



WOKINGHAM BOROUGH COUNCIL

**A Meeting of an INDIVIDUAL EXECUTIVE MEMBER
DECISION will be held in First Floor 12 - Civic Offices on
MONDAY 18 FEBRUARY 2019 AT 2.05 PM**

Heather Thwaites

Heather Thwaites
Interim Chief Executive
Published on 8 February 2019

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WOKINGHAM BOROUGH COUNCIL

Our Vision

A great place to live, an even better place to do business

Our Priorities

Improve educational attainment and focus on every child achieving their potential

Invest in regenerating towns and villages, support social and economic prosperity, whilst encouraging business growth

Ensure strong sustainable communities that are vibrant and supported by well designed development

Tackle traffic congestion in specific areas of the Borough

Improve the customer experience when accessing Council services

The Underpinning Principles

Offer excellent value for your Council Tax

Provide affordable homes

Look after the vulnerable

Improve health, wellbeing and quality of life

Maintain and improve the waste collection, recycling and fuel efficiency

Deliver quality in all that we do

For consideration by

John Halsall, Executive Member for Environment, Leisure and Libraries

Officers Present

Katie Green, Specialist, Growth & Delivery

Callum Wernham, Democratic & Electoral Services Specialist

IMD NO.	WARD	SUBJECT
IMD 2019/03	None Specific	DEPARTMENT FOR ENVIRONMENT FOOD & RURAL AFFAIRS CONSULTATION PROPOSALS ON NET GAIN

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Agenda Item IMD3

INDIVIDUAL EXECUTIVE MEMBER DECISION

REFERENCE IMD: IMD 2019/03

TITLE	Department for Environment Food & Rural Affairs Consultation Proposals on Net Gain
DECISION TO BE MADE BY	Executive Member for Environment, Leisure and Libraries - John Halsall
DATE, MEETING ROOM and TIME	18 February 2019 FF12 at 14:05
WARD	None Specific;
DIRECTOR	Deputy Chief Executive - Graham Ebers

OUTCOME / BENEFITS TO THE COMMUNITY

To ensure that the mechanism for achieving biodiversity net gain has minimal negative impacts upon Wokingham Borough and that any positive benefits are maximised.

RECOMMENDATION

That the Executive Member for Environment, Leisure and Libraries agrees that Wokingham Borough Council submit the comments contained in Appendix A as this council's response to the governments consultation 'Net Gain consultation proposals, December 2018'.

SUMMARY OF REPORT

The Department for Environment, Food and Rural Affairs (hereafter referred to as Defra) has published a consultation on [biodiversity net gain](#) (hereafter referred to as the consultation). The consultation closes on 10th February 2019.

The principal of securing measurable biodiversity net gains as part of the development process is already set out in the National Planning Policy Framework¹. The consultation seeks to supplement the principle by establishing a mandatory approach to how the system is measured and applied.

The issues covered in the consultation include;

- Whether a standardised national approach to biodiversity net gain should be introduced
- Whether net gain should be a mandatory requirement
- How to implement the net gain approach
- How the net gain approach should be measured and monitored.

Defra are seeking evidence on how they could also include other environmental improvements.

¹ See NPPF, paragraph 170, 174 and 175.

Background

Biodiversity net gain is an approach which aims to leave the natural environment in a measurably better state after development than what existed before. This is achieved by requiring enhancements to habitats.

The principal of securing measurable biodiversity net gains as part of the development process is already set out in the National Planning Policy Framework². The consultation seeks to supplement the principle by establishing a mandatory approach to how the system is measured and applied.

Due to the timing of the consultation and council procedures, a holding response based on this report has been submitted to government within the consultation period. Following formal consideration of this report, a final response will be provided incorporating any necessary updates.

Analysis of Issues

The recommended response to the questions set out in the consultation is provided in Appendix A to this report. A supporting analysis of main issues is set out below.

The principle of biodiversity net gain provides wider benefits than simply beneficial to wildlife. Through the provision of mitigations, new developments will create more pleasant and healthier places to live and work, with associated social, health and economic benefits.

The proposal includes a mandatory requirement for developers to demonstrate they are achieving biodiversity net gain. This is through a new standardised approach to that is designed to be simpler and clearer for all stakeholders, while delivering measurable and verifiable net gains for wildlife and habitats. The process would include;

- Developers carrying out a detailed survey that identifies habitats and their condition within a site.
- Establishes a mitigation hierarchy which prioritises options that avoid harm to biodiversity.
- Compensation for any biodiversity loss is provided through new habitat creation or enhancement, which is preferably part of the same development scheme or nearby.
- Where there are no suitable local compensation opportunities, a tariff can be paid to fund habitats for biodiversity priorities elsewhere as part of a wider strategic approach.

