforcement action. In addition, there are requirements to publish Biodiversity Reports every 5 years. The government has indicated that this extra burden will be funded, but to date only a grant award of £20,094 has been received. This alone will not cover the additional burdens of mandatory biodiversity net gains for the authority.

- 7.1.2. The production of Nature Recovery Strategies is a requirement of The Environment Act 2021. DEFRA will appoint a responsible authority for each area to lead its preparation. This is likely to be the local authority. These will establish priorities and map proposals for nature recovery. They will therefore be important in identifying local opportunities for biodiversity net gain. The ambition is that they are created using genuine local collaboration with a partnership of organisations and individuals working closely with each responsible authority. Whilst a great deal of evidence gathering has already taken place in Northamptonshire in partnership with local stakeholders including the Local Nature Partnership, production of a Nature Recovery Strategy will also require additional resource. The council has recently been awarded a £16,304.35 Local Nature Recovery Strategies Local Capacity Seed Funding Grant to commence work on this.
- 7.1.3. Should the council wish to consider selling biodiversity units as a landowner a project would need to be initiated to identify the potential and then deliver and manage the units for 30 years. If units were provided on land managed by the council, then there would be implications for grounds maintenance teams. The full cost of administering the scheme and providing staff and equipment is expected to be able to be covered in the pricing of the units.
- 7.1.4. The current Biodiversity Supplementary Planning Document will require updating to reflect biodiversity net gain. To ensure that biodiversity net gain is seen as part of the wider need for environmental net gain a natural capital or environmental net gain Supplementary Planning Document is also proposed. These are already identified within the Planning Policy work programme but will require resource to progress.

## **7.2. Legal and Governance**

- 7.2.1. The Environment Act places new duties and responsibilities on the council. Biodiversity net gain will become a mandatory part of the planning process, which as a planning authority the council must implement.
- 7.2.2. The Act strengthens the biodiversity duty. Public authorities subject to the duty, including planning authorities, will need to report on how they are considering and enhancing biodiversity. For planning authorities, this must include references to their delivery and support of biodiversity net gain.

## **7.3. Relevant Policies and Plans**

- 7.3.1. A key commitment of the corporate plan is for a '*green, sustainable environment. Taking a lead on improving the green environment making the area more sustainable for generations to come*'. Biodiversity net gain is an important mechanism for improving the natural environment. There are opportunities for the authority to show clear leadership for the environment, by the production of the Nature Recovery Strategy, Supplementary Planning Documents and selling biodiversity credits.



7.3.2. The North Northants Joint Core Strategy already includes a requirement to seek a biodiversity net gain through Policy 4. The review of this plan through the preparation of the North Northants Strategic Plan provides a significant opportunity to strengthen this approach. This is addressed in the Scope and Issues [consultation](#) which commenced on 28 March and runs until 23 May 2022.

#### **7.4. Risk**

7.4.1. The Environment Act 2021 places new duties on the authority, failure to undertake these duties appropriately would risk reputational damage. Given that there will be reporting requirements to the Office for Environmental Protection (OEP), there may be further consequences.

7.4.2. In order to ensure that the council undertakes its duties suitable resources will need to be made available. This will be considered as part of the ongoing staffing structure and resources review across the authority.

7.4.3. Failure to deliver the Nature Recovery Strategy in a timely manner may lead to non-priority projects being used to deliver biodiversity net gain. If there are not sufficient local opportunities to deliver net gain, identified net gain will need to be delivered outside of the local area. This would lead to reduced benefits to the local environment and local communities.

#### **7.5. Consultation**

7.5.1. This report has been prepared with collaboration of officers across the authority. Any subsequent work undertaken to address biodiversity net gain would be subject to consultation with stakeholders in accordance with corporate guidelines. Consultation on supplementary planning documents would be in accordance with the council's Statement of Community Involvement (SCI)

#### **7.6. Consideration by Executive Advisory Panel**

7.6.1 A similar report was considered by the Planning Policy Executive Advisory Panel on 24 March 2022. The panel asked a number of questions regarding the proposed implementation of Biodiversity Net Gain and the possible implications for the council.

