

Department for Environment, Food and Rural Affairs

Net gain: Consultation proposals

Background to CIWEM

CIWEM is the leading independent Chartered professional body for water and environmental professionals, promoting excellence within the sector. The Institution provides independent commentary on a wide range of issues related to water and environmental management, environmental resilience and sustainable development.

CIWEM welcomes the opportunity to respond to DEFRA on its consultation on net gain. This response has been compiled with the assistance of members from our Natural Capital Network.

Response to consultation questions

1. Should biodiversity net gain be mandated for all housing, commercial and other development within the scope of the Town and County Planning Act?

Yes, biodiversity net gain must be mandated for all development that requires planning permission, as opposed to prior notification. Some types of permitted development that have the potential to affect habitats should also be included, for example infrastructure improvement works and changes of land use.

Responses to the 2013 biodiversity offsetting consultation showed a strong consensus for taking a mandatory approach to delivering environmental benefit. A mandatory offsetting system was also recommended by the House of Commons Environmental Audit Committee in their Sixth Report of Session 2013-14. Our own discussions with a wide range of industry parties indicate that there is strong consensus supporting mandatory net gain. We therefore strongly recommend that Government should take this opportunity to act on something which is genuinely forward thinking and positive for present and future generations.

Whilst biodiversity net gain is a material consideration under the revised National Planning Policy Framework (NPPF), we do not think this will be enough to deliver a consistent approach to achieving gains throughout the Country, in line with the 25 Year Environment Plan.

Wording within the NPPF provides room for differing interpretation by developers and local planning authorities (LPAs), planning delays and inconsistent application of policy. Whilst improvements to the NPPF were welcome, the present situation will still provide reduced benefit compared to a mandatory requirement that sets a level playing field for all. It would also establish a new 'normal' in terms of how biodiversity impacts are managed, and a consistent approach will ensure that industry adapts to the changes as quickly as possible. A

mandatory approach would improve certainty for developers and local planning authorities and result in efficient application of national policy.

Net biodiversity loss is ongoing in the UK. It is clear that a more committed approach to halting and reversing this is essential. Provision within the Environment Bill is necessary to provide the needed shift in approach and to deliver on the Government's 25 Year Environment Plan pledges.

We note that Nationally Significant Infrastructure Projects are excluded from the scope of this consultation. We understand that NSIPs are required to undertake Environmental Impacts Assessments, however provision for net gain should also apply to NSIPs.

Infrastructure projects must not be a barrier to achieving the government's aim of leaving the environment in a better state than it inherited it.

NSIPs clearly have less flexibility in determining location than most other developments which makes avoiding ecologically valuable areas more difficult. Innovative funding solutions may be needed to help deliver net gain for NSIPs. However, given their scale, we would consider that they are well-placed to take a particularly strategic approach to ensuring net gain.

2. What other actions could government take to support the delivery of biodiversity net gain?

It is important to consider the legal mechanism for delivering biodiversity units over the long term. Work on legal changes to allow conservation covenants to be introduced should be progressed as a priority.

Government should also consider who will deliver schemes and whether there is a role for intermediaries in bringing together individual landowners to deliver benefit. Government should investigate whether existing groups such as catchment partnerships and Local Nature Partnerships could have a role to play in acting as a brokers.

In ensuring that schemes deliver the contracted benefit, monitoring and enforcement will be paramount. Overall this responsibility should fall to local planning authorities. Brokers could lessen the enforcement requirement by undertaking monitoring and enforcement of their schemes and reporting to LPAs. As there is no excess capacity in Local Government to take on additional monitoring and enforcement, provision should be made in the legislation for local authorities to recover costs through planning charges.

The approach and timetables for monitoring and enforcement should be clarified and strengthened such that net gain policy is applied consistently by local planning authorities across the country. Under the current planning gain system there is a lack of awareness of how LPAs enforce delivery and there are many examples of neglected schemes underperforming.

Multipliers should include a component which provides a buffer against delays, underperformance and the failure of a small number of individual schemes (appreciating that not every scheme will be successful in replacing lost habitat and achieving the intended net gain).

