

## **Paper A: Net Gain consultation – capture for input online by 10/02/19.**

### **Scope.**

#### **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. We believe it should, and also as a principle to guide biodiversity impact compensation projects beyond those regulated through the Act (see Q.2 below). This is an important and defining opportunity to provide both the development sector with surety as to their obligations and expectations with regard to ‘biodiversity net gains’ as set out in the *National Planning Policy Framework* (NPPF) 2018; as well as the planning sector (both LPAs and at DCLG) with improved guidance with which to require biodiversity net gain and discharge their duties regarding its regulation. The system if mandated will serve as a major driver for the Green Economy; as an opportunity for innovation in the development of Natural Capital investment mechanisms, and by supporting a significant uplift in the employment and training of skilled, expert practitioners. Whilst there is a clear need to promote a mandatory net gain system which has all of its potential positive and negative impacts robustly predicted, there will also be future opportunities to refine and improve that system with the benefit of experience in implementation.

The **Surrey Nature Partnership** has a broad membership from various sectors including biodiversity regulatory and planning, environmental education and academic, health & wellbeing, industry and development, as well as independent professional and voluntary nature conservation lobbyists and advisors. Solicited feedback from membership is in broad support of an introduction of mandatory biodiversity net gain. There are certain specific concerns from LPAs regarding a potentially serious skills shortage required for efficient and thorough regulation, including with planning enforcement. The described measures to alleviate this and to support LPAs with delivery are therefore all endorsed, as well as the proposed staggered method of introduction. Relatedly, there is a widely-held apprehension across members around the risk of compromise in the quality of interpretation, scrutiny and regulation within the system. Its regulation must of course aim for the very highest standards of robustness and expertise, and adopt a challenging attitude towards its enforcement from the outset. Please note that the opinions of LPAs expressed through this partnership response is at officer level only, and is not necessarily endorsed by their Elected Members.

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

Government could extend mandatory net gain beyond planning control achieved through the T&CPA, to be sought on principle from all Nationally Significant Infrastructure Projects subject to the application of Development Consent Order (DCO); as well as land required under Compulsory Purchase Orders (CPO). The likely initiation and/or support of government agencies involving public expenditure is acknowledged here, but if a biodiversity impact is implied then there is no clear argument for such projects to be out-of-scope. Indeed, as ‘public authorities’ all government agencies must comply with the *Natural Environment & Rural Communities Act* Section 40 ‘Biodiversity Duty’, and have often committed to the achievement of biodiversity net gains in respective strategies (for example the Highways Agency’s Biodiversity Plan *Our plan to protect and increase biodiversity*). The inclusion of DCO-required projects would align with such aspirations.

**3. Should there be any specific exemptions to the mandatory biodiversity net gain requirement (planning policies on net gain would still apply) for the following types of development? And why?**

**A. House extensions.** Yes, although in the unlikely situation when house improvements under permitted development involve destructive or disturbance impacts on legally protected species and mitigation becomes a clear *compensatory* measure (which may anyway be un-licensable), then the mandated 10% (or other % gain decided following this consultation) could be used to guide the minimum scale of that compensatory measure. Note that a blanket ‘permitted development’ exemption approach would certainly not be appropriate, as there would potentially be substantial yet still essentially permitted development scenarios (for example, some agricultural change-of-use proposals and many of the activities of statutory undertakers etc.), where any negative biodiversity impacts should then become accountable through a net gain approach.

**B. Small sites.** On principle, no. All new and re-development sites should be in-scope. The example proposed is a minimum size threshold of 0.5 ha or developments of <10 homes. Habitats supporting significant biodiversity interest (for example several populations of one or more declining species) might easily be present on sites of this size, and under. Moreover NPPF 2018 (at para. 68) requires Local Plans to deliver 10% of their future housing development on sites  $\leq 1$  hectare. Many of these are likely to be defined as “small sites” and a significant proportion of development would then be exempted. Small sites can also be important components of a wider network, particularly in urban settings. The cumulative significance to local biodiversity of multiple small sites must therefore be acknowledged, plus there is the risk that large developments could be covertly sub-divided to avoid the mandate. All non-permitted development cases (but see also A above) should therefore be net gain accountable, and other mechanisms should be available (see comment on Q.13 below) to avoid the requirement’s principle to compensate *in situ*, when genuine viability issues related to size of the site are manifest.

