



Biodiversity Net Gain – Government Consultation.

To: All Chief Executives, Senior Policy Officers Main Contacts and APSE Contacts in England. For information for all Chief Executives, Senior Policy Officers Main Contacts and APSE Contacts in Scotland, Wales and Northern Ireland

Key issues

- The Environment Act (2021) has outlined clear statutory targets for the recovery of the natural world in four priority areas: air quality, biodiversity, water and waste.
- Biodiversity Net Gain makes it a requirement for appropriate developments to deliver a minimum of 10% net gain in biodiversity where the development has disturbed or destroyed existing habitats and biodiversity levels.
- The habitat should be secured for at least 30 years via planning obligations or conservation covenant
- Government is currently undertaking a consultation to allow developers, planning authorities, environmental professionals, landowners and other interested parties to give their views on the details as to how biodiversity net gain should be delivered when building new housing or commercial developments.

Introduction

With the passing of the Environment Act in November 2021 <https://www.legislation.gov.uk/ukpga/2021/30/contents/enacted> , Government has provided legislation which outlines clear statutory targets for the recovery of the natural world in four priority areas: air quality, biodiversity, water and waste. Within the Act there are important new target which aim to halt the decline in biodiversity and create a much more species abundant natural world in the UK by 2030. The Act has set in law new rules and supporting guidelines which can help meet those targets through the use of requirements such as Biodiversity Net Gain within the planning process.

Biodiversity Net Gain makes it a requirement for appropriate developments to deliver a minimum of 10% net gain in biodiversity which will help to deliver Government's wider targets on environmental net gain.

Background

Biodiversity Net Gain (BNG), was created to ensure that when new developments were being considered the natural environment is left in a measurably better state than it was beforehand. BNG can be achieved on-site or off-site or through a combination of measures including purchasing credits for nature restoration in England. The credits can be bought by developers as a last resort when onsite and local offsite provision of habitat cannot deliver the BNG required.

BNG requires a minimum 10% gain in biodiversity using measurable techniques as developed by Natural England and the habitat should be secured for at least 30 years via planning obligations or conservation covenant. There will also be a national register for net gain delivery sites.

Demonstrating BNG requires an approach to measuring biodiversity. The aforementioned biodiversity metric is a habitat-based approach to determining a proxy biodiversity value developed by Natural England. The Biodiversity Metric is designed to provide ecologists, developers, planners and other interested parties with a means of assessing changes in biodiversity value (losses or gains) brought about by development or changes in land management. Mandatory BNG will require use of the latest version of the Biodiversity Metric. The current version is Biodiversity Metric 3. Details of the metric can be found at the following link <http://publications.naturalengland.org.uk/publication/6049804846366720>

Through BNG communities, planners and Planning Authorities will be able to ensure that any new developments are 'nature positive' by placing nature and biodiversity gain at the heart of decision making and design. In doing this, existing habitats can wherever possible be protected, but where disturbance does occur, then these 'disturbances' are compensated for with natural habitat and ecological features over and above what has been affected.

Government has also announced a £4million funding pot to help local planning authorities and other local authorities to prepare for the requirements of BNG. The funding will help local planning authorities to increase ecologist resource and upskill teams to allow them to work with developers and communities to provide biodiversity gains by helping restore wildlife plants and landscapes after building work has taken place.

BNG will become mandatory in 2023 and currently is being shaped through a consultation published by DEFRA, Natural England and the Department for Levelling Up, Housing and Communities and is available on-line for interested organisations and stakeholders to comment upon.

Through BNG, the planning process and resultant developments will have to focus on biodiversity and the protection or enhancement of habitats and landscapes which have proved crucial to public health and well-being during the current pandemic. BNG will

ensure developers play their part in reducing biodiversity and habitat loss and protect environments from further harm and loss.

It is therefore important that all relevant officers and elected members with responsibility for planning and environment complete the consultation on how BNG should be delivered. For whilst some authorities and developers have been following a BNG approach voluntarily, or in line with local planning policy, the proposed standardised mandatory approach will give greater clarity on future BNG requirements and thereby help enhance local environments.

The Consultation closes on the 5 April 2022 and can be found at the following link.

<https://consult.defra.gov.uk/defra-net-gain-consultation-team/consultation-on-biodiversity-net-gain-regulations/>

APSE Comment

The Environment Act is a long-awaited piece of legislation, and whilst as always it can be said it may not go far enough in certain instances, we have to be thankful that the long wait for such a piece of legislation is over.

The Act has been created to protect and enhance the environment through regulating improvement of air and water quality, tackling waste, increasing recycling, and improving the natural environment. Through developing techniques such as BNG it is clear that there is a desire to improve the country's biodiversity and natural environment where development is being considered or delivered.

However, BNG should not be seen as an excuse for developers to destroy or disturb existing environments on the pretext that they will make things better after the event. For as Tony Juniper Chair of Natural England has said,

'It is important to remember, however, that the starting point is to avoid harm in the first place, moving to net gain arrangements only in cases where developments meet all other planning requirements'.

It is therefore critical that disturbance and destruction of habitats and environments is avoided wherever possible, and ensuring that where planning allows development that BNG is delivered to a good standard, in the right places and in a manner that is transparent and can be managed, monitored, and maintained for the long term.

For this very reason it is important that the consultation is seen as an opportunity to ensure that we have a system which helps protect and improve our environment for future

generations and help towards delivering the aims of the Environment Act with regards to improving the wider UK environment.

APSE would encourage member authorities to respond to this important consultation and would appreciate if these could also be shared with Wayne Priestley at wpriestley@apse.org.uk in order that APSE can gauge its members views and respond appropriately on their behalf.

Wayne Priestley

APSE Principal Advisor