#### **7.7. Consideration by Scrutiny**

7.7.1. There is no identified need for wider consideration by scrutiny although should members of the scrutiny commission request it to go into the work programme, they can do so.

## **7.8. Equality Implications**

- 7.8.1. Any future proposals or policies put forward to respond to biodiversity net gain would be accompanied by an Equality Screening Assessment to provide evidence that the impact of the proposal on equality groups has been considered.

## **7.9. Climate Impact**

- 7.9.1. Delivering biodiversity net gain will provide key positive impacts in respect of climate change. Habitat restoration and creation can for example assist with carbon sequestration through tree planting or natural flood risk management. Should the council decide to operate a land bank and sell biodiversity credits this would provide opportunities for the organisation to reduce its own carbon footprint.

## **7.10. Community Impact**

- 7.10.1. Biodiversity net gain provides opportunities for greater access to the natural environment and all the benefits that this provides. This includes improved health and well-being and opportunities for community engagement.

## **7.11. Crime and Disorder Impact**

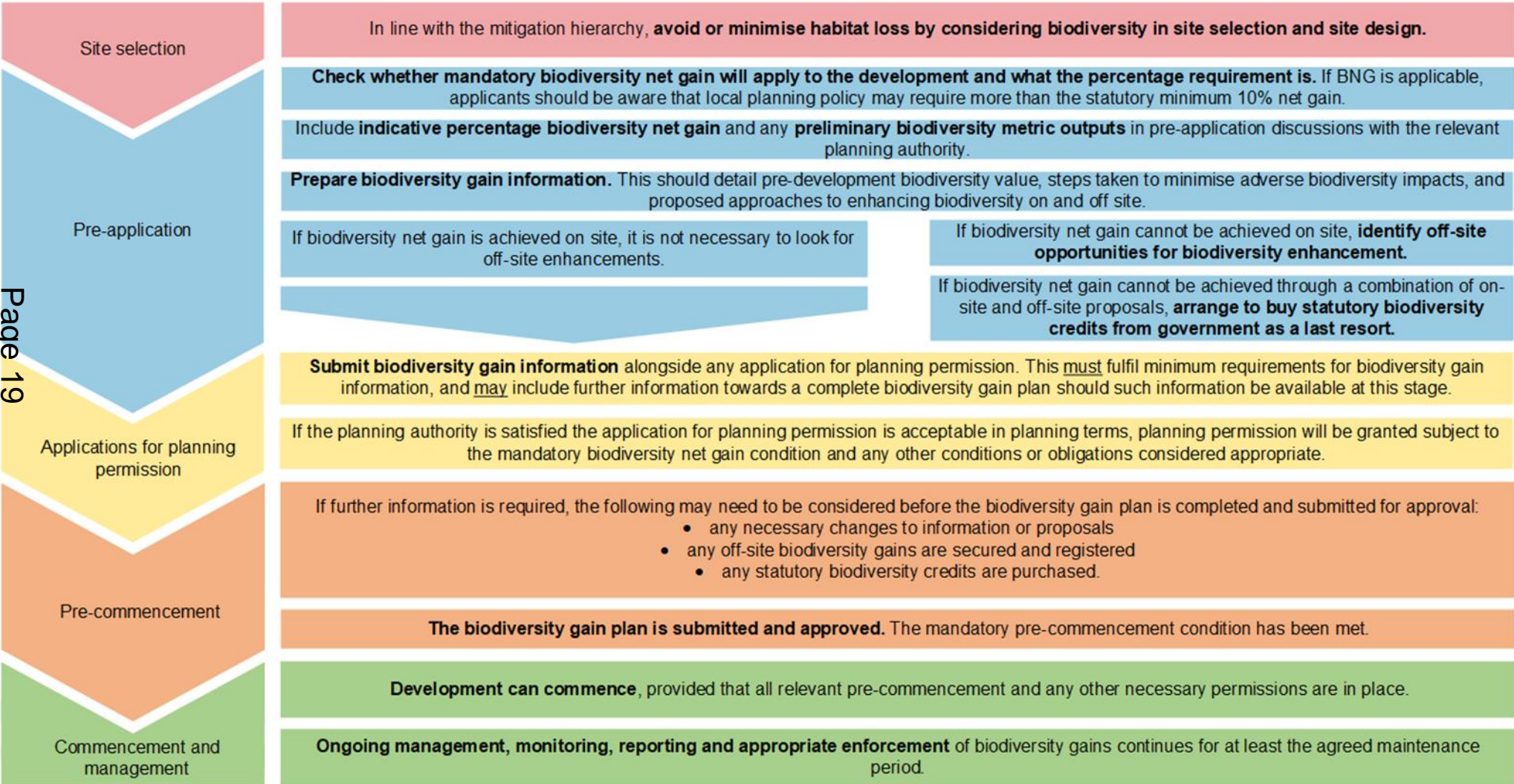
- 7.11.1. There are no identified impacts in relation to crime and disorder in the area.