**C. All brownfield sites.** No. Brownfield sites, even including those on a register, could have acquired significant biodiversity interest depending on their individual character. In appreciation of this, there exists the priority habitat (NERC S.41 Habitat of Principal Importance - and therefore potentially of high ‘distinctiveness’ in the calculation metric) identified as *Open mosaic habitats on previously developed land*. Also the NPPF and LPAs promote a “brownfield first” approach in local plans, which may then represent a large proportion of their developable land, ineligible for net gain if exempted. If all brownfield sites are in-scope their potential biodiversity value must be addressed; if exempted it won’t be and development will inevitably result at least in some net loss. As with small sites above, other mechanisms can be available to advance the process straight through to a compensatory tariff collection for use off-site in some circumstances.

**D. Some brownfield sites (eg. those listed on brownfield registers etc.).** No, see C above.

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

Possibly those developments that could be described as meeting the definition in paragraph 175(d) of the NPPF 2018 of “*development whose primary objective is to conserve or enhance biodiversity (should be supported)*”.

Commercial and industrial sites; whilst it is acknowledged that these can be on a different scale to residential in terms of realisation of their profitable value, these should none-the-less on principle be

in-scope for the achievement of mandatory net gain. These can be large, often rural or urban-fringe greenfield sites; their potentially significant biodiversity impact must be included and accountable within the mandatory net gain approach.

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

Possibly; we feel that this may be an alternative to exemption, given the various reservations over introducing any blanket exemption noted already in response to Q.4. However, this is subject to further deliberation as to how it could work to be most effective. Also, as the Defra valuation metric is already designed to be simple enough for universal comprehension, any further simplification might undermine credibility here.

**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?**

The Defra metric should allow for adjustments to reflect important local features such as local sites.

Most LPAs will have specific planning policy relating to Local Wildlife Sites, emphasising their designated local importance for biodiversity. This policy will afford elevated protection to these sites, based around a requirement to avoid on principle impacts to the specific habitat and/or species interest features that qualify their designation. Clearly, this policy must not be compromised by the introduction of the mandated net gain requirement. Therefore some enhanced method of valuation must be effective through the Defra metric to apply to all qualifying habitats, and habitats supportive of qualifying species populations, occurring within Local Wildlife Sites. There could also be a requirement for a larger % net gain over that in 'normal' circumstances when compensating for any loss of such sites. Both of these would act as an additional incentive to avoid negative impacts on these sites commensurate with their elevated status.

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

On balance no, although this is an aspiring proposition. It would allow time for relevant LPAs to consider the implications of this, and to make links with the necessary local specialist bodies for their support and advice on implementing the approach. Pending the advice of those bodies, the approach may prove not to be appropriate for some LPAs, however. The District Level Licensing (DLL) approach relies on confidence in an up-to-date knowledge base of the local conservation status of the Great crested newt (GCN) population within the licensed area of jurisdiction. In the piloted LPA (Woking Borough), this was ascertained to a standard acceptable to Natural England (the licensing authority), but notably not in the view of all the expert bodies involved. Notwithstanding this, Woking Borough is possibly also atypical of many districts across England to which the requirement might apply. Many are significantly larger, proportionately more rural in nature, and less well-surveyed for GCN. In consequence some flexibility is probably necessary with the inclusiveness of such a requirement.