3. Should there be any specific exemptions to any mandatory biodiversity net gain requirement (planning policies on net gain would still apply) for the following types of development? And why?
 - a. House extensions
 - b. Small sites
 - c. All brownfield sites
 - d. Some brownfield sites (e.g. those listed on brownfield, or other, land registers)

House extensions that fall within permitted development rights should be exempt. Larger domestic extensions should be required to deliver net gain using a simplified approach such as a small levy that can be invested in biodiversity gain schemes.

Small sites should not be exempt for two reasons. Firstly, small sites collectively make an important contribution to local ecological networks. Secondly, imposing a threshold for exemption is likely to see developers altering their proposals to ensure that they do not meet the threshold. This has been seen in relation to SuDS in England and affordable homes in Wales.

CIWEM strongly objects to the exclusion of brownfield sites from the requirement to deliver biodiversity net gain. Whilst we support development of brownfield sites over greenfield, where possible, we do not believe that this should be encouraged by an exemption from the requirement to provide net gain. Many brownfield sites are now of great ecological importance, providing habitats in otherwise densely developed areas.

4. Are there any other sites that should be granted exemptions, and why? For example, commercial and industrial sites.

There is no reasonable justification why any other sites should be granted an exemption. All development should factor in the associated biodiversity and environmental costs which have hitherto been borne by wider society. Government is to be commended for embracing the polluter pays principle more strongly, for example in its recent Waste and Resources Strategy which will set in train policies to make producers take greater responsibility for environmental damage associated with their products. Developers should do the same.

Including environmental impacts within the balance sheet of all development is fundamental to reversing environmental decline and exemptions should be avoided in order to mainstream this way of working as rapidly and effectively as possible.

5. As an alternative to an exemption, should any sites instead be subject to a simplified biodiversity assessment process?

As per our comments above, a simplified approach may be appropriate in the case of domestic extensions that do not fall within permitted development rights.

6. Do you agree that the Defra metric should allow for adjustments to reflect important local features such as local sites? Should the Defra metric consider local designations in a different way?

It is important not to unwittingly facilitate the destruction of local habitats through valuing national scale networks more highly. Local habitat networks provide ecological stepping stones within the wider landscape and should be protected as far as possible. Thus, we are fully supportive of the mitigation hierarchy.

There must be a balance between securing a wide geographic spread of habitats and creating large scale networks that join up outstanding areas. It will be important to review the application of the metric and to adjust it if it is overly weighted towards national, or local, net gain. Weighting should work to complement the mitigation hierarchy in protecting locally important sites, such as designated areas.

Some LPAs already using the Defra metric have taken positive decisions to adjust the metric to reflect local priorities. New rules should act as a minimum and allow flexibility for reasonable adjustments.

7. Should local authorities be required to adopt a robust district level licensing approach for great crested newts, where relevant, by 2020?

Yes, a district level approach with focus on cross boundary collaboration would be reasonable.

8. For what species is it plausible to use district level or strategic approaches to improve conservation outcomes and streamline planning processes? Please provide evidence.

This approach could be expanded across other reptile species. The approach would not be suitable for bat species due to the complexity of their lifecycles.

9. Are there wider elements of environmental net gain that could be better incentivised? If so, please specify which, and any benefits that such incentives could provide.

There are several wider environmental benefits that could be delivered by developers or through levy payments, however wider environmental benefits must not be delivered at the expense of biodiversity gains. Biodiversity net gain must be a mandatory element of any wider environmental net gain delivered.

Such wider environmental benefits that could be delivered include: green spaces for public access, supporting physical and mental health as well as providing some habitat value; carbon neutral development; active transport infrastructure; tree planting for air quality and amenity value; natural flood management; improved management of natural resources such as soils and woodlands; and measures to improve water quality.

It is important in introducing a biodiversity net gain requirement before a wider environmental net gain requirement that opportunities for mitigating and improving wider environmental delivery are not overlooked. For example under a net gain approach a developer might use a local parcel of land for a wildflower meadow whereas under an environmental net gain approach the developer might use that land for a sports pitch with

wildflower margins and deliver further biodiversity measures at a more strategic level. Each approach provides biodiversity benefit but only one provides social benefit through public access.

