

Scope

What development should be in scope of a net gain policy?

Currently, planning policy in the National Planning Policy Framework is a material consideration for all development decisions controlled at an LPA level, primarily under the Town and Country Planning Act 1990²¹. If net gain for biodiversity was mandated, it should adopt the same approach as current biodiversity net gain policy²² by covering all new developments that results in loss or degradation of habitat, including buildings such as housing, offices, shops, business space and local infrastructure. Developments that would result in negligible loss or degradation of habitat, for instance material change of use of or alterations to buildings and house extensions, would fall out of scope. We are seeking evidence on whether this scope would be appropriate.

We are considering what, if any, appropriate exemptions to a possible future mandatory biodiversity net gain policy might be made to developments by size, sector or site location. Broad exemptions could undermine the environmental objectives of the policy, but some might have little impact, or be proportionate where development would otherwise be compromised. We consider that **permitted development**²³ and house extensions meet these criteria, and we are seeking evidence in this consultation as to whether some small²⁴ and brownfield sites (in particular, those listed on brownfield land registers) should also be appropriately exempted from possible future mandatory biodiversity net gain requirements. Any types of development that are exempted from mandatory requirements would still be subject to environmental planning policies.

Unlike in the current system, increased availability of compensation sites and the provision of the residual cash tariff could provide a mechanism for all appropriate sites to be able to meet biodiversity requirements. We are therefore also considering whether a simplified process for assessing biodiversity net gain could be available to amplify these process benefits for some sites, as an alternative to providing a full exemption. This simplified process could take the form of:

- A simple walkover survey and habitat plan for the proposed development prepared by an appropriately qualified person.
- The use of a simplified version of the Defra metric with condition values pre-populated, resulting in marginally lower or higher levels of net gain on individual sites but close to the target overall.

²¹ Section 57 of the Town and Country Planning Act 1990 (as amended).

²² Paragraph 170 of the NPPF.

²³ Permitted developments include small house extensions and driveways, small extensions to other buildings, most infrastructure improvement works and many changes of use of land. They do not require planning applications to proceed.

²⁴ Planning applications are not considered to be major development where: the development is for less than 10 homes; the development is for homes on a site less than 0.5 hectares if the number of homes is unknown; the development is for other buildings with floor space less than 1,000 square metres and on a site under 1 hectare (see the Town and Country Planning (Development Management Procedure) (England) Order 2015).

- The ability to purchase the, likely low, number of necessary biodiversity units locally or through payment of the tariff upon receipt of planning permission.

In the 25 Year Environment Plan we outlined our commitment to embed an environmental net gain approach in infrastructure. While **marine planning and licensing policy and nationally significant infrastructure projects** are not in scope of this consultation, we are considering how to best support and mainstream the net gain approaches that many infrastructure and marine projects are already taking. For marine planning and licensing, we will evaluate the actions that projects are already taking to address their environmental impacts and consider how best to implement net gain in the marine context.

- 1. Should biodiversity net gain be mandated for all housing, commercial and other development within the scope of the Town and County Planning Act?**
- 2. What other actions could government take to support the delivery of biodiversity net gain?**
- 3. Should there be any specific exemptions to any mandatory biodiversity net gain requirement (planning policies on net gain would still apply) for the following types of development? And why?**
 - a. House extensions**
 - b. Small sites**
 - c. All brownfield sites**
 - d. Some brownfield sites (e.g. those listed on brownfield, or other, land registers)**
- 4. Are there any other sites that should be granted exemptions, and why? For example, commercial and industrial sites.**
- 5. As an alternative to an exemption, should any sites instead be subject to a simplified biodiversity assessment process?**

Biodiversity features in scope of net gain policy

Planning policy and legislation already protect our network of internationally and nationally designated sites (Special Areas of Conservation and Special Protection Areas, Ramsar sites and Sites of Special Scientific Interest) which cover our most important wildlife habitats; government has no intention of weakening or changing these existing legal and policy protections. Net gain will not weaken existing planning policy protection for irreplaceable habitats such as ancient woodland.

