

UKGBC response to the consultation on Biodiversity Net Gain

Regulations and Implementation

Introduction

The UK Green Building Council (UKGBC) is an industry network with a mission to radically improve the sustainability of the built environment, by transforming the way it is planned, designed, constructed, maintained and operated. As a charity with over 650 member organisations spanning the entire sector, we represent the voice of the industry's current and future leaders who are striving for transformational change.

UKGBC's members are already at the forefront of work to deliver biodiversity net gain across the construction, property, and other related sectors; with many having already delivered significant biodiversity gains on a wide variety of projects. Likewise many of our members have made ambitious organisational commitments regarding biodiversity. The experience of our members, together with the work of our biodiversity and climate adaptation research programme, has informed our response to this consultation, and we are keen to continue to work with DEFRA to support further policy developments in this area.

We welcome the Government's consultation on further details for the regulation and implementation of biodiversity net gain, as UKGBC strongly supports the introduction of the biodiversity net gain requirement across new development. Developing a proportionate, effective system for delivering biodiversity enhancement will be critical for our sector to play its part in achieving the UK's goal to reverse nature's decline by 2030. Having clear and effective expectations for the industry, alongside robust governance, monitoring, and enforcement mechanisms will be essential if net gain is to consistently deliver good quality results. Increased training and resourcing for local planning authorities will be essential if the system is to function effectively and is to be sufficiently underpinned by both the right ecological expertise and a robust evidence-base.

We welcome the opportunity to respond to this consultation – and below are our responses to individual questions that fall within our organisational remit.

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

Exemptions

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 (which of the following thresholds do you think is most appropriate: 2m², 5m², 10m², 20m², 50m², other threshold – please specify) / No (please explain why not) / Do not know]

Yes - 5m²

Research has indicated that small medium/ low distinctiveness habitat can still provide notable ecological value and can offer significant potential for delivering biodiversity enhancement.¹ The ability to deliver small

¹Rachel Morrison & Sam Hartley, "IGNITION Nature-Based Solutions Evidence Base Headline Findings Report", https://www.greatermanchester-ca.gov.uk/media/3239/headline_findings_report_ignition_nbs_evidence_base_july_2020.pdf
Janine Griffiths-Lee, Elizabeth Nicholls & Dave Goulson, "Sown mini-meadows increase pollinator diversity in gardens", *Journal of Insect Conservation* (2022) <https://link.springer.com/article/10.1007/s10841-022-00387-2>

scale enhancements will be particularly important in urban areas, where habitat and green space for available on-site or neighbourhood-scale net gain is low. Likewise, the cumulative loss of small habitat areas - without compensation - risks generating significant net losses over a wider area, as has been the case in London.²

As highlighted by research related to the COVID-19 pandemic, and underpinning the aims of the Levelling Up White Paper, issues around a lack of access to green space, local greenery, and habitats to support biodiversity are particularly acute in densely developed urban areas.³ This has resulted in detrimental health and well-being implications for residents, especially in less-affluent areas, and represents a significant barrier to biodiversity recovery.⁴ As highlighted by UKGBC, and echoed in the reports of the *Building Better Building Beautiful Commission*, enhancing both nature and green infrastructure is essential for improving local neighbourhoods, especially in terms of enhancing local pride of place, health and well-being; central pillars of the Government's Levelling Up White Paper.⁵ Therefore in order to support urban local authorities in developing nature recovery strategies and habitat networks, it is important that the opportunities to deliver local habitat enhancement are maximised where feasible.⁶ As emphasized by our members, in particular those with experience of applying urban greening factors and developing small sites, small low to medium value areas of habitat can offer considerable potential to deliver valuable, cost-effective nature-based enhancements and localised green infrastructure.

However, we recognise that the benefits of including very small areas of low-quality habitat must be balanced against practical considerations for those involved in delivering related development, including the implications of time and reporting burdens relative to the value of what will likely be delivered. Broadly speaking, the time and administrative costs must be proportional to the value and benefits delivered, and the system kept as simple as possible. We therefore suggest that the de minimis threshold is lowered significantly to 5 metres squared. This would encompass the examples discussed, such as street furniture and very small sites which must involve planning permission, but for which it would be difficult to apply and deliver meaningful net gain. We would recommend that where the 5 metre squared de minimus threshold applies, there should be a proportional requirement for proof, submitted in lieu of a net gain plan.

UKGBC supports the use of urban greening factors, and their use in relation to design codes, to deliver nature and green infrastructure enhancements in areas with a low initial habitat baseline. Clarity around the future relationship between existing and future urban greening factors and net gain requirements, particularly the implications for very small sites, was raised as a concern by our members. We would wish to see further guidance on how the de minimis threshold applies in relation to greening factors. We would support flexibility for local planning authorities potentially removing the de minimis threshold through local planning policies, as this would be particularly valuable for local authorities in intensely developed urban areas aiming to deliver local nature recovery plans, as well as those seeking to address local disparities in access to nature.

² RHS, "Why we all need Greening Grey Britain", <https://www.rhs.org.uk/communities/archive/PDF/Greener-Streets/greening-grey-britain-report.pdf>; London Wildlife Trust/GiGL (2010) "London: Garden City?", www.gigl.org.uk/partnershipcasestudy/garden-research/

³ Paul de Zylva, Chris Gordon-Smith, and Mike Childs, "England's green space gap How to end green space deprivation in England", https://policy.friendsoftheearth.uk/sites/default/files/documents/2020-10/Green_space_gap_full_report_1.pdf

⁴ POSTnote, "Green Space and Health", <https://post.parliament.uk/research-briefings/post-pn-0538/>; William Nichole, "Nature and the City", <https://policyexchange.org.uk/publication/nature-and-the-city/>; Defra (2010), *Defra's climate change plan*. Department for Environment, Food and Rural affairs, London; ONS, "Woodland natural capital accounts, UK: 2020",

⁵ Building Better Building Beautiful Commission, "Living with Beauty", https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/861832/Living_with_beauty_BBBBC_report.pdf; UKGBC, "Building Better, Building Beautiful Commission UKGBC response", <https://ukgbc.s3.eu-west-2.amazonaws.com/wp-content/uploads/2019/06/05150755/UKGBC-Building-Better-Building-Beautiful-response.pdf>; DLUHC, "Levelling Up the United Kingdom", https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1052708/Levelling_up_the_UK_white_paper.pdf

⁶ William Nichole, "Nature and the City", <https://policyexchange.org.uk/publication/nature-and-the-city/>

To expedite the operation of the de minimis threshold for developers, in particular those working primarily on small sites, we recommend working further with organisations currently producing digital tools that will clearly outline expected requirements, and how to comply with legal conditions. Such tools must be compliant with regulation and legal requirements, delivering consistent and verifiable outputs in the format required. This would help ensure the time and administrative burdens can be proportional to the benefits delivered.

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

[Yes (which of the following thresholds you think is most appropriate: 2m, 5m, 10m, 20m, 50m, other threshold – please specify) / No (please explain why not) / Do not know]

Yes – 5m. Linear habitats provide significant habitat benefits for biodiversity recovery and should not be exempt from net gain if they are over 5 m in length.