These wider environmental gains must not be confused with biodiversity net gain and should be delivered purely through planning policy and appropriate planning gain charges, until a wider ENG approach is sufficiently well-developed.

10. Is the Defra biodiversity metric an appropriate practical tool for measuring changes to biodiversity as a result of development?

We support the use of the Defra biodiversity metric in providing an indicator score as a starting point for discussion and negotiations around net gain. We see benefit in the consistent use of one evaluation tool to help standardise the process and improve consistency across the country. The Defra biodiversity metric is repeatedly cited as the most consistently used tool currently available. However we have reservations that the tool is open to being inappropriately relied upon.

Our main reservation in supporting use of the Defra biodiversity metric is that the biological diversity of a site cannot fully be represented in a single value and encouraging comparison of single values to reduce the time it takes to process planning applications risks the loss of distinct and important habitats in favour of other habitats of deemed equal value rather than actual equal value.

If use of the Defra metric is introduced, it will be important that the planning process allocates time and funds to analyse and discuss the details behind the headline figure. It is necessary that discussions are facilitated to explore varying interpretations of the data represented in the metric, raise awareness of qualitative evidence which would otherwise be ignored by the metric, and make use of expert knowledge to prioritise designs and approaches to development that optimise gains.

The metric is a valuable tool in clarifying differences in position between a developer and LPA for example. It should not be seen as a substitute for expert judgment or the provision of ecologists within local authorities. It will be important the LPAs employ, or have access to, ecologists so that they can make an independent analysis of what biodiversity should be delivered rather than being guided by developers who have an economic interest in minimising the requirement.

We would recommend that the experience of Lichfield District Council in its use of both ecological expertise and the metric should be considered as good practice to emulate across other authorities.

We welcome the improvements made to the metric in version 2.0, particularly the additional habitat distinctiveness and condition categories. Local planning authorities will need to use discretion in relation to the effect of the spatial risk multiplier to ensure that it is providing local benefit without reducing incentive for collaborative working at larger scales. In order to ensure the value of the metric is maintained it should be subject to periodic review and updates.

11. What improvements, if any, could we most usefully make to the Defra metric?

In the previous metric, assessment of condition was too subjective producing too much potential for varying outcomes when that margin of reasonable discrepancy was then multiplied up. We hope this will be resolved by the improvements made.

There is some concern that the metric disproportionately incentivises offsetting through easier to produce habitats. It is important that habitat diversity is maintained under the application of the metric. Again, we hope this will be resolved by the improvements made. Those applying the metric should be encouraged to sense check whether proposals are reasonable, taking into account the habitat lost and local, national and global biodiversity priorities.

As noted in our response to question 10, we are concerned that the spatial multiplier could result in conflicts between local and national delivery. The balance of delivery at different spatial levels should be kept under review.

Members are not supportive of domestic gardens being included in the metric as householders are free to manage that space to meet their own objectives which may not align with the needs of biodiversity. Areas created to meet biodiversity net gain requirements must be managed for biodiversity benefit not to meet recreation needs which would be considered under a wider environmental net gain approach.

12. [Would a mandatory 10% increase in biodiversity units be the right level of gain to be required?](#)

Whilst this approach is being established and before the introduction of Environmental Net Gain, members were concerned that 10% was too low. If 10% is used, it should be a minimum figure with an option for local planning authorities to increase this if they think it is appropriate. This should be set out in line with a local spatial plan for biodiversity.

Lichfield District council's experience indicates that BNG of a far higher percentage can readily be achieved with strong policy. Its average net gain is approaching 60% with the highest approaching 350%. This illustrates that significant gains are not a burden on development.

We suggest that it is important that the gain percentage is reviewed after an initial delivery period to ensure it is providing the intended gain.

13. [In clearly defined circumstances, should developers be allowed to pay through the tariff mechanism without fully exhausting on-site and local compensation opportunities?](#)

We can see that this would have the benefit of supporting strategic net gain delivery. Facilitating strategic delivery is important and it may be thought appropriate to set a ratio of local to national delivery to ensure that funds are secured to provide strategic benefit. However, we would suggest that a local spatial plan for biodiversity should inform where there may be greater or lesser emphasis placed on local delivery as opposed to use of the tariff.