The introduction of a standardised biodiversity net gain approach is welcomed as this will provide greater clarity, reducing areas of challenge through the planning process. However, it is imperative that the metric has local flexibility for local rare habitats that may be less rare nationally (for instance, where at the edge of a range), this could be important for a long term approach to adapting to climate change and allowing range shift.

If adopted, a mandatory requirement for biodiversity net gain could help protect existing habitats and ensure that the loss or degradation of environmental features is

² See NPPF, paragraph 170, 174 and 175.

compensated by restoring or creating environmental features that are of greater value to wildlife and people

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	Nil	Not relevant	Not relevant
Next Financial Year (Year 2)	Nil	Not relevant	Not relevant
Following Financial Year (Year 3)	Nil	Not relevant	Not relevant

Other financial information relevant to the Recommendation/Decision

None anticipated.

Cross-Council Implications

No cross council implications have been identified.

SUMMARY OF CONSULTATION RESPONSES

Director – Corporate Services	No comments received
Monitoring Officer	No comment
Leader of the Council	No comments received

Reasons for considering the report in Part 2

N/A

List of Background Papers

Net gain Consultation proposals Document:

https://consult.defra.gov.uk/land-use/net-gain/supporting_documents/netgainconsultationdocument.pdf

NPPF:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf

Contact Katie Green	Service Place
Telephone No Tel: 0118 974 6617	Email katie.green@wokingham.gov.uk

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Net gain

Closes 10 Feb 2019

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?
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(Required)

- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

Yes, however there will need to be a new mechanism developed if this is to be reasonably applied to householder applications.

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

Please provide your answer here

Commission research into habitat restoration, creation methods and timescales so these are more definitely defined within calculators.

Research the minimum habitat size and shape that needs to be created to be viable at the different conditions for the various habitats likely to be created in an offsetting measure.

Provide start-up funding to Local Nature Partnerships or other organisations that might act as brokers between developers and off-setting schemes.

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?

(Required)

- House extensions
- Small sites
- All brownfield sites
- Some brownfield sites (e.g. those listed on brownfield, or other, land registers)
- Other (please provide an explanation)

Please provide any explanation for your answer here

Potentially householder extensions, where it proves impossible to reduce any administration cost to a reasonable amount (compared to the off-setting amount).

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

Please provide your answer here

No

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

- Yes
- No

- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

Householder extensions - a more simplified process would be more suitable based on an average impact assessment.

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 local sites
- The Defra metric should consider local designations in a different way
- No
- I don't know

Please provide any explanation for your answer here

The metric should allow for adjustments to reflect local sites. It should also take into account local rare habitats that may be less rare nationally (for instance, where at the edge of a range), this could be important for a long term approach to adapting to climate change and allowing range shift.

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

- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

Local authorities should not be required, as this could place additional burden at a time when they are not able to take it on (and not being supported in taking it on by national government). Natural England have previously stated that they do not see district level licensing as being an appropriate mechanism in every instance.

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.

Please provide your answer here

Dormouse (*Muscardinus avellanarius*), Fisher's Estuarine Moth (*Gortyna borelii lunata*), Beaver (*Castor fiber*), Skylark (*Alauda arvensis*) and other farmland breeding birds that are species of principal importance, and all the common reptiles as species of principal importance.

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
- No
- I don't know

Please provide your answer here

Net gain should also calculate the benefit of making existing wildlife sites larger and more connected (as per the Lawson report). Working out the benefit of reversing fragmentation will be key for making an metric more robust.

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Net gain

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Measuring biodiversity

► [Defra Biodiversity Metric - Introduction to the Proposed Updated Metric](#)

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

- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

It does not have enough categories for habitat categorization to be able to match a survey neatly to the calculator. It does not fit the standard habitat categories that are the basis for an ecological assessment. The condition categories are still limited in defining current condition and are so broad as to make the highest quality condition likely to have a low threshold to meet.