**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.**

We assume this question applies to 'European Protected Species' (EPS) only. Depending on the size and land-use character of the district, as well as the strength of knowledge of the local conservation status of EPS species populations (including their distribution, robust estimates of their abundance and historic/recent population trends), in theory this could possibly be applied to certain of the more widespread bats. In practice however, gaining this knowledge may prove prohibitively protracted or even impossible, and this is certainly the informed opinion of the relevant specialist body within our partnership. Local and national population estimates of all but a few of the rarest bat species are still too inaccurate to enable this. In any case, what might constitute an effective and appropriate district level mitigation measure is somewhat difficult to imagine. It should be noted that Natural England and the CIEEM are presently developing an 'earned recognition' approach to practitioners' licensing for bats that will probably be a more effective way of streamlining planning processes and hence reducing delays in development.

**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.**

Yes. A 'sustainable development credit' system, whereby all development and infrastructure (in-scope) could be universally mandated to meet an obligatory target level of sustainability credits, to be attained across various areas (including flood alleviation, water and energy consumption, waste management and use of recyclables, air quality regulation, artificial light reduction, and recreational open space provision), to encourage sustainable design & construction across an inclusive suite (ie. not just one or a few) of relevant issues. 'Performance' exceeding the mandated credit target (which would become 'environmental net gain') could then generate tradeable and thus potentially investable credits; but failure to meet the target would be penalised monetarily, or in the worst case denied planning approval. There would need to be further deliberation over the standards of the obligatory target; should these equate to attainment of the 'carbon neutrality' approach? This might then equate to 'Good' on a performance scale of Outstanding; Good; Acceptable; Poor. Exceedance of the target would rate as 'Outstanding' and generate the tradeable credits. Setting the monetary value of the sustainability credit would of course be critical and require careful consideration. But if introduced such a system could incentivise, consolidate and provide further standardisation to guide the regulation and upscaling of sustainable development. Note however, that opportunities to seek multiple benefits through environmental net gain must not in any way substitute for the gains specific to biodiversity.

**Measuring biodiversity.**

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

Yes. The Defra biodiversity metric's practicality as a tool is its most useful feature, partly necessitated by the need for its outputs to be understood and interpreted by a variety of cross-sectoral practitioners. Note that for the tool to be effective, there must be adequate resources to implement, monitor and enforce it. Also, the metric avows not to include provision for the direct involvement of impacted species populations in respect of net gain, and the existing 'last resort' measures for compensating such impacts must therefore prevail in parallel.

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

The metric needs to incorporate allowance for some degree of flexibility and adjustment, if this is felt to be required from a local interpretation of the objectives of some of its 'multipliers', with regard to local circumstances. These could well relate to 'distinctiveness' (to reflect local degrees of rarity, scarcity, irreplaceability and so on) and/or 'condition' categories; 'connectivity' as perhaps indexed via a locally-derived GIS project; and 'strategic significance' to align with local/county-wide strategies for guiding the preferred location of biodiversity enhancements. The aspiration to address the non-involvement of species within the metric must also continue to be pursued.

**12. Would a mandatory 10% increase in biodiversity units be the right level of gain to be required?**

Other. The Impact Assessment (IA) has shown that 10% is the minimum level required from individual developments in order to ensure no net loss and also guarantee some net gain. It also finds that "*..the level of net gain has relatively little impact on the overall costs when compared to the total cost of mitigating negative development impacts.*" Given the seriousness of biodiversity decline, the IA's findings suggest a higher gain should be proposed, possibly the 20% that has been delivered and borne successfully in some parts of the country. So, as an alternative 10% should perhaps be seen more as an 'entry-level' minimum or 'at least' percentage uplift. A guided or prescriptive range might then be more appropriate (eg. 10-30%). This could also serve as an effective further multiplier (additional to the distinctiveness and condition, difficulty in re-creation multipliers, etc.) for application in various circumstances deemed appropriate. These might include negative impacts to statutory and non-statutory designated site status, for example European/'habitats' sites, SSSI and Local Wildlife Sites (see response to Q.6). This could also be the method by which some existing guidance on compensation multiplier ratios (up to 1:3 for example in relation to habitat land-take impacts within 'habitats' sites), might be integrated into the metric.