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

[Yes / No (please explain why not) / Other (please tell us more) / Do not know]

Other. Although UKGBC currently supports the exemption of householder applications, we support further work to identify how biodiversity enhancements can be protected and promoted in relation to householder applications in future.

As research has indicated, domestic properties have a significant aggregate ecological footprint, and the loss of domestic green space, including through householder applications, has already had a considerable, negative cumulative impact on biodiversity and local climate resilience.⁷

In our event and research paper “*Building a Market for Greener Cities*” with the British Conservation Alliance, we explored possible incentives and policies to encourage urban re-greening, in particular, in relation to households. Possible policies to explore included exploring reforms to EPCs, to integrate climate resilience and the role of nature-based solutions.⁸ Our members have emphasised the need to clearly and operably define adaptation in relation to the built environment, such as what a resilient, well-adapted property looks like, in order to support investment decisions. This will be a crucial area for UKGBC’s work and research going forward. Secondly, we support suggestions of a behavioural campaign to encourage bottom-up rewilding and ecological awareness. We support the suggestion of Policy Exchange that environmentally ambitious households should be able to apply for Green ‘Nature Recovery’ plaques, similar to English Heritage’s blue plaque system for houses of historical significance.⁹ With Natural England establishing a criteria for awarding a plaque, such as the need to achieve a high ‘household UGF’, biodiversity net gain, or have unique natural infrastructure like a green roof.

Further research should be undertaken to explore incentives and policies for how positive biodiversity outcomes could be delivered in a proportionate way for householder applications and encouraged in future.

⁷ Greater London Authority, “Crazy Paving The environmental importance of London’s front gardens”, https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/archives/assembly-reports-environment-frontgardens.pdf ; Greater London Authority, “London Sustainable Drainage Action Plan”, <https://www.london.gov.uk/what-we-do/environment/climate-change/surface-water/london-sustainable-drainage-action-plan>

⁸UKGBC/ BCA, “Briefing paper: Building a market for Greener cities”, <https://www.ukgbc.org/ukgbc-work/briefing-paper-building-a-market-for-greener-cities/> ; Rob Allen, “Bricks & Water: Building resilience for England’s homes”, <https://www.policyconnect.org.uk/research/bricks-water-building-resilience-englands-homes>

⁹ William Nichole, “Nature and the City”, <https://policyexchange.org.uk/publication/nature-and-the-city/>

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

No. Change of use applications should not be exempted from the biodiversity net gain requirement.

Change of use applications will likely become a more significant component of local development, particularly in urban areas, given the growing focus on the issue of embodied carbon in the built environment. It is therefore important that a level playing field is maintained across different types of development. Likewise, as urban local authorities strive to meet their nature recovery goals, and deliver local regeneration through the levelling-up agenda, ensuring change of use applications contribute positively to these goals will be crucial. Policy must therefore be future proofed to ensure parallel efforts to reduce embodied carbon and regeneration do not hinder progress towards local and national biodiversity recovery goals.

Our members have highlighted that the impacts of change of use applications in rural areas can be particularly substantial for biodiversity. In order to prevent this, and ensure a level playing field across the sector, we believe change of use applications should not be exempt from net gain.

In addition, the issue of the impacts of permitted development is significant. A substantial body evidence has shown that correlated forms of PD can deliver poor quality development and negative environmental impacts, and therefore should not be exempt.¹⁰ This is especially in relation to the conversion of office space to residential, as well as agriculture to residential conversion. As a minimum, Green Infrastructure and BNG should be made matters for local consideration through prior approval of permitted development rights.

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

Other. We agree with the principle of providing an exemption for developments undertaken to provide biodiversity net gains or environmental mitigation in order to ensure that the habitat outcomes delivered from these sites are not unduly distorted, and the creation and management of certain habitats inadvertently disincentivised. However, to ensure this approach is viable, clear guidance must be provided on where and to what these exemptions apply, in order to ensure the preferred outcomes are delivered.

We would recommend that net gain sites providing priority habitats as identified by a Local Nature Recovery Strategy, or as part of a Local Nature Recovery Network, should be exempt from the net gain requirement where this would impede or negatively impact the delivery of this specific habitat. Likewise for broader environmental priorities and enhancements, we would recommend that this exemption applies similarly for priorities identified by a holistic Local Environmental Improvement Plan, in line with the proposals developed by the RTPI.¹¹ This would prevent biodiversity net gain potentially distorting the delivery of other essential environmental priorities, such as flood mitigation, before the wider concept of environmental net gain is developed.

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

¹⁰ MHCLG, "Quality standard of homes delivered through change of use permitted development rights", <https://www.gov.uk/government/publications/quality-standard-of-homes-delivered-through-change-of-use-permitted-development-rights>; Building Better Building Beautiful Commission, "Living with Beauty", https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/861832/Living_with_beauty_BBBBC_report.pdf

¹¹RTPI, "Planning for a better future: RTPI Proposals for Planning Reform in England", <https://www.rtpi.org.uk/policy-and-research/planning-for-a-better-future/#M-4.3>

No. UKGBC believes self-build and custom house building developments should not be exempt from mandatory biodiversity net gain. Self and custom build housing can have a significant impact on local biodiversity, particularly in rural areas. And as illustrated by our members, they can also deliver significant potential gains and cost-effective biodiversity enhancements. In addition, there is also a risk that an exemption would cumulatively harm the delivery of biodiversity outcomes across a wider area. Our members strongly emphasised the importance of ensuring a level playing field across different types of development, and self and custom housebuilding should not represent a significant loophole

A proportionate approach is needed for such sites, and UKGBC has supported the creation of the small sites metric, and its associated process, for sites below a certain threshold. UKGBC members have also highlighted the value of digital tools in streamlining net gain's administrative and reporting processes, in particular for small sites. The use and support for such digital tools is therefore recommended as a means of ensuring an efficient and expedited method of delivering biodiversity gain requirements. It will however be crucial to ensure such tools are compatible with the aims and objectives of net gain and deliver consistent high-quality outcomes through appropriate safeguards and addressing key enforcement barriers, such as local planning authority resourcing.

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

Yes. We strongly support the proposal not to exempt brownfield sites from mandatory BNG. Brownfield sites can be of high environmental value, and the work of our members has highlighted that they are a vital means to deliver cost effective nature enhancement, particularly in urban areas where habitats and green space can be in short supply.

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

Yes, we agree that temporary applications should not be exempt from the BNG requirement. Time-limited projects and temporary applications can still cause significant environmental damage to key habitats. This is particularly evident on short or temporary projects involving heavy machinery and vehicle use, which can cause significant ecological damage. To neglect to address this would risk undermining Local Nature Recovery Networks and long-term nature recovery priorities. It is therefore imperative that the proposals as outlined are applied to temporary applications. This represents a feasible and cost-effective approach for remediating any environmental damage from such applications.

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, we agree with plans not to exempt developments which would be permitted development but are not on account of their location in conservation areas, national parks etc. These locations will be critical for delivering nature's recovery and net gain therefore has a significant role to play in protecting and enhancing the environmental character and ecological quality of these areas, whilst still ensuring essential development can be delivered.

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 net gain requirement?

Yes. We agree that development within statutory designated sites for nature conservation should not be exempted from the biodiversity net gain requirement. Any biodiversity net gain requirement should be additional to any existing legal or policy requirements for statutory protected areas in the case of any prospective impact by development.