## **8. Background Papers**

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- 8.1. [The Environment Act 2021](#)  
8.2. [Consultation on Biodiversity Net Gain Regulations and Implementation](#)  
8.3. [Biodiversity Metric 3.0](#)  
8.4. [Biodiversity Supplementary Planning Document](#) for Northamptonshire, August 2015  
8.5. [North Northamptonshire Joint Core Strategy](#)  
8.6. [National Planning Policy Framework](#)  
8.7. [National Planning Practice Guidance](#)  
8.8. [North Northamptonshire Strategic Plan Scope and Issues](#)

**Proposed biodiversity net gain process for Town and Country Planning Act 1990 development (indicative process only – not representative of all routes to permission)**



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## North Northamptonshire Council

### Following Planning Policy Executive Advisory Panel

24<sup>th</sup> March 2022

### Consultation Responses on Biodiversity Net Gain Regulations and Implementation

#### Question 1

*Do you agree with our proposal to exempt development which falls below a de minimis threshold from the biodiversity net gain requirement?*

Yes, but only when it is truly de minimis so therefore the smallest thresholds that have been suggested would be appropriate, 2m<sup>2</sup> for habitat and 2m of linear habitat of habitat that is of low or medium distinctiveness.

#### Question 2

*Do you agree with our proposal to exempt householder applications from the biodiversity net gain requirement?*

Yes, we agree that this is a pragmatic approach, whilst some household development will be able to make some provision for net gain, to achieve 10% is very unlikely and therefore would have an impact on people making extensions to their property. The wording of the exemption needs to be done carefully to allow a local authority, where the evidence exists, to include policies that will necessitate some gain within an appropriate householder application, such as a bee, bat or swift bricks for instance.

#### Question 3

*Do you agree with our proposal to exempt change of use applications from the biodiversity net gain requirement?*

This is more complicated, depending on the scale of change of use and also what will occur on the site. It is arguable that some changes would have an impact on biodiversity and would be able to provide gains on, or off site. It is considered that changes of use of buildings could be exempt if it is solely the building that is subject to the change. If however the change of use relates to land then there are likely to be BNG implications and should therefore meet the net gain requirements.

#### Question 4

*Do you think developments which are undertaken exclusively for mandatory biodiversity gains should be exempt from the mandatory net gain requirement?*

Yes, where the entirety of the development site is for biodiversity net gain.

**Question 5**

*Do you think self-builds and custom housebuilding developments should be exempt from the mandatory net gain requirement?*

No, self and custom build developments should still be required to provide 10% net gain, as they have the same impact as all other types of dwelling. This can be achieved on or off site, but the impact that they have still needs to be mitigated. Some areas for self and custom build can be extensive and shouldn't be treated any different to any other development.