We fully support the use of the mitigation hierarchy, which will reduce the number of cases where use of the tariff will be appropriate. This means there will be reduced funding availability for national delivery compared to other approaches. We do not think that the 25

Year Environment Plan commitment to create a Nature Recovery Network can be delivered through net gain from development only. The Nature Recovery Network needs secure funding as well as delivery across a wider area. The new Environmental Land Management scheme should also contribute to delivery of the Nature Recovery Network.

National delivery may be more likely to be maintained in the long term as a business, with reduced threat from urban sprawl. Where local net gain sites are redeveloped, net gain for the initial development will need to be delivered elsewhere as well as net gain for the current development. In assessing net gain for the current development it may be appropriate to use a past date for the condition baseline rather than the improved condition resulting from its management for net gain.

Delivering net gain via the tariff will reduce local biodiversity gain. This is perhaps more significant from a social perspective, which would be considered under a wider environmental net gain approach. In all cases we consider that developers must mitigate on site losses.

Where a tariff is paid it is important that there is transparency in how the money is used and that there is communication with local communities on the benefits secured. From the point of view of monitoring progress against 25 Year Environment Plan targets, a national database may be the most appropriate platform for tracking and auditing this.

14. [Would this be an appropriate approach to directing the location of new habitat?](#)

Prioritising local delivery and making offsite and regional delivery more expensive is appropriate for delivering local biodiversity and social benefits and so supports environmental net gain. However if focussed purely on biodiversity benefits this does not seem an appropriate approach as it assumes that local delivery is most valuable which may not be the case, particularly where development sites are not connected to other nature pathways. There is a balance to be maintained between supporting local connectivity and prioritising large areas of high-quality habitat within a large-scale network.

15. [How could biodiversity assessments be made more robust without adding to burdens for developers or planning authorities?](#)

A standardised approach is a useful step in developing a simpler, more efficient assessment process. However, in improving efficiency we must not sacrifice functionality; assessments must be fit for the purpose of delivering biodiversity net gain. Reliance on remotely collected data will not be sufficient in all cases and should be supported by expert knowledge.

We would again identify Lichfield District Council as a good practice example of how delivery of BNG is effective and lessons should be taken in the context of avoiding burden on developer and authority.

16. [Should a baseline map of broad habitats be developed?](#)

Yes, we support the development of a baseline map which should provide evidence of local level natural capital. The map could contribute to the environment census proposed by the Natural Capital Committee. Given the potential overlap with other mapping initiatives, there may be opportunities for efficiencies through integrating mapping, monitoring and reporting efforts and sharing data.

The map needs to be periodically updated using the same mapping methodology to allow comparison against the baseline. This will provide value through demonstrating the effectiveness of the policy and allowing identification of areas where improvements are needed for the approach to deliver the benefits envisaged. It is essential that funds are allocated for this important work.

Having a broad baseline map will be helpful in allowing LPAs and developers to assess the opportunities for development and net gain delivery. The baseline and updates should also feed in to a local authority spatial strategy for biodiversity.

17. Should this be applied, as a minimum baseline, to:

a. net gain calculations for all development?

b. net gain calculations in cases of suspected intentional habitat degradation?

We support review of surveyed biodiversity levels against the historic baseline map as a precaution in all cases. We do not envisage this being a time intensive process.

In cases of suspected intentional habitat degradation the remote images should be of high enough quality to detect land use changes. Enforcement action should be taken where site management has not met statutory requirements. We note that such requirements may be increased over time to improve the regulatory baseline.

To prevent developers degrading sites, the use of baseline mapping should be supported by results from detailed site surveys conducted at the beginning of development design.

18. What other measures might reduce the risk of incentivising intentional habitat degradation?

It is the opinion of our members that intentional site degradation prior to sale for development may in practice be relatively unusual. This is a separate issue to lack of positive management, which is often voluntary and should not be expected where there is no management scheme in place. We note that in some cases, but not all, lack of active management can result in increased biodiversity value.

We feel that consulting a baseline assessment in determining the appropriate level of net gain should act as a deterrent for intentional degradation.