In theory, development within or next to statutory sites for nature conservation should be prohibited, or strongly discouraged through the net gain mitigation hierarchy. As per our previous consultation response, UKGBC strongly supports the application of the mitigation hierarchy.¹² Notably the experience of our members in delivering net gain on-site has highlighted that fully exploring mitigation and avoidance options is a vital means of keeping the cost implications of biodiversity net gain within an acceptable range. The mitigation hierarchy should therefore be more formally supported and encouraged, including through relevant guidance and supportive digital tools. We also recommend the pre-application submission of biodiversity information should include checks on how the mitigation hierarchy has been adhered to by requiring sections F, G and H of the BNG template form to be submitted at the pre-application stage. For smaller sites in particular digital tools currently under development offer the potential to expedite and improve the ease of such reporting.

We recognise that some development does impact on statutory nature protection sites. In such cases, splitting out the mitigation, management and compensation needed to meet statutory site protection requirements, from those associated with the biodiversity net gain requirement and associated additionality, represents a potential administrative challenge. Allowing enhancements of statutory sites notably creates the possibility for two different management strategies, within the designated boundary. Likewise delivering and managing BNG on non-designated features risks unintended impacts upon specifically designated features. Enhancement of non-designated features of protected sites should only be permitted if it does not adversely affect the designated features or interfere with the achievement of the conservation objectives of the site.

We strongly agree that demonstrating and delivering genuine additionality of BNG measures involving protected sites is essential, alongside securing long term sustainable management strategies. We therefore support calls for further guidance on net gain site management plans and similar templates to clarify the obligations regarding net gain and protected sites, and how beneficial outcomes can be secured. Further clarity on this issue will also be required through site net gain plans and the supportive digital tools intended to support their delivery. UKGBC will continue to consider the relevant experiences of our members, and work with other professional bodies, to explore strategies and approaches in this area and will look to contribute towards further clarity in future.

11. Do you agree with the stated proposals for development (or component parts of a development on irreplaceable habitats), specifically:

a) the exclusion of such development from the quantitative mandatory biodiversity gain objective?

Yes. As per our previous consultation response, we agree with the exclusion of development impacting irreplaceable habitats from mandatory biodiversity net gain. Given such habitats are irreplaceable, biodiversity net gain cannot form part of a viable compensation strategy.

Any mitigation and compensation for damage or impacts to irreplaceable habitats should have a bespoke approach, with a higher level of transparency and stronger emphasis on avoidance. To avoid deliberate

¹² UKGBC, "UKGBC response to the net gain consultation", <https://www.ukgbc.org/news/ukgbc-responds-to-net-gain-consultation/>

degradation, the Government must ensure its central data sets, such as the Ancient Tree Inventory and MAGIC map are updated and enhanced to ensure data on irreplaceable habitats is readily accessible for local authorities and developers. These datasets must be expanded to encompass all irreplaceable and priority habitats clearly and accessibly, such as peatland, to aid decision making and avoid later development complications. Several local authorities have already developed interactive mapping tools, with designations and habitat mapping designed to inform development and nature recovery planning. As part of supporting the roll out of Local Nature Recovery Strategies and the National Nature Recovery Network, local authorities must be supported with the resources to develop and regularly update these tools, as well as being able to utilise comprehensive data compiled at the national level.

In addition, changes to National Planning Policy and proposals in the Nature Recovery Green Paper must ensure that planning protections for irreplaceable habitats are more robust, and that net gain for other habitats cannot form part of the case for any exceptional reasons to justify development on irreplaceable habitat. The NPPF should be updated with a comprehensive list of irreplaceable habitats.

b) the inclusion of a requirement to submit a version of a biodiversity gain plan for development (or component parts of a development) on irreplaceable habitats to increase proposal transparency?

Yes, there should be a separate irreplaceable habitats plan, supported by guidance currently under development. It should be a separate document from the standard biodiversity net gain plan. It should follow the mitigation hierarchy and outline how any impacts on irreplaceable habitats could - first and foremost - be avoided and reduced. It should include how bespoke compensation and management will be secured for the long-term.

To help ensure this is simple and actionable for developers, our members have emphasised the importance of developing clear accompanying guidance on defining irreplaceable habitats, the accompanying mitigation process, and how to achieve the correct outcomes. Digital tools currently under development for net gain were highlighted as a means to potentially help deliver clarity and support smaller developers through the process, once the guidance and details of the approach have been developed.

c) where there are no negative impacts to irreplaceable habitat, to allow use of the biodiversity metric to calculate the value of enhancements of irreplaceable habitat?

Yes, we agree that where there are no negative impacts to irreplaceable habitat, the biodiversity metric could be used. However, any mandatory BNG enhancements must be additional to any statutory obligations or existing commitments.

d) to use the powers in biodiversity net gain legislation to set out a definition of irreplaceable habitat, which would be supported by guidance on interpretation?

Yes, we agree with the proposal to set out a clear definition and list of irreplaceable habitats, supported by guidance on interpretation. These must then be supported by robust protections in planning policy. Protecting these habitats will require robust data and monitoring to improve development planning. Central data on all the relevant habitats, such as the Ancient Tree Inventory, must be up to date and accessible to local authorities and developers, in order to accurately inform development and local nature recovery plans.

e) the provision of guidance on what constitutes irreplaceable habitat to support the formation of bespoke compensation agreements?

Yes. This guidance must support the mitigation hierarchy and use the precautionary principle if there is insufficient evidence that a habitat can be replaced or the impacts duly mitigated.

In addition, these provisions must be supported by the planning system to avoid harm. The NPPF should be updated with the list of irreplaceable habitats and robust accompanying protection policies, in order to ensure due weight is given to these habitats in decision-making, and that their protections are strengthened.

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

Part 2.1: Phased development and development subject to subsequent applications

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, UKGBC supports this approach to phased development, and development subject to subsequent applications, to outline how the overall development will achieve net gain at the outset, and prior to each phase beginning work.

UKGBC members delivering net gain have stressed the value of embedding the BNG requirement as part of the master planning and design coding for the whole development. This echoes the importance of site-specific design codes and masterplans, highlighted by the Housing Design Audit for England 2020, and their effectiveness in delivering high quality development.¹³ Embedding the BNG requirement as part of master planning helps ensure process is transparent, streamlined, and can be considered strategically at a landscaping scale. Likewise, site-specific master planning provides valuable clarity where multiple developers are involved, enabling each to understand their respective net gain contributions. However, there must be robust accountability mechanisms, suitably resourced, in place to ensure the applicant secures the proposed net gain, through effective local mechanisms to monitor delivery and ensure enforcement. In addition, our members have highlighted the need for further practical guidance on how net gain relates to, and will be encouraged through, site and local design codes currently being produced throughout England. UKGBC contributed to the *Cracking the Code* report by RTPI and RSPB et. al exploring these issues, and a key recommendation was the need to improve the understanding of how design codes can contribute to the delivery of net gain more widely across the industry.¹⁴ Although local and third-party guidance exists, this should be consolidated centrally as part of guidance for the biodiversity net gain template, plans, and in relation to the development of local design codes and guides. This guidance, and how net gain fits with urban greening requirements, could potentially be integrated into a consolidated user-friendly digital process.¹⁵

Our members have raised concerns that to address net gain at the end of a phased development process, rather than iteratively, can represent a significant delivery risk. To help maintain a level playing field, UKGBC support the process being as front-loaded as possible in terms of BNG delivery. BNG and consideration to species impacts or compensation for the whole scheme should be implemented in advance of any losses, in order to prevent cumulative impacts. If this is not possible, each phase of a scheme must be accompanied by an agreed percentage of BNG.