**Question 6**

*Do you agree with our proposal not to exempt brownfield sites, based on the rationale set out above?*

Yes, brownfield sites should be required to meet the minimum 10% net gain, or local adopted policy.

**Question 7**

*Do you agree with our proposal not to exempt temporary applications from the biodiversity net gain requirement?*

Yes, temporary applications should be required to meet the requirements.

**Question 8**

*Do you agree with our proposal not to exempt developments which would be permitted development but are not on account of their location in conservation areas, such as in areas of outstanding natural beauty or national parks?*

Yes.

**Question 9**

*Are there any further development types which have not been considered above or in the previous net gain consultation, but which should be exempt from the biodiversity net gain requirement or be subject to a modified requirement?*

No

**Question 10**

*Do you agree with our proposal not to exempt development within statutory designated sites for nature conservation from the biodiversity net gain requirement?*

Yes. If it is for a visitor centre, then the impact on the biodiversity could be great and therefore should be mitigated. It is considered that other nature conservation bodies will own

and be managing the site and therefore it is likely that any impact would be mitigated without provision in an Act. However there may be cases where this isn't so and therefore a requirement set out in legislation will ensure that these designated sites are treated in the same way and the valuable habitat that is found in these sites is protected and further enhanced if development of whatever scale is due to take place.

### **Question 11**

*Do you agree with the stated proposals for development (or component parts of a development) on irreplaceable habitats, specifically:*

- a) *The exclusion of such development from the quantitative mandatory biodiversity gain objective?*

Yes, providing the wording of the secondary legislation around irreplaceable habitats is strong enough and set out by Natural England and specialist advisors.

- b) *The inclusion of a requirement to submit a version of a biodiversity gain plan for development (or component parts of a development) on irreplaceable habitats to increase proposal transparency?*

Yes, essential to understand the site.

- c) *Where there are no negative impacts to irreplaceable habitat, to allow use of the biodiversity metric to calculate the value of enhancements of irreplaceable habitat?*

Yes

- d) *To use the powers in biodiversity net gain legislation to set out a definition of irreplaceable habitat, which would be supported by guidance on interpretation?*

Yes

- e) *The provision of guidance on what constitutes irreplaceable habitat to support the formation of bespoke compensation agreements?*

Yes, essential.

### **Question 12**

*Do you agree with our proposed approach that applications for outline planning permission or permissions which have the effect of permitting development in phases should be subject to a condition which requires approval of a biodiversity gain plan prior to commencement of each phase?*

Yes – however we would like to see that large sites can be reviewed if they secure permission before November 2023. Some sites may try to secure a permission before this date to bypass the 10% gain requirement on subsequent reserved matters. On large sites

this will be a significant lost opportunity that could be resolved through a review of large scale permissions at an appropriate time.

There needs to be certainty that reserved matters applications do not try to deviate or lessen their provision. This is especially so on very large sites where different housebuilders may deliver different phases. The local authority will need to have sufficient legislation to ensure that any amendments are the most appropriate whilst meeting the requirements.

### **Question 13**

*Do you agree with the proposals for how phased development, variation applications and minerals permissions would be treated?*

Wording around frontloading will need to be enforceable and if not achievable on site at the beginning of the development consideration of offsite to mitigate at the early stages of development in addition to that planned for the rest of the site.

Yes, it is agreed that if there are any changes then a new biodiversity plan will need to be approved before development continues.

In relation to minerals permissions, Reviews of Old Minerals Permissions (ROMPS) should not be excluded as they are a good opportunity to achieve gains and to exclude biodiversity net gain from modern conditions would not appear to make sense in the context of the other regulations proposed.

