Summary

The government is committed to improving the environment, benefitting local communities and delivering sustainable development. The 25 Year Environment Plan sets out the government's ambitious goals for environmental improvement, following through on our promise to be the first generation to leave the environment in a better state than we inherited it.

This consultation delivers on an action we set out in the 25 Year Environment Plan. In the Plan we set out our ambition to embed an environmental net gain approach in the planning system in England, and that we would consult on whether to mandate biodiversity net gain.

Mandating biodiversity net gain could improve the planning system. We want to test and seek further evidence for this assumption through this consultation.

The first part of this consultation sets out the objectives of net gain policy for the environment, development and local communities. An effective net gain policy could enable us to build the houses, commercial premises and local infrastructure we need and at the same time improve our environment by more than compensating for biodiversity loss where it cannot be avoided or mitigated. A stronger requirement to protect and enhance the environment through development could increase habitat for wildlife species. Clear and consistent processes for developers could support housebuilding and other construction, helping developers to get their planning applications right the first time. Greener developments with access to local natural spaces will be more pleasant and healthier places to live and work, and habitats delivered for wildlife through biodiversity net gain could deliver wider social and economic benefits.

The second part of the consultation examines the core concepts of biodiversity net gain and environmental net gains. It describes how biodiversity net gain is set out in planning policy and where it is currently practised by local planners, developers and infrastructure providers. We have an ambition that, in addition to biodiversity enhancements, development will deliver wider environmental benefits in the future. Therefore, as well as delivering biodiversity net gain in local planning we want, over time, to identify an effective broader environmental net gain approach delivering resilient and sustainable development, which can be granted planning permission with greater local acceptance and less cause for delay. We recognise that developing such an approach is complex and it may be that the net gain approach used for biodiversity is not the best way to deliver all wider environmental improvement objectives. At this stage we are seeking evidence on what aspects of natural capital should be considered and the options we should consider in developing an environmental net gain approach.

The third part of the consultation seeks views on whether to mandate biodiversity net gain for development requiring planning permission[3]. We propose a new standardised approach to biodiversity net gain that is designed to be simpler and clearer for all stakeholders to use while delivering measurable, verifiable net gains for nature. Net gain for biodiversity should seek firstly to avoid and mitigate against environmental damage. It will operate alongside existing planning policy to ensure that current environmental standards, including the existing protections for habitats such as ancient woodland, species and designated sites, are maintained and implemented. To achieve biodiversity net gain and compensate for biodiversity loss, habitats should be created or enhanced, preferably as part of the same development or nearby. This will maintain habitat connectivity, avoid the erosion of nature in any single area and benefit communities affected by development. Where suitable local compensation opportunities are not available, however, we are proposing that a tariff could be paid so that biodiversity net gain can be achieved without delaying development. A tariff could fund habitats for both strategic and local biodiversity priorities, whilst achieving biodiversity net gain overall.

This part of this consultation also seeks views on how best to implement biodiversity net gain, including the most appropriate measurement, delivery and monitoring mechanisms to ensure it delivers high quality places and reduces uncertainty and unnecessary processes for local planning authorities and developers. We are also seeking views on how to better integrate species into a biodiversity net gain approach, where this would benefit the conservation of a species, and how to move from net gain for biodiversity to broader environmental net gain in future.

Considering the evidence received through the consultation will be key to delivering biodiversity net gain successfully, and achieving the most for the environment and developments. Submitted views and evidence on wider environmental net gain will help to shape future refinements to planning policy and guidance.

We will engage with stakeholders alongside consultation to test the opportunities and challenges presented. The evidence received through consultation will be key to understanding whether these proposals will deliver the benefits described, and enable us to deliver an effective policy on biodiversity net gain which enhances the environment, supports development and benefits local communities.

[3] Nationally significant infrastructure or other development not requiring planning permission is not in scope. House extensions are not in scope of our mandatory proposals.

Biodiversity net gain in the planning system: core proposals and objectives

Our proposal is that biodiversity net gain will be delivered within the existing planning and development process. This summary is illustrated in the infographic that follows.

When assessing potential development sites, habitat surveys will identify habitats and their condition as is already done for much development. Surveys help identify opportunities for enhancement as part of green infrastructure as well as possible constraints.

Development design will proceed as normal, but better informed by figures for biodiversity losses and gains. A standard biodiversity metric will be populated with habitat information from the site assessment and landscape plans. This will help demonstrate at an early stage that harm has been avoided as far as possible and that new green infrastructure will be of good environmental quality. The metric could also help to anticipate the costs of achieving net gain to factor these into land purchase where possible. No existing planning protection for the environment will be weakened and the principle of avoiding harm first (known as the "mitigation hierarchy") will continue to ensure that preventing damage to nature will always be prioritised, wherever possible.