19. How can the risks of penalising landowners making legitimate land use change decisions before deciding to sell their land for development be mitigated?

Planning rules should not discourage voluntary positive environmental actions in the short term by penalising land managers later when they want to change the management of their land. In line with this, land managers should only be penalised where there is evidence of a breach of their statutory obligations.

20. The provision of compensatory habitats will need to be guided by habitat opportunity maps. At what scale should these maps be developed?

a. Locally (e.g. local authority or National Character Area)

b. Nationally (i.e. England) as a national framework to be refined, updated and amended locally

Local mapping will be needed to provide the level of detail that will be helpful for planning local compensatory habitat provision. Local plans should reflect strategic level oversight to identify where local delivery can contribute to national networks and encourage LPAs to work across their boundaries.

Any maps produced should be considered in the drafting of local development plans.

21. What other measures should be considered to identify biodiversity and natural capital priorities?

Other sources of information for identifying natural capital priorities include; local natural capital investment plans, air quality management area maps, and flood risk maps. Addressing these priorities may contribute more to environmental net gain rather than biodiversity net gain.

22. Would mandating net gain through the planning system be enough to stimulate the growth of a market for biodiversity units?

We agree that mandating gain will drive demand for biodiversity units. The level of demand will be influenced by the multipliers used in the Defra metric.

Development of a market for biodiversity units will also be affected by:

- The introduction of conservation covenants
- How tightly pricing is controlled
- Accreditation and enforcement regimes, and
- Interaction with inheritance tax.

Conservation covenants are needed to facilitate delivery as there is currently no suitable mechanism to secure long term positive management.

If prices are too low land managers will not want to provide the service. If prices are too high developers will look harder at how to provide benefits on or close to site rather than pay a tariff for external delivery.

The consultation states an intention to allow developers to accrue or trade excess credits. There is the potential for this approach to reduce overall delivery of biodiversity units.

In allowing excess units to be traded there is a reduced buffer against under-delivery. We believe a buffer should be built in to delivery requirements to protect against delays and underperformance of planned measures.

If trading is introduced there must be safeguards. Biodiversity units for new development sites should not be met solely through accrued benefit elsewhere. This would reduce

incentives to mitigate on site losses and provide benefits that would otherwise reasonably be delivered as it would become voluntary.

If trading is allowed, the condition of units should be assessed before trading. This will prevent underperforming schemes from being traded and recorded as meeting the full requirements.

Accreditation and enforcement are needed to safeguard against poor practices and ensure a market for quality, well managed, biodiversity units develops. Trust in the market will support its growth.

Where long-term management is secured it is possible, if not likely, that the land may be sold or pass to new ownership through inheritance. Where land is inherited its eligibility for tax reliefs becomes important. Currently agricultural land can gain relief through Agricultural Property Relief (APR) or Business Property Relief (BPR). Currently where land is managed for conservation it would not be considered agricultural and would not be eligible for APR. BPR can be secured for relevant business property where it is not let. Where neither of these reliefs is available the inheritance tax liability is charged at 40%.

With the drive for net gain and agricultural support schemes transitioning to a public money for public good basis, more agricultural land is likely to be managed for environmental benefit in the future. We think it would be appropriate to alter the Inheritance Tax Act definition of agricultural land to include land managed for environmental benefit.

23. What further measures would help to ensure that the market provides:

- a. Sufficient biodiversity units for development?
- b. Cost-effective biodiversity units?

In ensuring that biodiversity units created are managed to secure the planned benefits, future management will need to be secured. This may be achieved through working with local stakeholders or commissioning management by local initiatives such as catchment partnerships.

24. Should there be a minimum duration for the maintenance of created or enhanced habitats?

Yes, long term management is essential to allow habitat establishment and delivery of the required biodiversity benefit. If benefit is not delivered over the long term continued development will result in net loss rather than net gain.

25. If so, what should the minimum duration be?

- a. Less than 25 years
- b. 25 to 30 years
- c. Longer than 25-30 years
- d. Permanent

Our members consider 25-30 years to be an appropriate initial term. Agreements could then run year to year if they continue to be supported by annual payments.

