

## **DEFRA Consultation on Biodiversity Net Gain Regulations and Implementation**

### **Appendix 1: Consultation responses to questions**

#### **Part 1: Defining the scope of the biodiversity net gain requirement for Town and Country Planning Act 1990 development**

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

**a) for area-based habitat:**

Yes - 10m<sup>2</sup>

**b) for linear habitat (hedgerows, lines of trees, and watercourses):**

Yes - 5m

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

Yes

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

Yes

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

Yes – only for biodiversity net gain

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

No

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

Yes

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

No - As temporary schemes are likely to be screened out of BNG through the metric, it is considered that, without an exemption, the requirement to provide BNG information could delay the preparation and consideration of an application unnecessarily. Temporary schemes can often be time sensitive to begin with,

relating to the need for a quick, short term solution to an immediate issue (for example, temporary hospital treatment facilities or classrooms for schools).

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

Yes

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

No

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

Yes

Part 2: Applying the biodiversity gain objective to different types of development

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

Yes

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

Yes

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

Yes, however, the level of gain should still be at least 10% for small sites with just the paperwork, not the level of gain, reduced.

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

Yes, a 6 month extension would be reasonable and help the Council manage the introduction of BNG.

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

No

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

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

Yes

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

Yes

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

Yes

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

Yes

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

Yes

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

Yes

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

Yes, however local net gain should be required in the first instance and only where it has been demonstrated that it is not possible should credits be bought from elsewhere in England.

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

Yes, however parameters will be required to ensure local net gain is a priority.

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

Yes, with the caveat that the funding to LPA's needs to be considered and resolved, it will only be possible if sufficient funding is made available to local planning authorities.

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

Yes, but not achievable, unless suitable software is available to capture the data and funding is made available to resource the work. More details relating to the new burdens funding of BNG in future years would help in the understanding of how the LPA could facilitate this.