If net gain cannot be achieved on site, the metric would provide the right information to discuss habitat enhancement or creation with local providers or with the local authority during pre-application negotiations. The tariff rate would offer a guide for the upper limit of habitat compensation costs, alongside information from growing habitat creation markets.

When preparing local plans, local authorities are able to identify opportunities for habitat improvement that would benefit local people and support nature recovery. They would be able to choose to bring improvement sites forward themselves or work with other providers.

When developers and local planning authorities are consulting with the local community prior to submitting a planning application, it will be possible to use biodiversity net gain figures and habitat enhancement measures to explain the benefits and costs of a development proposal more transparently.

With clearer expectations, developers will be able to submit planning applications with greater confidence that proposals can be supported on biodiversity grounds.

For local authorities, transparent figures for biodiversity losses and gains can be quickly checked and provide confidence that impacts will be positive. Figures will also indicate the environmental quality of green infrastructure as part of development design.

As part of the planning permission, developers would sign up to predictable conditions, obligations or a tariff payment to secure biodiversity net gain. The availability of a tariff would prevent planning permission from being delayed by net gain requirements, and local authorities will be able to demonstrate that positive impacts to help improve the environment for local communities have been secured.

How our proposals for biodiversity net gain work in practice

The scenarios show the broad mechanisms through which a residential development could achieve biodiversity net gain under the policy proposals.

The same principles could apply for wider development and construction.

SCENARIO A

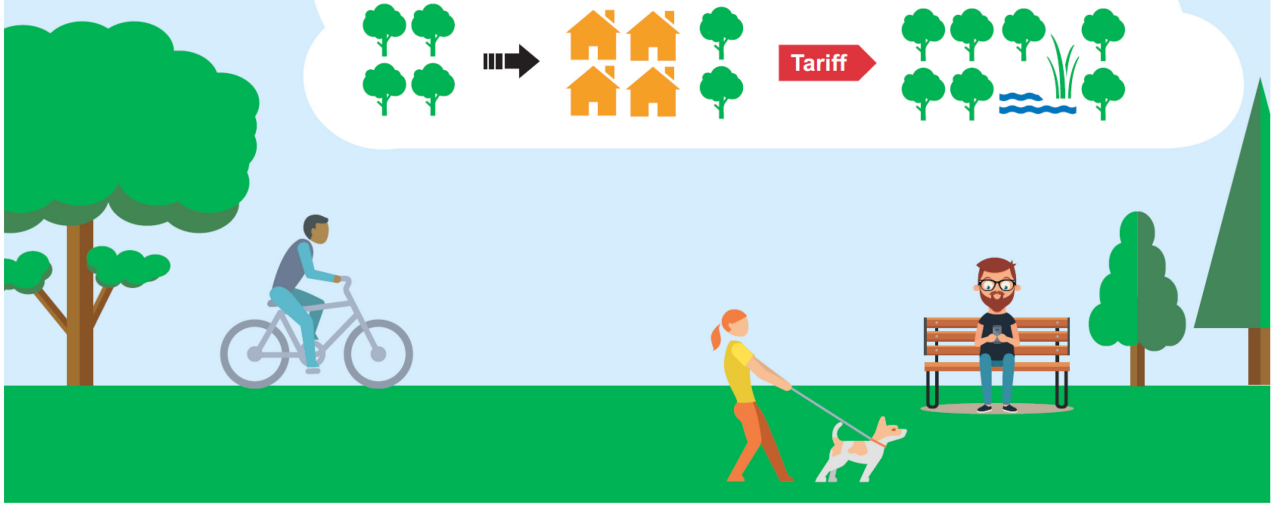
The developer is able to avoid harm, mitigate and enhance on site.

SCENARIO B

The developer is unable to avoid, mitigate and compensate all impacts on site, but is able to secure local compensatory habitat creation.

SCENARIO C

The developer is unable to avoid, mitigate and compensate on site, and unable to find local compensatory habitat to invest in. The tariff is therefore used to fund cost-effective habitat creation projects according to local and national conservation and natural capital priorities.



How to respond

Consultation questions are included in “Policy proposals and questions” and at “Annex A” at the end of this document.

Please respond by 10 February 2019.

Please respond through the online survey (Citizen Space) accessible via Gov.uk

Responses can also be sent by email to netgainconsultation@defra.gsi.gov.uk or by post, specifying which question(s) you are responding to:

Net Gain Consultation
Department for Environment, Food & Rural Affairs
First Floor, Seacole Block
2 Marsham Street
London, SW1P 4DF

This consultation is in line with the government’s Consultation Principles. This can be found at www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance.

Representative groups are asked to give a summary of the people and organisations they represent and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes these are primarily the Environmental Information Regulations 2004 (EIRs), the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018 (DPA). We have obligations, mainly under the EIRs, FOIA and DPA, to disclose information to particular recipients or to the public in certain circumstances.