### **Question 14**

*Do you agree that a small sites metric might help to reduce any time and cost burdens introduced by the biodiversity gain condition?*

A small sites metric that meets the requirements of small sites and helps these developments through the process would be beneficial. The metric should be proportionate to the scale of development proposed and enable these developments to be suitably assessed without unnecessary cost burdens or undue delay. There are however some concerns that the initial small sites metric does not appear to include any offsite provision and therefore the full metric will need to be used. It is likely that small sites will need to have an element of offsetting required. Small sites by their nature are intensely developed and therefore leave little space for onsite BNG. It is considered that these sites will predominantly need to have an element of offsite provision required in their plan. Some examples of the small site metric used against real examples would be helpful to understand the usefulness of the small sites metric.

### **Question 15**

*Do you think a slightly extended transition period for small sites beyond the general 2- year period would be appropriate and helpful?*

No, a two year period is sufficient for all scale of development to be aware and consider the requirements of the Act.



### **Question 16**

*Are there any additional process simplifications (beyond a small sites metric and a slightly extended transition period) that you feel would be helpful in reducing the burden for developers of small sites?*

The LPA, if provided with the right resources, may be able to further support small sites to meet their obligations. The provision of case studies would be useful on how small sites can meet the gains required.

### **Part 3: How the mandatory biodiversity net gain requirement will work for Town and Country Planning Act 1990 development**

#### **Question 28**

*a) Do you agree with the proposed content of the biodiversity gain information and biodiversity gain plan?*

Yes, the contents of the information and plan are necessary to undertake an accurate assessment of the development proposals and to ensure that the development is providing the required level of information to allow consideration by the local authority.

*b) Do you agree with the proposed procedure for the submission and approval of biodiversity gain information and the biodiversity gain plan?*

The submission and approval process is appropriate. Standardised templates will be helpful. There will however be a challenge for many local authorities who will simply not have the necessary skills and resources to assess the plans that have been submitted in any meaningful way. Extra burdens and transition funding will be necessary to upskill and support local authorities and this must be sufficient to fully address the additional requirements. The outcomes desired from the Act will only come to fruition if local authorities are enabled to fully and meaningfully comply with the requirements.

#### **Question 29**

*We will continue to work with external stakeholders and industry on the form and content of the template. Do you agree with the proposed information to be included in a biodiversity gain plan as shown in the draft template?*

Yes. This seems appropriate. A worked example would be useful to see.

#### **Question 30**

*Do you agree that further guidance is needed to support decision-making about what constitutes appropriate off-site biodiversity gains for a given development?*

Some worked examples would be good to show the different options available to each development. There will be uncertainty on the most appropriate off site gains at the introduction of the legislation, so further guidance would be appreciated in order to secure

the best outcomes in different scenarios. Or a flow chart to demonstrate the best way to be considering the appropriateness of off site gains.

Further detail about what constitutes an appropriate conservation covenant is needed and examples of wording for S106 agreements would be helpful.

Guidance would be helpful to explain how local authorities could best target local habitat gain priorities through Local Nature Recovery Strategies, Green Infrastructure Plans or local plan allocations/policies to secure multifunctional benefits.

### **Question 31**

*How should the UK Government encourage or enable developers and landowners to secure biodiversity gain sites for longer than the minimum 30-year period?*

Include it in the legislation.

### **Question 32**

*Do you agree with our proposals for who can supply biodiversity units and the circumstances in which they may do so?*

The proposals seem fair, it must be ensured that all those involved are held accountable and fully understand the implications of supplying the units and maintaining these for the required length of time. Suppliers should be fully aware of taking on the risk that it may cost more due to other interventions and will then be required to accept the burden and ensure the habitat provision is not diminished in anyway.

### **Question 33**

*Do you agree that developers which are able to exceed the biodiversity gain objective for a given development should be allowed to use or sell the excess biodiversity units as off-site gains for another development, provided there is genuine additionality?*

Yes, this seems a fair approach. It is imperative that additionality is demonstrated and that the basic policy requirements are achieved and delivered before any biodiversity units can be used for other sites off set credits.

### **Question 34**

*Do you agree with the proposed scope of the UK Government's role in facilitating the market, as set out above?*

The off site gains register will need to be easy to access for all and also able to be updated and added to easily to ensure it is up to date and fit for purpose. It is considered that a central maintained database is the only way that this can happen.