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

On principle, no. However, this could become permissible in relation to 'small sites', when in order to remain economically viable much or all of a site is required for development (as discussed at Q.3B). In these circumstances, and only where the developer can clearly show that no irreplaceable, 'distinctive' biodiversity interest is present and the essentially limited scope for on-site compensation is of near negligible value, then the biodiversity unit value of the site (plus 10% if adopted as the minimum level of gain) might become payable through the tariff mechanism into a 'pooling' fund. This would then accumulate and enable larger and arguably more worthwhile habitat restoration or creation projects, still preferably to take place locally or within the geographic context of the county or sub-region at their furthest (and see Q.14 below). There should sensibly be a time limit on the use of the pooled fund, which could also be a shared or part-use. It would probably be helpful for local specialist agencies (most likely LNPs where present) to formally assist LPAs with the regulation around eligibility issues as well as decisions on how best to spend a pooled fund for the maximum benefit of local biodiversity.

**14. Would this be an appropriate approach to directing the location of new habitat?**

Yes. This seems an entirely sensible approach (ie. strict observation of a spatial hierarchy). This might proceed as: on-site/adjacent to site; district/borough; county-wide (or shared with a site in an immediately adjacent neighbouring county, ie. sub-regional); regional; national; inter-UK state.

**15. How could biodiversity assessments be made more robust without adding to burdens for developers or planning authorities?**

Quality and adequacy in expert guidance and training offered to ensure crystal-clear, accurate implementation of the biodiversity metric, for all sectors involved but especially the professional biodiversity consultancy sector. As ought currently to be the case, existing local data-sets must be thoroughly researched, referenced and utilised in good faith to help inform accurate calculation of the metric. Also, a randomly sampled quality control and enforcement system, undertaken by an appropriate specialist regulatory authority, might be introduced. These measures would promote confidence in the system on behalf of the planning sector, such that their role involves less scrutiny and becomes increasingly administrative. But ensuring that the metric is being properly applied and is informing decisions that result in the best outcomes for biodiversity, will still require ecological expertise within LPAs. From a more long-term perspective, curricula in planning schools might place more emphasis on teaching environmental regulation (particularly for biodiversity) within the planning system.

**16. Should a baseline map of broad habitats be developed?**

Yes. A national baseline mapping exercise for broad priority habitat types should be relatively simple to produce. Whilst this would certainly help in enforcing the operation of the mandatory net gain system by alerting to cases of deliberate gross habitat degradation, the finer classification and condition qualities of these habitats (important to precise use of the metric) could well be missed. It is acknowledged that the cost is likely to be prohibitive but a reliable national land cover survey incorporating a finer-scale inventory of priority wildlife habitats, which commands a general trust in its accuracy, is long overdue. It is known for example, that the Natural England Priority Habitat Inventory is incomplete, inaccurate or both in many areas. Some sound public investment on this issue would be well-spent, and Local Record Centres ought to be well placed to provide accurate information at the local scale.

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

**a. net gain calculations for all development?** No.

**b. net gain calculations in cases of suspected intentional habitat degradation?** No.

**Other (please provide an explanation).** Yes. A baseline map of broad habitats should of course be cross-referenced with all net gain calculations and would also be of some help in cases of suspected intentional habitat degradation. But at this 'broad' level, it could not be of sufficient quality or resolution of ecological detail to be the sole information source employed in the monitoring of net gain.

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

Possibly some form of criminalisation if feasibly enforceable, or a system of penalisation through the future Environmental Land Management Scheme (replacement BFP), where appropriate. Alternatively, in cases of proven deliberate degradation, the minimum level of net gain could simply be increased or site reinstatement (if feasible) might be enforced as a possibly stronger disincentive, whichever has the more beneficial outcome for biodiversity. Where such practices are suspected, comparisons across a range of historic aerial photographs would indicate a gross degradation in habitat state/condition, but probably not more subtle events such as repeated herbicide applications on grassland. 'Front-

loading' using a mandatory habitat condition-assessment to establish the biodiversity value of all potential development sites, at the earliest stage in the site allocation process, would set a benchmark from which any later suspected degradation attempt could then be assessed.