Some flexibility will be required to accommodate changes over time in phased developments, and additional BNG information should be submitted, including a strategy for how it will be delivered and tracked on a phase-by-phase basis. An upfront metric calculation should be required, with an updated metric completed

¹³ Place Alliance, "Housing Design Audit for England", https://www.cpre.org.uk/wp-content/uploads/2020/03/Place-Alliance-A-Housing-Design-Audit-for-England_2020.pdf

¹⁴ RTPI/ RSPB et. al, "Cracking the code: How design codes can contribute to net-zero and nature's recovery", <https://www.rtpi.org.uk/media/11054/design-codes-report-final.pdf>

¹⁵ Greater London Authority/London Wildlife Trust, "Urban Greening for Biodiversity Net Gain: A Design Guide", <https://www.london.gov.uk/what-we-do/urban-greening-biodiversity-net-gain-design-guide>

for each phase of the outline development when brought forward at reserved matters, given the potential for changes in the biodiversity value of the undeveloped parts of multi-phase sites.

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

N/A

Part 2.2: Small sites

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. UKGBC agrees that the small sites metric will help reduce the time and cost burdens for small sites. UKGBC and our members contributed extensively to the development of the sites metric, and we strongly support its use.

Given the volume of development brought forward on small sites, we strongly support the application of mandatory biodiversity net gain as a critical component of supporting nature's recovery across the sector. The work and projects of UKGBC members have demonstrated that it is not only feasible to deliver substantial net gain in relation to small sites, but that it can be done consistently in a cost-effective manner across development types.

A key concern for the success of the small sites metric will be that the evidence requirements, as part of using the metric, are robust, given the simplified process. Likewise local planning authorities must be fully equipped and resourced to thoroughly consider and examine these applications.

Our members have highlighted the potential value of digital tools and processes, particularly for small sites, to ensure the process is easy to navigate and simple to follow. Such tools offer significant potential to ensure the right outcomes are delivered, and we strongly recommend that further work is done to engage with the industry to ensure these can help deliver a workable, effective system.

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

No. UKGBC strongly disagrees with plans for an extended transition period for small sites. Many of our members involved in the delivery of smaller sites have already invested considerably in the infrastructure and business models required to deliver net gain across small sites, and any extension to the transition would have a considerable, negative economic impact on the relevant sectors. It is crucial that businesses and the investment community are not inadvertently penalised financially for early adoption, and clear demand signals are required to drive much needed growth across the sector. We would be concerned that an extension to the transition would risk indeterminate delay, and this would generate considerable uncertainty for the industry, harming the development of, and investment in a burgeoning sector. Our members have demonstrated across a wide variety of projects that net gain is viable and cost effective on small sites and can be delivered effectively. In addition, innovative digital tools offer considerable potential to expedite the process further. We therefore strongly recommend that the transition period for small sites is not extended.

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?

As per our answers to questions 14 and 15, we strongly recommend that the government works with the industry and providers of innovative digital tools to ensure that a user friendly, effective and robust process can be delivered for small sites. These tools have significant potential to deliver a simple navigable process which helps to ensure that the right outcomes are delivered consistently.

In addition, clear guidance, training, and resources for local authorities will be essential to ensure the effective administration of the process, with proper monitoring, examination, enforcement capacity.

Part 2.3: Nationally significant infrastructure projects

17. Are any targeted exemptions (other than that for irreplaceable habitat), reduced biodiversity net gain objectives, or other modified requirements necessary for the application of the biodiversity net gain requirement to NSIPs?

No. We do not think any targeted exemptions (other than that for irreplaceable habitats), reduced biodiversity net gain objectives, or other modified requirements are necessary for the application of the biodiversity net gain requirement to NSIPs. The minimum requirement of 10% gains must be the absolute minimum and applied to all NSIPs where applicable, for example, the terrestrial development impacts of offshore wind.

In order to ensure NSIPs maximise their potential to deliver positive outcomes, they must follow the mitigation hierarchy to avoid impacts where possible before moving onto mitigation. The delivery of net gain from large scale infrastructure should be organised strategically, to ensure the best outcomes for biodiversity, such as by supporting Local Nature Recovery Networks. This will potentially require collaboration across multiple local authorities for larger projects. The approach taken for the Ox-Cam arc offers one potential model, in terms of expanding on the strategic approach that was taken to identify significant nature enhancement opportunities alongside associated development.

Relevant partnership models must be developed and encouraged to ensure that net gain and the environmental impacts are considered strategically across relevant projects. The National Infrastructure Commission should work closely together with bodies such as Natural England, Defra, DLUHC, DfT, BEIS and the Office for Environmental Protection to ensure a joined up approach to nature recovery together with infrastructure.

18. Do you agree that the above approach is appropriate for setting out the biodiversity net gain requirement for NSIPs?

Yes. We support the Government's approach including the update to National Policy Statements with biodiversity net gain statements, and the relevant requirements.

19. Do you consider that November 2025 is an appropriate date from which NSIPs accepted for examination will be subject to the biodiversity net gain requirement?

No, it should be sooner. UKGBC members have already been able to demonstrate the feasibility of delivering ambitious biodiversity net gain goals across significant infrastructure projects. Many of our infrastructure members and related businesses have made significant voluntary commitments at the project level and across their organisations in relation to delivering biodiversity enhancement. The Environment Act 2021 has set a clear direction of travel which has allowed the industry to plan ahead. However, further clarity on the relevant metrics and formalising the detail of the process for NSIPs will be valuable in allowing practitioners to prepare. In addition, to provide clarity for the industry, our members have emphasised the benefits of ensuring as much consistency in the net gain process as possible.

20. Do you agree that a project's acceptance for examination is a suitable threshold upon which to set transition arrangements?

No. To accelerate the timeline, the threshold to set transition arrangements should be at examination rather than at acceptance stage. Many NSIPs are already delivering no net loss, and many are already preparing to deliver biodiversity net gain.

21. Would you be supportive of an approach which facilitates delivery of biodiversity net gain using existing landholdings by requiring a lighter-touch registration process, whilst maintaining transparency?

No, we do not support an approach which facilitates delivery of BNG using existing landholdings through a lighter-touch registration process.

Any biodiversity net gains delivered on existing landholdings must be additional and should be captured through the national register. To avoid distorting the market and ensure business confidence in the system, there must be a level playing field for all habitat providers, supported by transparency for wider stakeholders. A single central biodiversity net gain site register which accommodates all sites will be key for supporting the strategic planning of off-site requirements at a national level, in support of a National Nature Recovery Network. To ensure public and investor confidence in net gain, and the quality of what is delivered, transparency will be crucial for the monitoring and delivery of BNG at both a project and national level.