Fixed terms of 25-50 years may be far easier to agree than longer terms or agreements for management in perpetuity. Whilst 25-50 years may not seem like a lengthy period in the context of biodiversity conservation (particularly given the length of time some habitats take to establish), often once land use has existed for such a period it becomes entrenched and endures. As such the land manager may well be open to proposals to continue to the agreement on a yearly basis.

It is important that continued management of biodiversity unit sites, beyond the agreed term, is not secured through statutory designation as the risk of designation will act as a disincentive for landowners to participate in schemes.

Within the management agreement there must be provision for reviewing and updating any agreed management plan to reflect under-delivery and changes in best practice.

The required benefit must be delivered in the agreed initial term. The term length must be guided by how quickly biodiversity can be established. Many habitats take time to mature during which biodiversity levels are far lower than they are in an established habitat. The appropriate term for delivering benefit from the establishment of woodland is far longer than that for grassland habitats.

26. [Would conservation covenants be useful for securing long term benefits from biodiversity net gain or reducing process and legal costs?](#)

We strongly support introducing conservation covenants to fill the existing gap in English law. They would provide a needed mechanism for positive management obligations to continue beyond ownership changes. Conservation covenants should allow:

- positive management to be secured
- through a contract between willing parties
- the agreement to be enforceable by third parties as well as parties to the agreement
- provide for the agreement to be reviewed and renegotiated to accommodate changes in circumstances and allow the agreement to meet its aims
- Provide a dispute resolution mechanism

It is important that conservation covenants are able to be created between any willing and able parties and not just responsible bodies as recommended in the 2014 Law Commission Review.

In securing long-term management agreements, parties are currently limited to agreeing restrictive obligations for the benefit of neighbouring land or must resort to unsatisfactory work arounds, with associated legal costs of drafting innovative mechanisms, and uncertainty of enforceability.

27. [What safeguards might be needed in the implementation of conservation covenants?](#)

It is necessary for covenants to be enforceable by third parties, such as local planning authorities.

28. Does this proposed range for tariff costs fit with the principles set out in this section?

We are pleased to see that Defra has included provision for maintenance, delivery and monitoring in its assessment of these.

29. Would this proposed range for tariff costs provide opportunities for cost-effective habitat banks and compensation providers to compete?

Initial CIWEM member considerations on the proposed price range are that it does not equate to a sufficient per acre figure to incentivise landowner participation in schemes. We would suggest that sums in excess of £12,000 per unit, equating to £20,000 per acre, would be needed to incentivise long-term management changes and allow local solutions to remain competitive.

It is important that there is enough flexibility in pricing to allow willing parties to negotiate a deal that works for both of them.

30. Do you agree with the proposed principles for setting the tariff rate, as set out in this section? Please suggest any other factors that should be taken in to account.

Local pricing might be necessary to reflect land prices, however this adjustment should not be so great that it encourages developers to meet their obligations through the tariff route. Proper application of the mitigation hierarchy will help prevent delivery using the tariff route without having exhausted local options. Having a tariff option should prevent local biodiversity unit prices from becoming unaffordable.

31. How should the tariff revenue be collected?

- a. Locally (e.g. through a local authority)
- b. Nationally (e.g. through Natural England or another national body)
- c. Other, please specify

Collecting revenue at a county level may provide an appropriate balance between democratic accountability and oversight required to deliver against strategic needs. At whatever level funds are collected they must be ring fenced and spending must be transparent. This is important in demonstrating to local communities what benefit developers are funding.

32. How should the tariff revenue be spent?

- a. Locally (e.g. through a local authority)
- b. Nationally (e.g. through Natural England or another national body)
- c. Through a blended model, allowing spending at both levels
- d. Other, please specify

On the basis that the mitigation hierarchy is stringently applied, any tariff revenue collected should be spent nationally to meet strategic aims.

33. If tariff revenue is collected and spent nationally, should spending prioritise areas which have contributed the most through biodiversity net gain tariff payments?

Spending should be focused on areas where enhancement is most needed to provide functioning habitat networks and priority habitats.

34. What further measures will help to prevent burdens on local authorities increasing?

Uniformity of approach across local authorities will help reduce burdens as best practice can be shared and developers will be able to efficiently train staff and develop protocols resulting in high quality applications that require less negotiation and amendment.