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

Please provide your answer here

As mention above. A greater weighting needs to be given to strategic significance in order to take in to account the neighbouring context (proximity to local wildlife sites highlighting additional value as a stepping stone or habitat extension) and connectivity scores (hedgerow being lost may be a key connection in the landscape and in such a situation should not be replaced by isolated and unconnected hedgerow). Any calculator based on the Defra metric needs to be able to recognise the impact of the development within the 'zone of influence' not just within the redline boundary. Set the time to target condition categories to allow for a realistic time for creation of woodland. Set a spatial risk modifier with a linear distance measure as otherwise this will cause deleterious fudging at district boundaries (and removes the bias that the massive variation in size of districts introduces).

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

- Yes
- No

- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

10% is a basis but it would be best to quantify the uplift against local and national biodiversity action plans in order to help meet local targets.

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

- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

This would be an acceptable approach on small sites, where there are many competing demands on green infrastructure / open space and urban sites where they are remote from high quality wildlife habitat and will struggle to achieve good condition in any biodiversity metric.

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

- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

Habitat creation at a distance should be generally more expensive than locally

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

Please provide your answer here

Provide a standardised mapping protocol and way of attributing the metric (pre and post) to maps created

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

- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

Where possible, this should also recognise change over time and look back over the last century, this will allow the council to pick out potential locations for habitat restoration.

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?
- Other (please provide an explanation)

Please provide any explanation for your answer here

Net gain calculations for all development – a calculator needs to be capable of being applied to all net gain calculations.

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

Please provide your answer here

Clear guidance/legislation should be provided on how pre-application habitat degradation should be a material consideration when it comes to planning applications.

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

Please provide your answer here

Legitimate land use change decisions prior to selling land for development should be made in the knowledge that, where they result in degradation of biodiversity, the cost of offsetting that quantum of degradation intentionally and recently made should be factored in to the land price.

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Net gain

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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?
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- Locally (e.g. local authority or National Character Area)
- Nationally (i.e. England) as a national framework to be refined, updated and amended locally
- Other (please provide an explanation)

Please provide any explanation for your answer here

These should take in to account the view of the Local Nature Partnerships, local biodiversity action plans, and locally set biodiversity opportunity areas and living landscapes.

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

Please provide your answer here

The ability to maintain and restore favourable conservation status for protected species.

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

- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

Yes, this is a good starting point.

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

a. Sufficient biodiversity units for development?

Clear guidance as to how units can be quantified and traded. An insurance product that can be bought as part of the trading process so as to account for risk (of individual schemes).

b. Cost-effective biodiversity units?

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

- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

A public and easily searchable record of conservation covenants.

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

Please provide any explanation for your answer here

Most developments will persist longer than this. Some will be permanent to all intents and purposes and this should be reflected.

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

- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

Potentially, however it would be difficult to monitor this. If the Council is expected to be the enforcer then this extra burden should be factored into the cost of the initial offsetting measures

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

Please provide your answer here

A public and easily searchable record of conservation covenants.

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Net gain

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Calculating and collecting the tariff

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

- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

We would be pushing the upper limits of the range for tariff costs to create / restore and manage habitat. The range will need to be adjusted upwards to cover the current land prices locally.

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

- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

Possibly, depending on the ability to provide the required additionality alongside existing management objectives.

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 into account.

- Yes
- No

- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

There needs to be a clear ring-fencing as to distinctiveness so as to avoid trading down. The tariff needs to include an insurance premium to cover for scheme failures. The tariff needs to have a clear process for review and revision. In-between revisions it should be index linked to the rate of inflation.

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 provide an explanation)

Please provide any explanation for your answer here

As the tariff will be based on a calculation made as part of a planning application the natural process is to secure the obligation at this stage. If collected nationally, there would need to be a mechanism for the local planning authority to easily check that the correct tariff is secured for each application prior to determination.

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 provide an explanation)

Please provide any explanation for your answer here

Primarily the revenue should be spent locally. The council suggests that national projects should be able to bid for locally collected revenues. That way there could be some local accountability for the amount spent on more distant (national) projects. National projects could easily dominate any revenue spending with little accountability if worked the other way round.

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

- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

As a general principle, offsetting revenues should be spent locally so those that occupy new developments get the social and cultural ecosystem service benefits. Offsetting revenues are not the only mechanism by which national habitat restoration projects should be funded

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Net gain

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Delivering net gain in the planning system

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

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Please provide your answer here

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)?

Please provide your answer here

The proposals will have to bare in mind the infrastructure required to support development in addition to biodiversity and the balancing act between how different projects are funded and delivered.

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)?
- c. Other (please provide an explanation)

Please provide any explanation for your answer here

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

Please provide your answer here

The Council has no comment

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

Please provide your answer here

The council has no comment

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?