22. Do you consider that this broad 'biodiversity gain plan' approach would work in relation to NSIPs?

Yes. UKGBC considers that the broad biodiversity gain plan approach would work in relation to NSIPs.

23. Should there be a distinction made for NSIPs between on-site habitats (which are subject to the biodiversity net gain percentage) and those habitats within the development boundary which are included solely for environmental mitigation (which could be treated as off-site enhancement areas without their own gain objective)?

No. We do not agree that there should be a distinction for NSIPs between on-site habitats subject to the biodiversity net gain percentage and dedicated mitigation area habitats within the development boundary. Whilst such environmental mitigation areas can contribute positively towards achieving to net gain, their impacts must be captured and quantified through the site's baseline metric, in order to ensure that any associated gain is additional.

24. Is there any NSIP-specific information that the Examining Authority, or the relevant Secretary of State, would need to see in a biodiversity gain plan to determine the adequacy of an applicant's plans to deliver net gain (beyond that sought in the draft biodiversity gain plan template at Annex B)?

Yes. Currently, the template form does not require information that the mitigation hierarchy has been followed, the presence of statutory sites or the approach for irreplaceable habitats at the pre-application stage. We believe this information should be a requirement at the pre-application stage in order to reinforce the mitigation hierarchy in the application of BNG to NSIPs. More clarity is needed about the steps that have been taken to first prove avoidance, before moving to other forms of mitigation.

25. Do you think that 30 years is an appropriate minimum duration for securing off-site biodiversity gains allocated to NSIPs?

Yes. We agree 30 years is an appropriate minimum duration for securing off site biodiversity gains. However, in order to secure nature recovery long term, the maintenance duration should be reviewed as biodiversity

net gain is subsequently evaluated and monitored. This should be done with a view to exploring potential mechanisms to help ensure sites can be secured for longer than 30 years, including new government and local funds for habitat creation, habitat management and new protections through planning designations. See also question 31.

26. Are further powers or other measures needed to enable, or manage the impacts of, compulsory acquisition for net gain?

Yes, to manage impacts of compulsory acquisition. Further clarity should be provided in any future Biodiversity Gain Statements on this area.

27. Is any guidance or other support required to ensure that schemes which straddle onshore and offshore regimes are able to deliver biodiversity net gain effectively?

Yes. Further guidance must clarify the extent to which projects that straddle onshore and offshore are required to compensate for their impacts on terrestrial and intertidal zone habitats using the existing biodiversity gain approach, or whether a bespoke approach is needed to reflect the broader impacts. Likewise, we welcome Defra's proposal to consult further on marine biodiversity net gain, as clarity for projects that impact different habitat locations, such as offshore wind will be crucial.

Part 3.1: Biodiversity gain plan

28. Do you agree with the proposed:

a) content of the biodiversity gain information and biodiversity gain plan?

Other. We agree with the proposed content for the biodiversity gain information and biodiversity gain plans, however, we would wish to see additional information required in order to help support optimal outcomes.

Additional information should be required to ensure applicants demonstrate they have followed the mitigation hierarchy. Specifically, this should include robust and transparent evidence to demonstrate the successive steps taken to *avoid*, *mitigate* and *compensate* (as well as 'minimise'), including how each has been pursued and exhausted, before moving on to the next step of the mitigation hierarchy. The experience of UKGBC's members involved in delivering net gain, particularly on small sites, has demonstrated that clear guidance and processes designed to support evident progression through the mitigation hierarchy can be a crucial factor in minimizing the costs of net gain delivering, through the value discoverable savings through avoidance and other mitigation measures. Proposals should therefore be stronger in emphasizing the mitigation hierarchy to ensure it is properly applied. For example, the chart on page 7 (also the Annex B form on page 99), does not address avoidance as the first principle to be exhausted, and the site selection and mitigation hierarchy section of the chart on page 14 should be made clearer to emphasise this progression.

We support a requirement for the pre-application submission of biodiversity information to include checks on how the mitigation hierarchy has been adhered to, with sections F, G and H of the BNG template form submitted at this stage. In addition, to ensure transparency and demonstrate a robust evidence base has been consulted, the process should contain minimum requirements around which data sources should be examined to inform the process. This should include minimum requirements to check appropriate and available sources including MAGIC (or local mapping equivalents, especially those mapping priority habitats and prospective Biodiversity Opportunity Areas), LERC data, the Ancient tree & woodland inventories, NBN Atlas, Local Nature Recovery Strategies or border local environment improvement plans & green infrastructure strategies. The template form should also provide links to an Ecological Impact Assessment report or Environmental Statement, or other such assessments if required.

To ensure the process is simple and clear for those involved with development, we suggest more guidance around how the plans should be prepared. Useful guidelines would include worked examples on, for example, how the information and plan can follow the mitigation hierarchy and ways to demonstrate the use of a robust evidence base. To ensure a suitable process, we recommend working with the industry to develop user-friendly digital tools to help simplify the process and clarify the requirements.

b) procedure for the submission and approval of biodiversity gain information and the biodiversity gain plan?

No (please explain why not). Sections F, G and H of the BNG template form, information on wider biodiversity obligations, e.g. statutory sites and irreplaceable habitats, should be submitted at the pre-application stage. Requirements to demonstrate progress through the mitigation hierarchy should be strengthened. We recommend that the biodiversity net gain plan is required prior to planning permission being granted, rather than at the pre-commencement stage, in order to ensure it is fully embedded in the decision-making and design process. Likewise minimum evidence-base requirements, for checking the likes of MAGIC, the NBN Atlas and LERC data, should be required and guidance provided on how to demonstrate this.

We recommend working with the industry to deliver digital tools to ensure this process is efficient and user-friendly, particularly for small developers, in order to ensure both the evidence requirements and guidance are clear, and the former can be met effectively.

As mentioned in previous answers, resourcing for local planning authorities to support local ecological capacity, robust enforcement and monitoring will be essential to help ensure the quality of what is promised and delivered.

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?

Other. (See question 28 a and b).

Part 3.2: Off-site biodiversity gains

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. Further guidance will be valuable to ensure transparency, the quality, quantity, and effective strategic delivery of off-site biodiversity gains.

Off-site gains should be ecologically strategic to support Local Nature Recovery Strategies and the national nature recovery network. More guidance and detail should be provided on how this will work and can be encouraged across administrative LPA boundaries. Evidence from UKGBC members provided for this consultation has indicated that the currently stated preference for on-site measures can sometimes serve to inhibit the delivery of more strategic off-site measures, which may be more beneficial for securing biodiversity recovery. Likewise broader research has indicated that on-site measure may be less effective ecologically, and can be more difficult to secure long-term in the face of other on-site requirements and management preferences.¹⁶ UKGBC's initial position was primarily in favour of prioritising on-site measures, and we still support the clear importance and value of delivering nature enhancement local to, and on,

¹⁶Sophus O. S. E. zu Ermgassen, Sally Marsh, Kate Ryland, Edward Church, Richard Marsh, Joseph W. Bull, "Exploring the ecological outcomes of mandatory biodiversity net gain using evidence from early-adopter jurisdictions in England", <https://conbio.onlinelibrary.wiley.com/doi/full/10.1111/conl.12820>

development.¹⁷ However, as the evidence has evolved, we believe Government should now explore providing further guidance and training on what a good balance between on-site, off-site, and statutory credits might look like, both for ecological consultants and local planning authorities.¹⁸ As part of this, we recommend that attempts are made to boost the relative proportion of off-site delivery, supported by guidance to enable a strategic approach to local habitat delivery, in order to ensure a broader balance of net gain sites delivered.