Support should be provided to local authorities to help them to identify a pipeline of suitable projects to enable the sale of biodiversity units. This is particularly likely to assist very small sites in identifying suitable offsetting opportunities locally. It will also provide an important opportunity for funding to support enhancement of publicly owned sites. Advice on identifying

the full cost of management for pricing of biodiversity units would be beneficial. This should expand on all the costs which can be included in calculating the price of management for 30 years including staffing and equipment costs.

**Question 35**

*Are the proposals outlined here sufficient to enable and encourage habitat banking?*

Yes

**Question 36**

*Do you agree with our proposal that to be eligible to supply biodiversity units for mandatory biodiversity net gain, habitat must be created or enhanced on or after a specified date, proposed to be 30 January 2020?*

Yes

**Question 37**

*Should there be a time limit on how long biodiversity units can be banked before they are allocated to a development? What would you consider to be an appropriate time limit?*

It would seem appropriate that biodiversity units can be retained for an indefinite period, so no time limit applied and is down to the landowner's discretion should they want to consider alternatives if they are not allocated. However, this would apply to a whole site as it would be much more difficult to subdivide sites that may have been partially allocated with the biodiversity interdependencies that may be on site. At the very least a review of the biodiversity and deliverability would need to be undertaken periodically to account for any changes on site.

**Question 38**

*Do you agree that the eligibility criteria for adding sites to the biodiversity gain site register are sufficient?*

Yes

**Question 39**

*Do you agree that the register operator should determine an application within a maximum of 28 days unless otherwise agreed between both parties?*

Yes, there could be the option of a fast track approach at an extra fee to be determined by the assessor.

**Question 40**

*Do you agree that this list of information requirements will be sufficient to demonstrate that a biodiversity gain site is legitimate and meets the eligibility criteria?*

Yes, it will need to be completed in full to allow it to be registered.

**Question 41**

*Do you agree that the UK Government should require a habitat management plan, or outline plan, for habitat enhancement to be included on the register?*

Yes, this would need to be current and undertaken by someone with the appropriate accreditation.

**Question 42**

*Do you agree that the UK Government should allow the register operator to: a) set a fee for registration in line with the principle of cost recovery? b) impose financial penalties for provision of false or misleading information?*

Yes

**Question 43**

*Do you agree with our proposal to allow applicants to appeal a decision by the register operator where the applicant believes that the registration criteria have not been appropriately applied?*

Yes

**Question 44**

*Do you agree with our proposals for additionality with respect to:*

a) *measures delivered within development sites?*

Yes, it will need to be clear on how aspects are measured in the metric, it is acknowledged that all parts of a new development need to deliver and therefore multifunctionality of all aspects is considered best practice, as long as they are meeting the requirements.

b) *protected species and off-site impacts to protected sites?*

Yes, it is important with these aspects of additionality that there is a clear rationale for it.

c) *on-site impacts on protected sites, and any associated mitigation and compensation?*

Yes

d) *achievement of River Basin Management Plan Objectives?*

Yes

e) *the strengthened NERC Act duty on public authorities?*

Yes that NERC authorities may generate and sell biodiversity units.

#### **Question 45**

*Do you think that A) the non-designated features or areas of statutory protected sites and/or*

*B) local wildlife sites and local nature reserves, should be eligible for enhancement through biodiversity net gain?*

Yes, both.

#### **Question 46**

*Do you agree that the enhancement of habitats, including designated features, within statutory protected sites should be allowed in the coastal, intertidal and marine environment as defined above?*

No answer to this question as not relevant to NNC.