Please provide your answer here

The council has no comment

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

- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide your answer here

There is not enough detail to sufficiently answer the question. Notionally, one year may be sufficient time but it may be that some local authorities will want to take it up earlier than the one year point

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

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- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

We have full confidence that PINS would be able to understand and apply the biodiversity metric process to an application and take on board the evidence of expert witnesses as and when appeals are heard.

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

- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

It would be beneficial for PINS to have an independent verification body for use prior to any hearing to try to resolve any outstanding net gain issues.

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Net gain

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Monitoring and evaluation

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?

Please provide your answer here

Post-construction and compensation site assessments should ideally not just be a sample. If it is a sample then it needs to be sufficiently large to be able to draw confidence intervals on any reporting. The Council suggests that it be made on a stratified sampling technique to ensure that sufficient sampling of different habitats are undertaken (to feedback in to the risk and time to create metrics) and that the stratified sampling is weighted to sample the offsetting sites providing the most units more regularly as these (larger) sites will contain the bulk of the benefit.

It would make sense for all sites being used as a biodiversity offset to have this offset itemised clearly in a standard management plan format. This should ideally be configured in such a way as to allow easy monitoring, recording, calculation of progress and invigilation – The Council would recommend development of a standard web based tool by Defra to support monitoring.

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

- Yes
- No
- I don't know
- Other (please provide an explanation)

Please provide any explanation for your answer here

This would need to be funded by the offsetting process. The limitations of local authority reporting need to be clearly stated within any report (inability to access and assess all habitat within an authority being a key limitation; how to classify degradation being another). Reporting on losses and gains through development is perhaps more achievable although it does not provide the overall picture for green networks.

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

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Please provide your answer here

There is currently a disconnect between biodiversity calculations based on habitat assessment and the identification and population assessment of species. It would be valuable to research how species records (or standardised species surveys) can be applied in a calculator or as proxies for a biodiversity assessment. The development of citizen science tools that will allow mass collection of data on habitats and species will also aid monitoring and the provision of context for a metric to work in.

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Net gain

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Key evidence gaps

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?subject=Key%20evidence%20gaps&body=Please%20insert%20relevant%20evidence%20here.).

Evidence gap	What we would like from you
Transition and ongoing delivery costs to central (e.g. Defra, Natural England) and local government (e.g. LPAs).	Evidence of how much a biodiversity net gain approach costs to implement. We are aware of evidence from the biodiversity offsetting pilots, but these costs included development of the approach and spatial strategies which are now better understood.
Interactions with other contributions such as Section 106 and Community Infrastructure Levy.	Evidence of whether a biodiversity net gain requirement would affect wider developer contributions. If so, how significant would this effect be?
Distributional impacts of net gain on viability.	Will a mandatory biodiversity net gain requirement affect some types of development disproportionately?
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.	What types of habitat are typically lost through development? Is development typically achieving no net loss of biodiversity, and is performance improving?

Further detail on costs to small and large developers and developments, including familiarisation costs and impact of tariff.	Are there any further costs or benefits not identified in this document or the accompanying Impact Assessment? Please provide evidence of these costs or benefits.
<p>The impact of biodiversity net gain delivery for</p> <ul style="list-style-type: none"> • commercial development; • public sector development; • industrial development; and • local infrastructure development 	<p>To what extent do these development types already achieve net gains, or no net loss of biodiversity, and is performance improving?</p> <p>What is the typical habitat type and condition on these sites and how does this differ from other types of development (i.e. residential)?</p> <p>Is there typically a greater net negative impact on habitats through development of these types, resulting in greater costs for net gain?</p>
Net gain interactions with on-site delivery of housing and other green infrastructure (e.g. parks, recreation)	Will biodiversity net gain negatively or positively affect the quality of green space for recreation and enjoyment within new developments?
Whether net gain approaches, where adopted, help to speed up and/or unlock development in previously borderline sites.	<p>Can you provide examples of where net gain has helped to expedite, or has delayed, planning processes?</p> <p>Can you provide examples of where a net gain approach has unlocked development that would otherwise be unacceptable (e.g. by mitigating or compensating for otherwise unacceptable impacts, or by achieving local support), or prevented development that might otherwise have proceeded?</p>

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.

Please provide any relevant evidence here

Please upload any relevant information in common word, PDF or spreadsheet formats. Other formats may be uploaded, but might not be reviewed.

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