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

If criminalised (see Q.18 above), through representation within the legal system. Or in the case of farm payments penalties (where relevant), via an appeals system.

**Delivering biodiversity outcomes**

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

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

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

Other. Other examples of local habitat opportunity maps include the Biodiversity Opportunity Areas (BOAs) used in most former south-east regional counties (Conservation Target Areas elsewhere).

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

Any prioritisation as suggested by the Outcomes of *Biodiversity 2020: A strategy for England's wildlife and ecosystem services* and associated CBD Aichi Biodiversity Targets, as well as the appropriate United Nations (UN) Sustainability goals.

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

Yes. This would clearly also depend on the national and local rates of development, but mandating net gain would certainly serve as a major accelerator for such a market. Demand for delivery of biodiversity units will undoubtedly incentivise many potential suppliers to undertake habitat creation and enhancement projects proactively, where such projects are presently limited simply by a lack of support to overcome a critical funding gap.

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

**a. Sufficient biodiversity units for development?** A strong sense of realism when setting the tariff rate to enable the supply of biodiversity units to compete as a *bona fide* use of land on the relevant local land market; this should also reflect a robust and credible valuation of any ecosystem services associated with the provision of the biodiversity units (here related also to concepts of environmental net gain).

**b. Cost-effective biodiversity units?** See above.

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

Yes. This would set a reasonable expectation, with the underlying aspiration to become permanent upon review (see Q.25 below). The opportunity for review would serve as an incentive for any

potential compensation project suppliers who might be dissuaded from entering into this by the notion of 'permanence'.

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

c. **Longer than 25-30 years.** 30 years could be advised as an absolute minimum duration, but permanence should be overtly conveyed as the ideal and desirable outcome. Within this time period, further opportunities and mechanisms for guaranteeing permanence could well become options. However, for some restored or created habitats, their full establishment could not be achieved within 25-30 years and for these perhaps the minimum duration should be longer. This then leads to the suggestion for using a habitat-led timescale for the minimum duration of net gain projects. Another position in support of permanence might be the principle which proposes that the life of a net gain project should at least equal the duration of the development that initiated it. See also our comment in relation to 'in perpetuity' at Q.35.

**26. Would conservation covenants be useful for securing long term benefits from biodiversity net gain or reducing process and legal costs? Yes.**

**27. What safeguards might be needed in the implementation of conservation covenants?**

Incentives through some form of tax relief? And/or compulsory affiliation with an appropriate biodiversity conservation organisation, to supply advice if/when required.

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

**29. Would this proposed range for tariff costs provide opportunities for cost-effective habitat banks and compensation providers to compete? (unknown, but likely).**

**30. Do you agree with the proposed principles for setting the tariff rate, as set out in this section? Yes. Please suggest any other factors that should be taken into account. (none).**

**31. How should the tariff revenue be collected?**

c. Other. An alternative might be as a treasurer/banking function for individual or consortia of Local Nature Partnerships (LNP), where these exist. Or alternatively, banked with the respective LPA (or respective strategic authority), with spending recommended and/or administered/controlled through the LNP. LNP governance boards typically include representation from Natural England, from where that body's influence could best be effected. There is a danger that a highly centralised controller of the tariff will, by default, divert net gain compensation projects to less than optimal locations by failing to fully comprehend the current scope of opportunity locally. Therefore, if a central controlling body such as Natural England is appointed, it will be imperative for it to be fully involved with local biodiversity recovery programmes and initiatives. Also, as there could be substantial overheads involved for any tariff administrator, a mechanism to allow for recovery of these should also be considered within the tariff collection system.

**32. How should the tariff revenue be spent?**

c. Other. See above (Q.31).

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

a. Yes. See above (Q.31).

**Delivering net gain in the planning system.**

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

Partnered or full delegation of the tariff banking function to, for example, Local Nature Partnerships (see Q.33 & Q.15 above). Appointment of a dedicated in-house specialist post, as by far the majority of LPAs have never employed a 'District' Ecologist in an official planning advisory role (regrettably some have been lost in staffing restructures imposed by funding shortfalls). Alternatively a team of dedicated specialist planners could be co-funded by a consortium of LPAs, to be hosted by any one of them or the respective strategic (county) planning authority. The possibility for funding this additional staffing capacity from the actual tariff collection system could also be considered. Application fees could be increased to take account of additional costs associated with determining applications that include considerations related to biodiversity net gain.

