

BIODIVERSITY NET GAIN

1. INTRODUCTION

- 1.1 This report considers the local introduction of requirements for development to provide for Biodiversity Net Gain as a requirement of planning permission. Biodiversity Net Gain is an approach to development that leaves biodiversity in a better state than before. It is required in addition to any 'mitigation' measures that are aimed at negating adverse impacts on protected nature conservation sites.
- 1.2 The Environment Bill, amongst many other initiatives, includes a general duty to conserve and enhance biodiversity. This report deals with the Bill's intention to make biodiversity gain a condition of planning permission. The progress of the Bill through Parliament has been delayed by the coronavirus pandemic but will continue to become an Act. The Bill makes little reference to different types of planning permissions.
- 1.3 The New Forest District (outside the New Forest) Local Plan Part 1: Planning Strategy, contains a policy, Policy STR1: Achieving Sustainable Development, that includes a requirement for development to achieve an environmental net gain, as well as avoiding (through mitigation) direct or indirect impacts on the protected European nature conservation sites within and around the plan area. 'Environmental Net Gain' encompasses 'Biodiversity Net Gain'. In making decisions on planning applications consideration must be given to the most up to date policies and guidance at the time of making the decision.
- 1.4 The purpose of this report is to seek agreement to interim arrangements for the implementation of Biodiversity Net Gain as a requirement of planning permission for development permitted in New Forest District (outside the National Park) on relevant planning permissions granted on or after 7th July 2020.

2. BACKGROUND

- 2.1 The National Planning Policy Framework states that:

*"Planning policies and decisions should contribute to and enhance the natural and local environment by:
d.) minimising impacts on and providing net gains for biodiversity..." (NPPF 2019 para. 170)*

Para 174 speaks about pursuing opportunities for securing measurable net gains for biodiversity.

- 2.2 The Government's Natural environment guidance, updated in July 2019 ¹, sets out how biodiversity net gain can be achieved. It states that "Planning conditions or obligations can, in appropriate circumstances, be used to require that a planning permission provides for works that will measurably increase biodiversity."
- 2.3 The Environment Bill sets out a duty on public authorities to consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective. The Bill states that the biodiversity gain objective is met in relation to development for which planning permission is granted if

¹ <https://www.gov.uk/guidance/natural-environment#biodiversity-geodiversity-and-ecosystems>

the biodiversity value attributable to the development exceeds the pre-development biodiversity value of the onsite habitat by at least the relevant percentage. The Government has said that it will legislate to require development to achieve a 10% net gain for biodiversity on or near the site².

- 2.4 With the adoption of the New Forest District (outside the New Forest) Local Plan Part 1: Planning Strategy (subject to formal decision by Council in July), proposals for significant levels of new housing development have been promoted within the district and there is beginning to be discussions on many of the strategic site allocations. There are also active discussions and applications relating to smaller scale development across the district. There is a need for clarity regarding the application of Local Plan Policy STR1.
- 2.5 While the progress of the Environment Bill has been delayed by the COVID19 pandemic, its intentions are clear, and with the support of our own local policy in the New Forest District (outside the New Forest) Local Plan Part 1: Planning Strategy, it is considered appropriate and beneficial to the natural environment of New Forest District to commence securing biodiversity net gain as part of development at the earliest opportunity.
- 2.6 At some point in the future the Government will publish Regulations which will set out the process and procedures for the implementation of Biodiversity Net Gain through the planning process. Indeed, some details are already set out in Schedule 14 to the Bill, including how Biodiversity Net Gain is to be measured. (Defra have developed a Biodiversity Metric for this purpose.) The information already published, including in other government guidance, provides a sound basis for this Council to introduce a requirement for Biodiversity Net Gain as a requirement of planning permission for certain types of development.
- 2.7 The types of measures that can be secured as part of development, to enhance biodiversity include:
 - i. Creating areas of new habitat such as woodland, scrubland, coarse grassland or ponds in landscaped areas or public open space, or enhancing existing habitats
 - ii. Provision of street trees, green roofs, green walls
 - iii. Planting of native wildflower meadows attractive to pollinators
 - iv. Siting open space and landscaping so that planting within them enhances habitat connectivity between areas of habitat within and adjacent to the site (including creating 'hedgehog highways')
 - v. Using native species of local or regional genetic origin in planting schemes
 - vi. Making provision on buildings for species such as bats, birds, pollinators or other species that might live locally. This could include, but is not limited to, nesting and roosting boxes to be built as part of the fabric of the building.
 - vii. Even the smallest developments can provide features which will achieve important benefits to wildlife, such as incorporating 'swift bricks' and bat boxes, or 'bug hotels' in developments and providing safe routes for hedgehogs between different areas of habitat.