We welcome planned work with the Peatland Code and Woodland Carbon Code to ensure the connections with carbon offsetting are explored, and the extent to which wider environmental benefits are quantified and considered. UKGBC's Offsetting and Energy procurement guidance explored best practice principles and third-party guidance in relation to carbon offsetting, and we recommend that, as a model, those of the eight key principles which are relevant should be reflected in off-site BNG delivery.¹⁹

Guidance should notably outline the quality requirements and assurances for off-site enhancements, in order to deliver transparency and cement industry confidence. To ensure delivery, robust monitoring and reporting mechanisms must be supported by training, capacity building and additional resourcing for LPAs. To successfully support local nature recovery plans and their delivery, local planning authorities must be equipped to assess and monitor the relevant reporting data from net gain sites, and be equipped to provide quality, ecological, and management guidance where needed.

31. How should the UK Government encourage or enable developers and landowners to secure biodiversity gain sites for longer than the minimum 30-year period?

The Government should continue to explore blended finance models, and the findings of projects such as IGNITION, to develop suitable financing and management options.²⁰ This includes government grants for significant biodiversity enhancement, resilience and nature-based projects. Nature recovery and green infrastructure are clearly a strategic-level priority for the UK, particularly in relation to the benefits for mitigating the physical risks associated with climate change to built-assets and infrastructure.²¹ We would support exploring a greater role for the National Infrastructure Bank in supporting the delivery of nature recovery at scale, particularly where nature restoration will have significant benefits for mitigating climate risks, such as downstream flooding, soil erosion and surface run-off.

¹⁷ UKGBC, "UKGBC response to the net gain consultation,"

<https://www.ukgbc.org/wp-content/uploads/2019/02/DEFRA-Net-gain-consultation.pdf>

¹⁸UKGBC "Principles for delivering urban Nature-based Solutions," <https://ukgbc.s3.eu-west-2.amazonaws.com/wp-content/uploads/2021/04/05144021/Principles-for-Delivering-Urban-Nature-based-Solutions-April-2021.pdf> ; Sophus O. S. E. zu Ermgassen, Sally Marsh, Kate Ryland, Edward Church, Richard Marsh, Joseph W. Bull, "Exploring the ecological outcomes of mandatory biodiversity net gain using evidence from early-adopter jurisdictions in England",

<https://conbio.onlinelibrary.wiley.com/doi/full/10.1111/conl.12820>

¹⁹UKGBC, "Renewable Energy Procurement & Carbon Offsetting", <https://www.ukgbc.org/ukgbc-work/renewable-energy-procurement-carbon-offsetting-guidance-for-net-zero-carbon-buildings/> p.26

²⁰IGNITION, "Investigating Innovative Business Cases for Nature-Based Solutions", <https://www.greatermanchester-ca.gov.uk/media/3905/ffs-fact-sheet-021220.pdf> ; IGNITION, UKGBC et al. "Investing in a Greener Greater Manchester A nature-based solutions investment guide for local authorities", <https://ukgbc.s3.eu-west-2.amazonaws.com/wp-content/uploads/2021/07/05143442/Investing-in-a-Greener-Greater-Manchester-A-nature-based-solutions-investment-guide-for-local-authorities.pdf>

IGNITION, "Building a Business Case for NBS", <https://www.greatermanchester-ca.gov.uk/media/4140/ignition-fact-files-urban-green-spaces-and-business-final.pdf> ; The City Finance Lab, "Blended public-private investments for developing urban green infrastructure", <https://cfl.southpole.com/solutions/manchesterBlendedFinance> ;

²¹ UKGBC, "A Framework for Measuring and Reporting of Climate-related Physical Risks to Built Assets", <https://www.ukgbc.org/ukgbc-work/measuring-and-reporting-framework/>

In addition, government should continue to support the development of supportive Environmental Impact Bonds, green bonds, and green loans.²² Local authorities should be supported financially so they can explore their own blended finance models locally, de-risking private investment in nature and thereby accelerating the development of biodiversity gain, habitat creation and nature-based solutions.

We also recommend a planning ‘wildbelt’ designation to protect land for nature’s recovery, in order to give Local Nature Recovery Strategies, and component net gain sites, weight in the planning system.

Part 3.3: The market for biodiversity units

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

Yes. We agree with the proposals for who can supply biodiversity units and the circumstances in which they may do so. However, in order to ensure quality and give both investors, and the public, confidence in the system, robust evidence should be required to ensure beneficial habitats are being created according to the right standards, and in line with the right ecological expertise and oversight. Likewise, this must also apply in ensuring effective long-term management, monitoring and reporting.

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. We agree with the proposal that developers who can 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. This will provide a valuable incentive for developers to maximise potential on-site gains and, if done effectively, offers the potential to deliver more high-value nature enhancements near residents and development.

However, for this approach to be viable, robust evidence threshold requirements, linked to strong governance, monitoring and enforcement will be essential to ensure the effective delivery and quality of on-site gains. We strongly recommend that any excess on-site biodiversity units, subsequently used as off-site gains for another development, must meet robust ecological and quality standards in order to qualify as genuinely additional, subject to independent and professional ecological oversight. This should link to the guidance provided for off-site enhancements discussed in question 30.

A key risk identified in relation to on-site net gain is the longevity and long-term quality of any gains delivered in the face of alternative management priorities. If additional on-site units are to be used in relation to other developments, then adequate management plans must be in place to ensure that these gains will not be at risk in future, and risk undermining wider net gain delivery. Clear guidance on best practice principles, standards, and management plans this will be an essential to support this, as well as additional support for local monitoring and enforcement.

In addition, we strongly recommend that clear guidance must be developed for local planning authorities and developers on when such carry-over credits could be used appropriately in order to avoid perverse outcomes. For example, over-delivery on a site of low ecological value to compensate for under-delivery on a site where net gain would be much more valuable ecologically. Likewise in order to avoid perpetuating local disparities regarding access nature, the ability to carry forward over-delivery should not allow, for example, phased residential developments to over-deliver on the first phase, and then subsequently

²² UKGBC, “Principles for delivering urban Nature-based Solutions”, <https://ukgbc.s3.eu-west-2.amazonaws.com/wp-content/uploads/2021/04/05144021/Principles-for-Delivering-Urban-Nature-based-Solutions-April-2021.pdf>

significantly under-deliver on successive phases. As per our answer to question 30, we believe Government should now explore providing further guidance and training on what a good balance between on-site, off-site, and statutory credits might look like, both for ecological consultants and local planning authorities. This would enable local planning authorities to take a more strategic approach to their net gain priorities. For example, ensuring that off-site habitat provision feeds into a clear, joined-up vision for nature recovery and that an appropriate balance of on-site versus off-site is reached depending on local circumstances. In order to avoid this approach generating difficulties for developers, the requirements, guidance and processes for determining local nature priorities and the balance of on-site versus off-site should be clear and easy to navigate, through clear links and weightings in relation to Local Nature Recovery Strategies and the circumstances under which each is more appropriate. Clarity and transparency in the process will be critical to ensuring difficulties and delays over whether to prioritise on-site or off-site are avoided. Likewise any over-delivery of on-site gains, subsequently marketed as off-site gains, must be suitably adjusted to ensure their value, whilst incentivising over-delivery, is proportional to their strategic merit, so as to ensure off-site enhancements primarily promote a strategic approach to nature recovery and avoid encouraging localised under-delivery.