**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)?**

If this refers to the delivery of the benefits afforded through developer contributions other than for biodiversity enhancements, then the net gain system could replace all alternative mechanisms for conditioning developer contributions designed to achieve biodiversity enhancements, thereby managing this aspect completely separately. This way, biodiversity enhancements would no longer have to 'compete' with other local infrastructure desirables (as potentially with CIL-driven contributory schemes), and the landscape design of green infrastructure would be spontaneously driven to have more ecological focus (via the dedicated net gain fund) on delivering as a useful biodiversity asset. This said, the possibility for funding green infrastructure projects from schemes such as CIL must never become completely obsolete, however.

A local reconciliation issue affecting western Surrey, north-east Hampshire and some of the eastern Berkshire unitary authorities, is that presented by the Thames Basin Heaths Special Protection Area (SPA) Avoidance Strategy. A similar strategy exists for the Wealden Heaths SPA, as well as the Ashdown Forest SPA. Such strategies involve the obligatory payment of a variable tariff by developers for new housing schemes (over an area size threshold) located within a fixed distance of the SPA concerned. This has to date often been secured as a S.106 agreement, but some new Local Plans (eg. Guildford Borough's) are proposing to make future collection via CIL. As this tariff is widely perceived by the development sector (especially at the smaller scale) as a generic form of 'biodiversity protection tax', its interface with net gain as an additional levy will require some careful deliberation. Some form of consolidation is not as simple a solution as it might initially appear; up until very recently Natural England has perversely advised *against* realising significant opportunities for achieving biodiversity enhancements within the design of Suitable Alternative Natural Greenspace (SANG), but this could of course be reversed. Finally, with specific implications for Q.24 & Q.25, the regulation of SANG demands an 'in perpetuity' commitment towards their set-up and management (often interpreted as a minimum of 80 years).

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

c. Other. As an alternative, an independent and specialist locally managed funding scheme (which could then reinvest in local habitat schemes best aligned with national strategic environmental priorities).

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

The process needs to be clearly set out from the beginning, with realistic costs that properly value biodiversity and the environmental benefits it provides. There could be scope for a publically-subsidised specialist advisory service delivered by a preferred national or local consultancy, to be available to developers and/or potential biodiversity unit suppliers meeting certain, perhaps means-tested criteria, and in appropriate circumstances.

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

Flood alleviation planning, where appropriate. Restoration of minerals extraction and quarrying.

**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?**

There could be a disproportionate effect on less valuable or publically-funded developments, but where these are located on greenfield (and biodiverse brownfield) sites, their potential biodiversity impact would be exactly the same and mandatory net gain should therefore apply. Moreover this is all the more important where for example, public infrastructure projects on the most important 'habitats' sites (SPA and SAC) can often be justified for "imperative reasons of overriding public interest" (IROPI).

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

Yes, but introduction must not be allowed to become too protracted. The benefits of introducing net gain are imperative and required to take effect as soon as possible. Too long a lead-in would also extend the opportunity for unscrupulous landowners to contemplate degrading known biodiversity interest on their sites. Piloting may be an option but would inevitably further delay a national roll-out.

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

Yes, in theory. Planning inspectors dealing with dispute resolution relating to biodiversity net gain should have sufficient expertise and experience in relation to biodiversity.

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

Other. An additional specialised planning application validation process, involving out-sourced advice could be necessary.

**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?**

Any proposed monitoring system should be consulted on widely, with the objective of ensuring full compatibility/integration with existing national and any locally-adopted systems of habitat survey, condition assessment and surveillance for changes.