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

If you have any comments or complaints about the consultation process, please address them to:
Consultation Coordinator
Area 1C, 1st Floor Nobel House
17 Smith Square,
London, SW1P 3JR.

Or email: consultation.coordinator@defra.gsi.gov.uk

What are we trying to achieve?

Securing positive outcomes for the environment

Mandating biodiversity net gain could ensure that new development enhances the environment, contributes to our ecological networks and conserves our precious landscapes. A mandatory approach could be an important early step towards meeting our 25-Year Plan goal for thriving plants and wildlife.

Successful implementation of biodiversity net gain would restore and create high-quality habitats that can provide a home for a diverse range of species and build resilience to climate change. We will identify opportunities for biodiversity net gain to contribute to the Nature Recovery Network and enhance local networks, helping to create 'more, bigger, better and more-joined up habitats' as recommended by Sir John Lawton's review for government, Making Space for Nature.[4] We will explore how new data, tools and strategies can help identify potential areas for habitat enhancement and creation that help meet the needs of local communities and secure multiple positive environmental outcomes. Creation of floodplain marsh or upstream woodland, for example, can protect communities from flooding.

At the moment, many of the hidden environmental costs of development (such as biodiversity loss, carbon emissions, unsustainable water use, and worsening air quality) are not considered systematically, with no mechanisms to compensate for the harm to nature, communities and future generations. Nor are the benefits of creating greener developments properly understood. Net gain approaches could help to redress the balance and provide clear mechanisms and opportunities for developers to leave a positive legacy of environmental enhancement.

[4] Lawton, Professor Sir John (2010), *Making Space for Nature: A review of England's Wildlife Sites and Ecological Network*, http://webarchive.nationalarchives.gov.uk/20130402170324/http://archive.defra.gov.uk/environment/biodiversity/documents/201009space-for-nature.pdf.

Improving the process for developers

It is important that any approach to mandatory biodiversity net gain helps to support housing delivery and wider development by standardising requirements in the planning process (see Figure 1 which illustrates the potential process advantages described in this section). Introducing a transparent and consistent requirement could provide certainty, allowing developers to factor in obligations up front so that more accurate estimates of land values can be made at the point of purchase. This certainty will also allow developers to plan accurately at an early design stage, avoiding the need for additional surveys, uncertainty over obligations or protracted negotiations with local planning authorities. We know from the strategic approach taken for specific species such as great crested newts that streamlining and clarifying requirements at an earlier stage has great potential to reduce the time taken for developers to secure necessary consents, de-risk processes and deliver high standards.

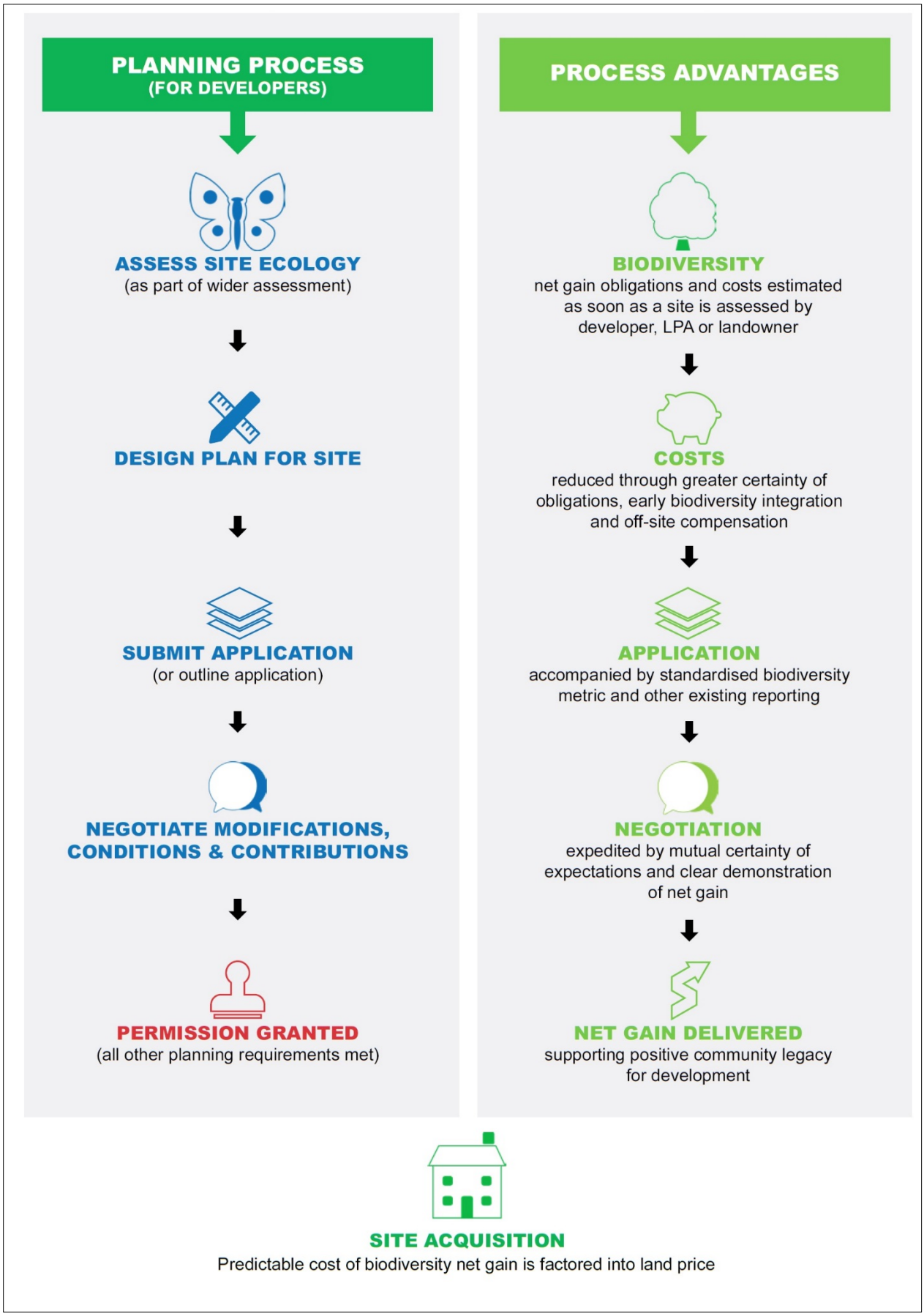
Developments that better incorporate nature will be more attractive through successful place making, potentially invoking less opposition locally[5]. We expect that opportunities for environmental enhancement will make development in the right places easier. In time, a wider approach to net gain could have the potential to help assuage many more of the most common environmental objections to development, enabling developers to assure communities upfront that their environmental concerns have been addressed.