Some high-value habitats outside the protected sites series are identified by local partnerships as 'Local Sites'. Local Sites (sometimes known as Sites of Interest for Nature Conservation or Local Wildlife Sites, although they can also be identified for their geological interest) are given additional protection as is made clear in national planning policy²⁵. Net gain will not weaken existing planning policy protection for Local Sites, but can currently be used as an approach to deliver more robust mitigation and compensation when development does occur within or near to Local Sites.

²⁵ Paragraphs 171 and 174, NPPF.

The metric takes relative levels of habitat importance into account when assessing the value of habitats for biodiversity. We consider that this allows a local authority to apply a high weighting for areas that are designated local sites, and therefore no further modifications are required. We welcome views on whether the metric should consider local designations in any other ways.

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?

How are species treated within a net gain policy?

The approaches to net gain outlined in this consultation, including the Defra biodiversity metric, are based on habitat assessments and do not account for development impacts on individual species. We are exploring approaches that allow net gain to deliver for individual species impacted by development and will look to bring these into scope over time.

The district level licensing approach for great crested newts developed by Natural England offers one possible model for taking this forward. District level licensing for great crested newts involves building up a picture of great crested newt abundance, distribution and habitat condition at district level and assessing the impacts on great crested newt from all planned development in the district over the whole local plan period. Zones are mapped that reflect the level of impact anticipated and developers pay a proportionate tariff for newt habitat creation. This approach is currently being rolled out to 150 local authority areas by 2020 and will be managed adaptively, changing in response to monitored outcomes. We recognise that a successful national rollout must be based on robust monitoring and a clear view of how local measures add up to deliver national and international conservation priorities. We recognise that current approaches to district level licensing are not perfect, and will be improving and adapting the approach as it matures to improve the certainty of conservation outcomes.

Implementing district level licensing alongside biodiversity net gain approaches would allow off-site habitat compensation approaches to be brought together for maximum benefit for great crested newts and wider biodiversity interests, whilst allowing developers to benefit from streamlined regulation. These benefits would be most firmly secured if local authorities were obliged to ensure a district level licensing scheme for great crested newts was available.

We would like to explore introducing further strategic approaches for additional species alongside biodiversity net gain over time. We recognise that the approach will not be appropriate for some protected species and will need to collate evidence to determine which, if any, protected species other than great crested newts would benefit in conservation terms and how such approaches would best be implemented without weakening their protection. We will consider how this can be made the most cost-effective for LPAs, maximising the advantage of integration with biodiversity net gain and continuing to streamline the process for developers.

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

Ambitions for wider environmental net gain

Some aspects of development's environmental impact, in addition to biodiversity, are relatively easily measured and may already be measured as part of standard development processes. Water and air quality standards for instance could provide a useful means to improving the impacts that development has on the health of our national and global natural capital stocks. Many of these impacts are managed through building standards. Building standards, and similar types of regulation, may remain the best approach, but we are interested in exploring if it might be beneficial to incentivise performance against and beyond these standards through a wider environmental net gain approach. This might further streamline environmental requirements for developers, and thereby simplify processes for developers and LPAs by presenting progress against wider environmental requirements or targets in one place.

There are a wide variety of natural capital impacts that could be considered within broad environmental net gain (see Figure 2 in the "Environmental net gain" section) in the long term, some more suitable than others:

- For water, we might limit projected water use to a recommended number of litres per day.
- For air quality, development could be required to be 'air quality neutral' and not to contribute to potential exceedance of international air pollution limits or national pollutant objectives, in line with our Clean Air Strategy.
- For flood risk, we might require development to achieve greenfield run-off rates for surface water with sustainable drainage systems and for properties to meet a given flood resilience standard.

The right approaches for measuring and incentivising these standards is less clear than those for biodiversity net gain at present so they are not in scope of the current proposal for a mandatory approach.

- 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.**