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Biodiversity Net Gain

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Biodiversity Net Gain Must Lead to Proper Biodiversity Restoration at Scale

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After detailed consultation, the Government has announced that Biodiversity Net Gain is to be made a mandatory requirement of the planning system. It is essential that we use the opportunity to restore biodiversity and not to 'prettify' development.

I introduced the concept of compensation via biodiversity offsetting and mitigation banking into the UK in 2007 because I was concerned at the way biodiversity was treated within the planning and development sector. The ecological consultancy profession has spent decades working for developers to secure permissions but the evidence for the success of mitigation designs is poor. Mitigation schemes where small pockets of 'nature' are kept within the red line boundary of the development have been used to justify 'no significant effect of the development'. I know, because I also had to design these schemes and then defend them at public inquiry!

Proper and effective net gain can only be achieved if much of the gain is delivered outside of the development boundary – on newly created and managed sites set up specifically to restore the UK's biodiversity.

Planning authorities currently have the ability to require developments to deliver Biodiversity Net Gain through the revised National Planning Policy Framework (NPPF). Yet few authorities are using that facility to discharge their legal duties for biodiversity. Now that Biodiversity Net Gain is to be mandated, all planning authorities

will require Biodiversity Net Gain to be delivered from all relevant development and the first step is to ensure that they either have relevant policy in their Local Plans or use supplementary planning documents (see examples at <http://www.environmentbank.com/files/eb-planning-toolkit-england-march2017.pdf>).

In addition to the NPPF, net gain requirements also feature in the Government's 25-year Environment Plan (HM Government 2018). Compliance with the Plan will depend upon a robust mechanism for delivery across the country and it will be essential that planning authorities apply the rules consistently as and when they are introduced. Some developers are requesting that net gain should be for natural capital in its entirety rather than just biodiversity, believing that they can 'trade' natural capital gains through such features as SUDS, balancing ponds, hedge and tree planting (for carbon sequestration) at the expense of biodiversity, giving an overall net gain in natural capital but where, as ever, biodiversity loses out. This cannot be allowed to happen. Some developers are also including gardens within housing developments as features that, they argue, raise the biodiversity value of the land from the intensive farmland on which the houses are built. Whilst I agree these areas might be better in some respects than industrially farmed land, I do not believe one can integrate wider-countryside biodiversity conservation within a housing estate.

I am sure some will not agree with me on this point but, clearly, the system would be improved if we had: a) proper and appropriate assessment of the value of genuine biodiversity gain within the development scheme, so that developers

receive pragmatic advice but where our duty to biodiversity overrides our duty to the developer client, and b) much greater capacity and consideration on the part of planning authorities to require good quality Biodiversity Net Gain. If developers truly understood the economic value to their business and to biodiversity of off-site provision, they would not be persuaded that within-site delivery actually works for biodiversity at any meaningful scale. It simply does not.

Some of my most recent work comparing on-site versus off-site costs has revealed that only a very small amount of the required Biodiversity Net Gain can be delivered on-site without impacting on the development's viability and creating huge costs. The use of development land for Biodiversity Net Gain at the average development land values, and the reduction in net developable area that results, suggests that a 100 ha housing scheme, delivering 20% of the Biodiversity Net Gain requirement (at 10% gain rate), would cost the project £150 million in land value and lost revenue. By contrast it would cost just under £4 million to deliver the entire Biodiversity Net Gain requirement for the housing scheme off-site via habitat banking.

Manifesto for effective biodiversity conservation

1. Mandatory Net Gain. Making Biodiversity Net Gain a mandatory requirement of the planning and development system in England, as announced by the Chancellor in his Spring Statement (March 2019), and as originally recommended by the Ecosystem Markets Taskforce in 2013 (Ecosystem Markets Taskforce 2013), will facilitate a transformational change in

how development addresses biodiversity impacts. Not only will a mandatory system provide consistency, clarity, and a level playing field for developers, it will encourage investors to generate a market in offset site provision. The role of the local authority ecologist will gain prominence as Biodiversity Net Gain becomes a key factor in whether planning permission is granted.

2. Use the Defra metric. Each development to be required by the planning authority to have its impact measured in biodiversity units, assessed using the Defra biodiversity impact accounting metric which takes account of off-site provision through the deployment of appropriate spatial strategy maps (<http://publications.naturalengland.org.uk/publication/6020204538888192>). Locally based offset sites will provide greater gains for communities than a nationally focussed scheme.

3. Balancing on-site and off-site provision of Biodiversity Net Gain to be weighted towards off-site provision. Allow for some retention and mitigation within the development red line boundary using the mitigation hierarchy in a practical – not theoretical – way but only where this makes a proper contribution to biodiversity conservation. Given the constraints of delivering effective biodiversity restoration within the development site boundary, an 80:20 ratio of biodiversity gain between off-site (offsets) and on-site provision would have merit. Arguably, the 20% on-site provision should exclude landscaping, tree planting, SUDS, etc., which are features incorporated to make a development look more attractive to prospective purchasers or users rather than to protect biodiversity. Off-site provision would be beneficial to the developer in maximising net developable area and reducing ongoing, long-term management liability for biodiversity on-site, which currently developers very rarely achieve.

4. Governance. Regular auditing of on-site Biodiversity Net Gain required by the planning authority (or an environmental governance body) from the start of development work and continuing for at least 25 years once completed/

occupied, to ensure that within-site net gain is delivered and maintained. This should be underpinned by an insurance policy paid for by the developer to rectify deterioration or failure to deliver according to the management plan for the habitats retained within the development site. The developer would also enter a delivery contract with the planning authority or other independent body to cover the cost liability for 25 years or more. Failure to deliver and/or to rectify failure should be subject to a significant 'fine', the proceeds from which would be used to restore and manage the site.

5. Inspection. All planning authorities to be inspected regularly by an environmental governance body who would visit a random proportion each year to assess how their schedule of developments are achieving Biodiversity Net Gain both within-site and off-site. Any planning authorities found to be failing would be put into 'special measures' in order to generate improvements in their monitoring and enforcement of biodiversity policy. The key point is that on-site net gain and off-site provision should be subject to the same requirements and conditions.

6. Off-site provision of Biodiversity Net Gain to be achieved either through bespoke offset sites established with local farmers, landowners and conservation bodies as the delivery agents, or through the purchase of 'conservation credits' from larger, spatially cohesive habitat banks. As with bespoke sites, the establishment of habitat banks on farmland would be facilitated by brokers with appropriate expertise, where conservation credits generated from the banks are sold to developers and the delivery agents paid in return for meeting the objectives of biodiversity management plans. Habitat banks are a cost-effective way for all sizes of development to deliver Biodiversity Net Gain.

7. An environmental governance body should provide:

- an inspection function on planning authorities to assess how they are delivering their biodiversity duty
- an inspection function on developments to ensure on-site net gain is being delivered and to levy

finances on those that are found to be failing, in the absence of planning authority-led enforcement

- an accreditation facility whereby brokers can receive accreditation that guarantees they operate on the basis of established standards incorporated into their business model
- accreditation of bespoke offset sites and habitat banks based on delivery standards.

Environmental governance could be a role for the Environment Agency or Natural England, or the proposed new environmental watchdog – the Office for Environmental Protection.

With the above infrastructure, Biodiversity Net Gain from development would generate the degree of funding necessary to have a transformational impact on how biodiversity is viewed within the planning system and how biodiversity is restored at scale in the wider countryside.

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About the Author



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