

Proposed update to planning requirements for biodiversity net gain

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The Environmental Bill will introduce a mandatory 10% biodiversity net gain requirement for planning approval. This article will look at how it will be calculated, implemented and how it will work in practice.

Core Proposals and Objectives

The government proposal is that biodiversity net gain will be delivered within the existing planning and development process. A biodiversity metric will be populated with habitat information from the site assessment and landscape plans. Metric data will be able to anticipate any costs of achieving the net gain for the developer. Tariff rates will give guides as to the upper limits of habitat compensation costs should the developer be unable to mitigate.

As part of planning permission, developers will sign up to predictable conditions, obligations or a tariff payment to secure biodiversity net gain. This would prevent planning permission being delayed by net gain requirements.

How proposals work in practice

The three options below set out how biodiversity net gain can be achieved under the policy proposals:

- (a) The developer can avoid harm by mitigating and enhancing on site;
- (b) If the developer is unable to avoid harm, mitigate or compensate all impacts but is able to secure local compensatory habitat creation;
- (c) If unable to avoid harm, mitigate and compensate on site and unable to find local compensatory habitat a tariff would be imposed to fund cost effective habitat creation projects according to local and national conservation and natural capital priorities.

The Calculation (Defra Metric)

A development from the Warwick Metric, the DEFRA metric developed between Defra and Natural England enables practitioners to calculate losses or gains by assessing habitat through three categories:

- Distinctiveness - whether the habitat is of high, medium or low value to wildlife;
- Condition - whether the habitat is a good example of its type;
- Extent - the area, in hectares or kilometres (depending on the habitat type), that the habitat occupies.

The biodiversity is broken down into units after inputting the necessary data. The information should be included in ecological assessments before development, and habitats proposed after development. The result after development should be greater than before.

An increase of 10% in biodiversity will be the mandatory target, balancing the competing factors that overall gains will be achieved but ensuring costs to developers are proportionate.

Deliverability

The government will require net gain outcomes to be maintained for a minimum of 30 years and encourage longer term protection beyond this term provided it is acceptable to the land owner.

The government consider that net gain for biodiversity could be delivered in the following ways:

- Applying sensitive design that avoids the loss of high quality habitats, minimises the impact of development on site, enhances habitats in poor condition and delivers desirable places to live by creating new habitats on site.
- Using off-site local and strategic compensatory habitat creation and enhancement only where net gain cannot be reasonably achieved on site, for example on land provided by habitat banks, land-owners or brokers as part of flexible market which supports identified biodiversity priorities and contributes to local and accessible nature.
- Where opportunities for on-site and locally sourced compensation are not available, achieving gains through payment of a tariff. A tariff would be designed as incentivised habitat protection and strategic compensation (in line with mitigation hierarchy), raise revenue to invest in strategically important habitats that benefit local communities, support

nature recovery and reliably achieve net gain overall at a national scale.

Net gain can be achieved through simple methods such as changing grass seed in mitigation fields or planting certain types of hedgerow to encourage flora and fauna.

Future Transition and Development

The requirements will not be implemented immediately and the government have said they will include provisions in the Environmental Bill for a transition period of 2 years upon the Bill receiving Royal Assent.

Although at this stage the government is only considering mandatory implementation for biodiversity, future targets are to embed wider environmental net gain principles in development.

Biodiversity Net Gain in Wales

Mandatory biodiversity net gain is already a feature of the Welsh planning system, but the approach taken is rather different to that in England. Section 6 of the Environment (Wales) Act 2016 places a general duty on public authorities to, “seek to maintain and enhance biodiversity in the exercise of functions... and in so doing promote the resilience of ecosystems”.

Chapter 6.4 of Planning Policy Wales provides specific guidance on how local planning authorities should comply with the Section 6 duty, outlining in detail the practical options which do not include a tariff as proposed in England. The duty does not however include specified metrics or a particular target level of enhancement, leaving judgement as to whether proposed developments meet the requirements to local planning authorities on a case-by-case basis.

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