Several major developers and planning authorities already set specific biodiversity net gain requirements, recognising the additional benefits delivered from creating greener developments that make better places to live and are easier to sell. We are taking lessons and feedback from these sector leaders to inform the development of our proposed mandatory approach. A standardised requirement for biodiversity net gain, applied equally to all development within scope, could create a level playing-field for developers. In this consultation, we are seeking further views and evidence from those in the development sector on potential costs and benefits of this approach, see “Impact on developers” section and “Key evidence gaps”. Any policy on mandatory biodiversity net gain will take into account the responses to this consultation and targeted stakeholder engagement that is undertaken during consultation.

The government will only mandate biodiversity net get if it is satisfied that it will deliver benefits for development, including greater certainty and process cost savings.

[5] Bramley, G. (2011), ‘Housing: Homes, planning and changing policies’ in National Centre for Social Research, *British Social Attitudes: 28*, http://www.bsa.natcen.ac.uk/media/38952/bsa28_8housing.pdf.

Figure 1: Selected benefits of net gain at a development scale



Creating better places for local communities

Successful implementation of biodiversity net gain would help to drive better delivery of local plans and place making. It would stimulate improvements in the design quality of residential developments. The provision of environmental amenities, such as high-quality and biodiverse urban woodlands, green spaces and parks, will create better places to live and work.

Biodiversity net gain, in combination with future Green Infrastructure Standards, has the potential to ensure that an increasing proportion of new homes have access to natural spaces and wildlife within walking distance. This brings health and wellbeing benefits, particularly to urban and suburban areas where high-quality and accessible green infrastructure can be scarce, contributing to poor mental and physical health; access to public green space is an important factor in connecting people with nature and tackling obesity[6]. There is a growing body of evidence suggesting that living in greener environments is associated with reduced mortality[7].

Where it is not possible or appropriate to deliver biodiversity net gain on a development site, we would propose that opportunities to achieve biodiversity net gain in the wider local area, including on local sites for nature should be explored, taking into account the potential community benefits from improved access to nature. This would ensure that people living in areas of high development receive the associated environmental benefits as much as possible before environmental enhancement further afield is targeted. Strategic investment of tariff revenue could help to create bigger, better and more connected natural spaces for communities to enjoy when suitable local habitat investment opportunities are not available.

A broader environmental net gain approach which helps to deliver cleaner air and water, increased flood resilience and greater energy efficiency could have the potential, in time, to transform our environment and support healthier lives.

[6] Lachowycz, K. and Jones, A. P. (2011), Greenspace and obesity: a systematic review of the evidence, *Obesity Reviews: 12 (5)*, http://onlinelibrary.wiley.com/wol1/doi/10.1111/j.1467-789X.2010.00827.x/full
[7] Gascon et al. (2016), Residential green spaces and mortality: A systematic review, *Environment International: 86*, https://www.sciencedirect.com/science/article/pii/S0160412015300799