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

No. We do not agree with the Government’s proposals *not* to establish a centralised public trading platform or to record the prices for biodiversity units. Through comparable work by UKGBC in relation to carbon offsetting, the lack of transparency, clear government regulation and oversight in relation to the market for carbon offsets represents a significant barrier to domestic offsetting investment by undermining industry confidence.²³ A centralised public trading platform will be essential for delivering industry confidence in related accreditation, and assurances that associated net gains will be delivered effectively. Likewise, as the delivery of net gain and nature restoration is a strategic national function, the government must play a central role in facilitating and overseeing both the wider system and associated central platform.

Part 3.4: Habitat banking

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

N/A

36. Do you agree with our proposal that to be eligible to supply biodiversity units for mandatory biodiversity net gain, habitat must be created or enhanced on or after a specified date, proposed to be 30 January 2020?

N/A

37. Should there be a time limit on how long biodiversity units can be banked before they are allocated to a development? What would you consider to be an appropriate time limit?

N/A

Part 3.5: The biodiversity gain site register

38. Do you agree that the eligibility criteria for adding sites to the biodiversity gain site register are sufficient?

²³ UKGBC, “Renewable Energy Procurement & Carbon Offsetting”, <https://www.ukgbc.org/ukgbc-work/renewable-energy-procurement-carbon-offsetting-guidance-for-net-zero-carbon-buildings/>

Yes, we agree with these criteria. We welcome the intention for on-site gains to be added to the register.

39. Do you agree that the register operator should determine an application within a maximum of 28 days unless otherwise agreed between both parties?

N/A

40. Do you agree that this list of information requirements will be sufficient to demonstrate that a biodiversity gain site is legitimate and meets the eligibility criteria?

No. In addition to the information requirements listed, we believe stronger evidence requirements and related oversight are necessary in order to stop landowners pre-emptively reducing the quality of their land by lowering the initial baseline condition. Our members have raised significant concerns over the likelihood of pre-emptive site damage and baseline lowering. We therefore recommend that local authorities or central Government should use satellite imagery to confirm that the site has not been pre-emptively damaged. This oversight should be supported by consulting local and national data sets, such as those of local environmental records centres, MAGIC, the ancient tree inventory etc, all of which should be kept up to date and supported by continued developments in technology and satellite monitoring.

41. Do you agree that the UK Government should require a habitat management plan, or outline plan, for habitat enhancement to be included on the register?

Yes. The Government should require a habitat management plan for habitat enhancement to be included on the register. This will be critical for instilling confidence in the system through transparency, monitoring progress, ensuring quality, longevity and management delivery.

Members have strongly emphasised the need for clarity and consistency across the system to ensure it is manageable for those delivering development. We therefore strongly recommend a level playing field for on-site and off-site gains, with on-site gains subject to the same scrutiny requirements as off-site to ensure consistency across the system as well as the quality of what is delivered. On-site gains should be included in the national register, with monitoring, management, and validation requirements equivalent to those for off-site. Template guidance for these requirements and management plans should be provided to support developers, including through working with the industry and local government to develop digital tools designed to ensure a user-friendly approach.

Habitat management and monitoring plan requirements must be clear and consistent to ensure the system is operable for the industry. Core components of such plans should include: relevant roles and responsibilities - covering the management period, relevant organisations and primary contractors; specification details for the given habitat - including relevant maintenance requirements over the long and short term; contractor competencies and relevant expert oversight; and costs - covering the required monitoring and management for the 30-year period minimum.

42. Do you agree that the UK Government should allow the register operator to:
a) set a fee for registration in line with the principle of cost recovery?

N/A

b) impose financial penalties for provision of false or misleading information?

N/A

43. Do you agree with our proposal to allow applicants to appeal a decision by the register operator where the applicant believes that the registration criteria have not been appropriately applied?

N/A

**44. Do you agree with our proposals for additionality with respect to:
a) measures delivered within development sites?**

Other. UKGBC strongly supports the principle of additionality in relation to delivering biodiversity net gain. We support additionality across all our sector guidance including through our framework for delivering social value and industry guidance for renewable energy and carbon offsetting.²⁴ UKGBC's working definition of additionality centres around the provision of additional value or net benefit(s), delivered through an intervention or project, over and above that which already exists.²⁵ Likewise our principles for delivering nature-based solutions strongly emphasise the principle of maximising multifunctionality.²⁶

We therefore broadly agree with the proposal that a wide array of green infrastructure measures, delivered as part of a development and within a development site boundary, may be counted towards biodiversity net gain, provided that the biodiversity metric recognises the uplift in biodiversity value relative to the previous baseline. The ability to count a variety of on-site measures and appropriate green infrastructure towards BNG, as substantiated by the metric, will help maximise the multifunctionality of nature-based solutions delivered through new development and encourage biophilic design across a wide variety of green infrastructure, such as sustainable drainage systems and tree planting. We believe that, with future refinement to reflect delivery, the Defra net gain metric will be broadly robust enough to ensure that the biodiversity value of green infrastructure provided by a development will be sufficiently assessed and captured in the process. However, this must be supported by rigorous monitoring, reporting and enforcement, to ensure the longevity and quality of on-site gains delivered. Specifically, this must include clear and robust requirements around long term management plans to ensure on-site gains are managed and retained effectively.

Whilst UKGBC support multifunctionality and a holistic approach to green infrastructure across development, we are concerned about ensuring parity between on-site and off-site in terms of both monitoring and meeting statutory obligations. We would wish to see parity between on-site and off-site with regards to transparency, monitoring, and reporting requirements in order to maintain a level playing field and ensure the quality of what is delivered on-site. In order to achieve this, as per below, measures to comply with existing statutory obligations, in terms of remedial mitigation, should not count towards the 10% net gain. At least 10% of the gain should be delivered through separate activities which are not required to mitigate or compensate in line with statutory obligations, such as mitigating protected species impacts. Further guidance should be developed to clarify the details of this approach.

b) protected species and off-site impacts to protected sites?

Yes. Such measures relate to existing statutory obligations such as protected species licensing, and therefore do not constitute additional gains. We agree at least 10% of the gain should be delivered through separate activities which are not required to mitigate and compensate for protected species impacts. This should also apply to mitigation measures proposed to address off-site impacts on protected sites.

²⁴ UKGBC, "Framework for Defining Social Value", <https://ukgbc.s3.eu-west-2.amazonaws.com/wp-content/uploads/2021/02/05144157/Framework-for-Defining-Social-Value.pdf>

²⁵ UKGBC, "Framework for Defining Social Value", <https://ukgbc.s3.eu-west-2.amazonaws.com/wp-content/uploads/2021/02/05144157/Framework-for-Defining-Social-Value.pdf>

²⁶ UKGBC, "Principles for delivering urban Nature-based Solutions", <https://ukgbc.s3.eu-west-2.amazonaws.com/wp-content/uploads/2021/04/05144021/Principles-for-Delivering-Urban-Nature-based-Solutions-April-2021.pdf>

c) on-site impacts on protected sites, and any associated mitigation and compensation?