² Net gain: Summary of responses and government response - July 2019

- 2.8 Where biodiversity net gains are not achievable on site, provision may be made for off-site provision via a financial contribution to secure a 'credit' for a scheme elsewhere. There is likely to be potential on some of the Council's own land and on existing public open spaces within the district to enhance biodiversity. This will be investigated further and could provide a means of offering developments that cannot achieve full requirements biodiversity net gain on site, credits towards 'off-site' provision. Establishing projects and identifying financial contributions will be the subject of a separate future report. For the purposes of this interim policy, the Council will not seek 'off-site' contributions, but will require measures such as those outlined in para. 2.7 above to be incorporated within a new development. Para.2.7vii indicates some of the measures that can be achieved on even the smallest sites.

3. ISSUES FOR CONSIDERATION: PROPOSED ARRANGEMENTS

- 3.1 The provisions of the Environment Bill/Act will apply to all relevant planning permissions issued from the date the Act is passed. (The Government may use Regulations to exempt some development from the requirement.) The development industry is aware that these requirements are being introduced. (It was originally announced in the 2019 Spring Statement.) Pre-application discussions are being used to make applicants aware of these forthcoming requirements.
- 3.2 Many local planning authorities already secure Biodiversity Net Gain through their local development plan policies.
- 3.3 It is important that opportunities for securing Biodiversity Net Gain in the area are not lost because of delays in national legislation arising from COVID19.
- 3.4 While national legislation will resolve the following matters in time, to assist with the implementation of the Local Plan Part 1 Sustainable Development Policy STR1, Members are asked to consider the following:
- a.) The date from which this Council as local planning authority, will seek Biodiversity Net Gain as a requirement of planning permission for development in New Forest District (outside the National Park)
- b.) The types of development which will be required to deliver 10% Biodiversity Net Gain. (This is to be applied on an interim basis pending implementation of national legislation and regulation.)
- 3.5 Regarding the date for the introduction of a requirement to provide Biodiversity Net Gain (a.) above), it is considered appropriate that the date should be set to co-incide with the date of formal adoption of the Local Plan Review Part 1. Accordingly, any (relevant) planning permission given after the 7th July 2020 should deliver biodiversity net gain as part of the development, as proposals for the introduction of Biodiversity Net Gain has been in the public domain for over one year.
- 3.6 Regarding the type of development to which the policy would be applied, it is suggested that in the interim period before the national policies are set, it is applied to all new build developments, except householder applications. (Proposals for changes of use will be exempt.)

4. FURTHER INFORMATION

- 4.1 To support the introduction of the biodiversity net gain requirement, it is proposed to produce a full supplementary planning document (SPD) on Biodiversity Net Gain, when final details of the Governments proposals become clear. In the interim a

guidance note will be produced and published to support the local introduction of the biodiversity net gain requirement in July.

5. CONCLUSIONS

- 5.1 The Council, as local planning authority, should commence applying the policy objective of securing biodiversity net gain as a requirement of planning permission from 7th July 2020, as set out in paragraph 3.5 of this report, and it should be applied to all new development as identified in paragraph 3.6.

6. FINANCIAL IMPLICATIONS

- 6.1 Within current budgets.

7. CRIME & DISORDER IMPLICATIONS

- 7.1 None

8. ENVIRONMENTAL IMPLICATIONS

- 8.1 Significant benefit to local wildlife and habitats.

9. EQUALITY & DIVERSITY IMPLICATIONS

- 9.1 None

10. DATA PROTECTION IMPLICATIONS

- 10.1 None

11. RECOMMENDATIONS

- 11.1 That the Environment Overview and Scrutiny Panel advise Cabinet of their views on the following measures:
- i. The introduction of a requirement for 10% Biodiversity Net Gain to all planning permissions granted after 7th July 2020.
 - ii. Setting the biodiversity net gain requirement as a minimum of 10% increase in biodiversity.
 - iii. Applying the requirement to all new build developments, except householder applications.

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Background Papers:

Published documents