35. How could the proposals be refined to manage any negative impacts on the scale and delivery of other developer contributions (e.g. through Section 106 or Community Infrastructure Levy payments)?

We think that s.106 agreements and CIL funded delivery could complement the delivery of biodiversity net gain if they took on an environmental net gain focus, based on the metrics currently being developed by Defra. If delivery of benefits associated with development could be managed through one local planning authority officer this would give the opportunity to design a package of measures that together provide holistic benefits for communities and the environment whilst funding for each is kept separate.

36. Would you, as a planning authority stakeholder, prefer any net gain tariff revenue to be paid through:

a. local authority administration?

b. a nationally managed funding scheme (which could then reinvest in local habitat schemes best aligned with national strategic environmental priorities)?

Please see our response to question 31.

37. How could the proposed net gain process be improved for developers?

We believe that current proposals will provide several important benefits for developers; assisting development and net gain spatial planning, improving the quality of planning applications through considering environmental impacts in site design, streamlining the planning process through using the biodiversity metric as a start point for net gain negotiations, providing a cost effective way to deliver net gain, increasing transparency in how developers contribute to biodiversity, and improving community buy in to development.

As an improvement to the proposals, having a dedicated LPA officer managing benefit commitments and funds would improve communication between the local planning authority and developer and help ensure a holistic approach to delivering benefits funded under different commitments.

38. What other steps, considerations or processes in environmental planning could be integrated within a net gain approach?

The approach for applying net gain requirements could be extended to other issues such as Sustainable Drainage Systems.

39. Would any particular types of development (e.g. commercial, industrial, public sector, local infrastructure) be disproportionately affected by a mandatory biodiversity net gain requirement?

It is important to developers that there is a 'level playing field' created by equal application of rules across the board. This provides certainty and is fair, preventing developers who don't plan to deliver net gain from outbidding those who do. The requirement for delivery will be in line with the impact of the development so it should be proportionate.

Infrastructure projects are not able to be as flexible with their design so are less able to mitigate loss and as such may be more greatly affected than other development types. Infrastructure developments seem likely to need to use the tariff approach more often.

40. Do you agree that the proposal for staggered transitional arrangements would help to ensure smooth implementation of biodiversity net gain policy?

We agree that a transition period is needed however we disagree that proposals should be introduced on a staggered basis, we think this could create undue confusion.

41. Would the existing dispute resolution process provide the best way to overcome any disagreement over whether net gain is achieved?

An appeal process will be needed for developers to challenge LPAs' net gain requirements where they are considered disproportionate. Using the Defra metric as a starting point for delivery level negotiations should help reduce the potential for dispute.

42. Would an additional arbitration or approval process be necessary? If so, please specify why.

We think that existing approval powers alongside an appeal process should allow the system to function without an additional arbitration or approval process.

43. Are there any issues or measures, other than those outlined, that we should take into account when considering how to monitor biodiversity net gain?

Local planning authorities will need to ensure that guidance and principles are being followed by developers. Both in planning net gain, for example any recommendation against trading down should be enforced, as well as in the delivery of net gain.

As climate change impacts continue to worsen, a fair approach to lack of delivery or success due to external factors will need to be developed.

We note that in some cases individual species may be adversely affected despite an overall increase in biodiversity. The overall value of the type of biodiversity to be delivered should be considered in planning net gain.

44. Should local authorities be required to provide information about habitat losses and gains?

Local authorities should communicate information on biodiversity losses and gains in the context of development so that local people can understand its overall impact. It is important that LPAs are transparent in managing the impacts of the developments they approve so that they can be held accountable for enforcement. The data sets necessary to monitor progress under the 25 Year Environment Plan should ensure that such reporting is not a big undertaking.

45. What technological or other innovative mechanisms could facilitate the delivery and monitoring of biodiversity net gain?

Use of remote imaging in producing baseline maps reduces the need for staff to make site visits which minimises staff exposure to risk and has the potential to save a lot of time and therefore money if the level of detail collected supports its purpose. Drone technology also provides the benefit of being repeatable allowing updates to be made.