#### **Question 47**

*Do you agree with our proposed approach to combining payments for biodiversity units with other payments for environmental services from the same parcel of land?*

Yes, this seems like a sensible approach to start to secure delivery on the ground in a competing market for land and the policy driver in this instance to create more land for biodiversity. It also aligns with the fact that land management can create multifunctional benefits and that these may require more enhanced management and therefore cost that should be recognised by combining payments. Monitoring of land that has used a combination of payments will need to take place to ensure that there are no impacts on the desired outcomes and that the outcomes do provide actual additionality. It is considered that the cost of monitoring of these sites will need to be factored in on a full cost recovery model, which may mean that these sites are then too costly to deliver. There needs to be a balanced approach between multifunctional benefits, the ability to monitor these and the deliverability of these sites.

#### **Question 48**

*Are these proposals for statutory biodiversity credits sufficient to:*

a) *Ensure, when supported by suitable guidance, that they are only used by developers as a last resort?*

Yes

b) *Mitigate the market risk associated with the sale of statutory biodiversity credits by the UK Government?*

Yes

#### **Question 49**

*Do you think there are any alternatives to our preferred approach to credit sales, such as those outlined above, which could be more effective at supporting the market while also providing a last resort option for developers?*

No. The price needs to be set that it is considered a last resort, however for areas where there are no local offsets and no mechanisms then the fee needs to reflect any viability concerns for bringing forward development. Could the fee be on an escalated approach, and extra costs added where there are local schemes available. It shouldn't be a barrier to development.

#### **Question 50**

*Do the principles for how we will set, and review credit price cover the relevant considerations?*

We don't consider it clear enough for the transition period that will ensure it is a last resort measure, whilst still allowing development in areas where there are no local schemes in place to be able to progress with development.

#### **Question 51**

*Do you agree with the proposed principles for credit investment?*

Yes

#### **Question 52**

*Do the above project-level management, monitoring, enforcement, and reporting proposals seem sufficient, achievable, and not overly burdensome on practitioners, developers, or planning authorities?*

The requirements seem reasonable, in particular the proposal that it is the landowners or developers responsibility to ensure that project monitoring and reporting obligations are fulfilled. However, in respect of a local authority setting up systems across the council to understand and adhere to the requirements will be burdensome in the first few years until processes are set up. The requirements for enforcement where there is a failure to deliver outcomes secured may also prove challenging, both in terms of resources and expertise. It is considered that the extra burdens grant will need to be sufficient to support the suitable set up of processes and systems across the council as well as expanding ecological support and upskilling staff. Councils will need to have an early understanding of the level of funding the government intends to make available and when this will be provided to enable them to plan resources effectively.

A way to ease monitoring requirements would be to have this as a digital and GIS record held at a central resource, the local biodiversity records centre for example, although funding would be required to support the establishment of this.

### **Question 53**

*Do you think earned recognition has potential to help focus enforcement and scrutiny of biodiversity net gain assessments, reporting and monitoring?*

By earned recognition it is assumed that an organisation has passed a set of stringent tests and can demonstrate that they are competent and accountable for the provision of biodiversity, and therefore enforcement and scrutiny can be focused on those that do not have any recognition. This could be a sensible way forward, as long as there are regular checks on those sites where earned recognition organisations have been involved. There needs to be more clarity on this area.

### **Question 54**

*Do the above proposals for policy-level reporting, evaluation and enforcement seem sufficient and achievable?*

Yes, they seem sufficient to monitor the success or otherwise of the Environment Act requirements. However, there will be extra burdens placed on local authorities to meet the proposals set out in the consultation. It is considered that extra burden payments will ensure that these aspects can be achieved at a local authority. This will need to be front loaded to ensure that the local authorities are ready to start recording at the implementation stage of the Act requirements. In respect of enforcement there will need to be adequate resources to ensure that action can be noted and followed through. This is likely to be some way down the line, but preparation for this will need to start now with further training for enforcement officers where necessary.

### **Question 55**

*Considering the data requirements set out above and in greater detail in Annex C:*

a) *is there any additional data that you think should be included in the Biodiversity Reports?*

No, this appears to set out the data needed for a local authority to monitor biodiversity within their area.

b) *is there any data included here that should not be required as part of the Biodiversity Reports?*

No

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