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

Potentially yes, but this could be assisted or avoided completely if managed and reported by local records centres and/or LNPs. Also, LPAs would find it difficult and could not reasonably be expected to report on habitat losses and gains if these occur beyond the scope of the planning system. Some degree of LPA reporting on these matters is likely to be expected by local communities however, seeking to better understand the benefits of the net gain approach.

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

The advancing use of UFV (drones) aerial photography and interpretation in habitat mapping and monitoring. Coordination of Citizen Science programmes involved in local voluntary habitat condition monitoring.

**Key evidence gaps.**

**G. We would welcome further evidence that addresses the following identified evidence gaps. Please submit evidence, or related enquiries, below or to [netgainconsultation@defra.gsi.gov.uk](mailto:netgainconsultation@defra.gsi.gov.uk).**

**Interactions with other contributions such as Section 106 and Community Infrastructure Levy.** See comment on Q.35 above. It is probably fair to say that obligations towards SPA Avoidance Strategies can negatively influence some (typically smaller) developers' attitudes towards their voluntary provision of biodiversity enhancements.

**Recent trends in habitat loss and gain due to development, likely habitat under threat due to future development, and expected habitat delivery through net gain.** There is significant development pressure on eminently restorable priority habitat, which owing to its perceived poor condition is routinely under-valued in ecological impact assessments. Examples in Surrey include afforested lowland heathland, semi-improved lowland meadows, and the margins of commercially planted Ancient Woodland sites. The restoration of such priority habitats is of course achievable under a net gain approach, but these potential enhancement projects are themselves under development threat in high housing demand districts (for example the Blackwater Valley conurbation (Camberley-Aldershot).

**The impact of biodiversity net gain delivery for commercial development; public sector development; industrial development; and local infrastructure development.** Transport infrastructure improvement projects typically impact marginal and transitional habitats, for example extensive scrub and developing secondary woodland. These are notoriously under-valued, especially in extensively urbanised locations where any natural open space has an added premium, and alongside transport infrastructure are usually integral to important habitat connectivity networks.

See comments on Q.39 (ref. major and local Infrastructure): IROPI must always be weighed in context against significant impacts on the public benefits from any ecosystem services, deriving from natural capital.

**Net gain interactions with on-site delivery of housing and other green infrastructure (e.g. parks, recreation).** See relevant comments on Q.35 above.

**Whether net gain approaches, where adopted, help to speed up and/or unlock development in previously borderline sites.**

At **Priest Hill**, Ewell, Surrey a new 34 ha nature reserve was created through policy-driven planning gain from a 1.7 ha development of 15 residential homes. The entire Green Belt site was previously abandoned playing fields with some brownfield land, and had been bought prospectively by developer Combined Counties Properties. Local opposition in combination with Green Belt status had served to stall any possible development aspirations. However, compromise on the part of all parties then enabled the modest development plus the funding of priority habitat restoration and creation (Lowland calcareous grassland, Hedgerows and five field Ponds) on the majority of the site delivered by the Surrey Wildlife Trust. Further benefits included provision of a site manager's house and maintenance base, plus a single year's family subscription to the Wildlife Trust for new residents. Although not originally calculated as such, this represents a significant Biodiversity Net Gain. Throughout the process, the Wildlife Trust worked closely with the developer and local planning authority Epsom & Ewell Borough to ensure the full potential of the site was realised. Most recently, permanent fencing and other site infrastructure has enabled the introduction of conservation grazing. The site presents a new and important 'stepping stone' between the Wildlife Trust's nearby Howell Hill Nature Reserve and the Epsom Downs Local Wildlife Site to the south, assisting re-connection of a strategic Green Infrastructure/wildlife corridor within a Biodiversity Opportunity (aka Conservation Target) Area, penetrating Greater London. Priority species recovery at Priest Hill has involved Small blue, White-letter and Brown hairstreak butterflies, Common lizard, Skylark and Linnet, as well as several Red-Listed vascular plants. Additional access enhancements and interpretative signage have improved visitor experience for the local community's enjoyment of the reserve. Wildlife Trust staff resident on site (S.106 conditioned) ensures site security and also facilitates more efficient ecological monitoring.