Other. Development should primarily avoid occurring on, or impacting protected sites through following the mitigation hierarchy. Where a development does impact a protected site any compensation measures would be required under other existing statutory obligations, so these would not be truly additional, and should not count towards the 10% target.

d) achievement of River Basin Management Plan Objectives?

N/A

e) the strengthened NERC Act duty on public authorities?

N/A

45. Do you think that A) the non-designated features or areas of statutory protected sites and/or B) local wildlife sites and local nature reserves, should be eligible for enhancement through biodiversity net gain?

N/A

46. Do you agree that the enhancement of habitats, including designated features, within statutory protected sites should be allowed in the coastal, intertidal and marine environment as defined above?

N/A

47. Do you agree with our proposed approach to combining payments for biodiversity units with other payments for environmental services from the same parcel of land?

Yes. We agree with the principle of combining payments for biodiversity units with other environmental services from the same piece of land. This will help incentivise multifunctionality and the delivery of multiple benefits from associated enhancements. This approach will provide valuable incentives to pursue good land management for nature restoration projects, which may not have been viable with one income stream. Likewise multiple sustainable management goals will help promote a balanced approach to optimisation. We strongly welcome potential integration with Local Nature Recovery Networks, and the provision of strategically valuable nature recovery sites should be sufficiently rewarded in the process in order to incentivise enhancements that support nature recovery at scale as part of joined-up habitat networks.

Ensuring any system is transparent and substantiated by suitable expertise and evidence as reflected in reliable accounting mechanisms will be crucial to ensure that stacking is viable, and delivers genuine additionality. Research of international examples has indicated that stacking requires both clear and robust guidance and monitoring to ensure additionality can be delivered and that the system is reliable.²⁷ Likewise UKGBC's own research into carbon offsetting concluded that there is currently a lack of evidence to reliably and consistently quantify, or directly connect, broader environmental gains, such as nature enhancement, with carbon offsets.²⁸ Although we are aware of various methods and calculators for determining a wide array of ecosystem services, and providers offering joint offsets, further research will be needed to ensure a clear and consistent approach which delivers genuine additionality.²⁹ UKGBC's work around carbon

²⁷Amrei and Cassin von Hase, "Theory and Practice of 'Stacking' and 'Bundling' Ecosystem Goods and Services: A Resource Paper", <https://www.forest-trends.org/wp-content/uploads/2018/11/Stacking-Bundling-Resource-Paper-01-11-18.pdf>

²⁸ UKGBC, "Renewable Energy Procurement & Carbon Offsetting", <https://www.ukgbc.org/ukgbc-work/renewable-energy-procurement-carbon-offsetting-guidance-for-net-zero-carbon-buildings/>

²⁹ UKGBC, "Principles for delivering urban Nature-based Solutions", <https://ukgbc.s3.eu-west-2.amazonaws.com/wp-content/uploads/2021/04/05144021/Principles-for-Delivering-Urban-Nature-based-Solutions-April-2021.pdf>

offsetting has highlighted the importance of central government oversight in delivering an effective market, which can command sufficient confidence to encourage investment. Examples of bundling, where benefits are combined as a discrete package, underpinned by robust, evidence-based accounting methods to quantify their value, should be explored as a priority to avoid potential duplication and inaccuracies within the system. Likewise registers or systems of different environmental services should be joined up centrally, and the interrelationships be clear, evidence based and transparent. (See also question 34)

Statutory biodiversity credits

48. Are these proposals for statutory biodiversity credits sufficient to:

a) ensure, when supported by suitable guidance, that they are only used by developers as a last resort?

N/A

b) mitigate the market risk associated with the sale of statutory biodiversity credits by the UK Government?

N/A

49. Do you think there are any alternatives to our preferred approach to credit sales, such as those outlined above, which could be more effective at supporting the market while also providing a last resort option for developers?

50. Do the principles for how we will set, and review credit price cover the relevant considerations?

N/A

51. Do you agree with the proposed principles for credit investment?

Yes. We agree with the criteria on alignment with Local Nature Recovery Strategies, requirement to meet ecological criteria, and alignment with the same standards as other biodiversity gains.

As per above, the additionality requirement must ensure credits deliver enhancements beyond remedial compensation or mitigation required under existing statutory obligations.

Part 3.8: Reporting, evaluation, and monitoring

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?

No. We are concerned that the proposed monitoring, reporting and enforcement requirements, in particular for on-site delivery, are not sufficient to instil investor confidence that genuine, high quality biodiversity gains will be delivered consistently over the long-term. Strong and sufficiently resourced governance mechanisms, monitoring and enforcement capacity will be essential. On-site and off-site gains should be monitored to the same standard, and both to a greater level than is currently proposed.

We welcome plans to develop management plan templates and ensure such requirements are both proportional and accessible. However, to ensure quality control and confidence in the system, independent verification, oversight and clear standards will be essential. Monitoring for example should not rely on self-reporting by landowners or developers, as this risks insufficient expertise and transparency underpinning associated reporting. There should be a requirement for the scrutiny of on-site and off-site gains by ecological experts through the local planning authority to monitor and report on the delivery of off-site gains. On-site gains must be added to the register. Local planning authorities should be required, and supported

by sufficient resources and ecological expertise, to also monitor and scrutinise on-site gains over the full obligation period (30 years). The scrutiny of reports in a planning authority must be done by trained ecologists.

We agree with the proposal for a requirement to share biodiversity gain plans and monitoring report data with local environmental record centres. Such data should be aligned to national standards and formats to ensure to improve transparency and contribute to the overall environmental information base.

53. Do you think earned recognition has potential to help focus enforcement and scrutiny of biodiversity net gain assessments, reporting and monitoring?

N/A.

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

No.

We welcome proposals outlined in the consultation around policy level reporting, evaluation, and enforcement. However, we are concerned there is currently insufficient detail to assess whether this will be sufficient to ensure the success of biodiversity net gain. For example, further details of planned standardised reporting templates for biodiversity gain plans, and how these will interrelate with mentioned research streams around species will be crucial in terms of quantifying progress in relation to the Environment Act's species abundance target. We welcome plans to consult on the wider quantitative data that should be included in the reports in a consultation on the strengthened Biodiversity Duty.

We recommend that the central biodiversity site register provide publicly accessible information of both off-site and on-site enhancements, underpinned by suitable ecological expertise and oversight. Likewise further detail of, and resourcing support for, local governance, monitoring and enforcement arrangements will be critical, particularly in relation to ensuring professional ecological oversight and robust evidence thresholds. We would also recommend considering earlier reporting and review timelines for planning and designated public authorities in the initial phase of net gain, in order to ensure success in what being delivered, and to ensure systematic errors are not endemic in the system.

55. Considering the data requirements set out above and in greater detail in Annex C:

a) is there any additional data that you think should be included in the Biodiversity Reports?

N/A

b) is there any data included here that should not be required as part of the Biodiversity Reports?

N/A

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