

## UKGBC response to the net gain consultation:

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### 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 400 member organisations spanning the entire sector, we represent the voice of the industry's current and future leaders who are striving for transformational change.

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

#### **Responses to individual consultation questions:**

#### **1. Should biodiversity net gain be mandated for all housing, commercial and other development within the scope of the Town and County Planning Act?**

Yes.

UKGBC supports the principle of mandating net gain for biodiversity, and subsequently expanding the concept to include other environmental outcomes. Whilst we have seen rising interest in voluntary biodiversity commitments, there has been insufficient uptake to have a significant impact on ongoing biodiversity decline.

Our Gold Leaf members are a collection of organisations operating in the building sector with ambitious environmental aspirations and a strong societal purpose. Attention to biodiversity has been increasing rapidly, in line with the perceived future direction of policy and growing concern about biodiversity decline. Only 9% of Gold Leaf members had committed to a net gain target in 2017, however by 2018 this had risen to 22%. Of our Gold Leaf members, 60% have some form of commitment to nature and biodiversity enhancement or preservation.<sup>1</sup>

A lack of clear local and national government policies was cited by Gold Leaf members as the second most significant barrier to further action and commitments on biodiversity. Likewise, government policy was highlighted as the second most significant driver for increasing action in this area, behind customer demand. Mandating for biodiversity net gain would directly address these concerns, whilst expediting existing trends within the industry. The need for clarity in the implementation and progressive scope of any proposals would also be welcome within the industry, to provide ample time for adaptation.

Mandating a net gain approach would provide welcome clarity and direction for the sector, helping to facilitate a level playing field for developers and encourage further subsidiary markets for biodiversity-enhancing products and services. Specifically mandating the current proposals, such as the metric, rather than just simply stating an overarching net gain requirement, would also help provide clarity, consistency and simplicity through a standardised approach to measuring net gain. This should, through easily accessible guidance, be made consistent, compatible and comparable with other voluntary and local authority approaches.

The lack of a clear financial methodology was noted as the most significant barrier to the uptake of further measures on biodiversity for our Gold Leaf members. The virtues of simplicity and consistency in any approach to net gain have been strongly emphasised, providing potential efficiency savings for developers and consultants. We agree that the existing system and obligations

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<sup>1</sup> UKGBC, "Insights into Nature and Biodiversity: Industry trends, commitments and best practice examples", <https://www.ukgbc.org/ukgbc-work/nature-biodiversity-deep-dive-report/>

surrounding biodiversity are unclear and cumbersome, and we believe current proposals represent a significant improvement. The production and coherence of guidance and standards would be desirable, in order to provide further simplicity and encourage uptake.

Were current proposals to be mandated, UKGBC believes these would broadly be a favourable framework from which to approach net gain. The proposed system would provide welcome simplicity and if mandated would help to deliver much desired consistency. However, whilst we believe the current proposals provide broadly the right basis for an approach, we share some concerns that these should be refined further in certain areas. Likewise, we believe further action is needed in producing practical guidance for developers, alongside sufficiently phased implementation periods, to allow for sufficient adaptation and data gathering.

We welcome the consideration within the Policy Statement alongside the Environment Bill that notes that this Bill will legislate for biodiversity net gain.

## **2. What other actions could government take to support the delivery of biodiversity net gain?**

UKGBC would support further research and initiatives to develop clear operational guidance and standards for the delivery of biodiversity enhancement measures, to ensure what is delivered is of sufficient quality to provide genuine benefits for biodiversity. Likewise, this should include efforts to coordinate across existing standards and assessment methods.

We support the production of further practical guidance on biodiversity net gain by CIEEM, CIRIA and IEMA, alongside work by the Association of Local Environmental Records Centres (ALERC) on applicable guidance for permitted development. We are looking to work further with the BSI and Natural England on green infrastructure standards, to ensure measures are appropriate and effective. Further work by government in both convening and coordinating guidance, resources and standards in this area will be required to ensure the necessary information and models for delivery are readily available for the relevant actors and bodies, and there is no potential conflict or inconsistencies across differing frameworks.

UKGBC would also support clear national standards for the information provided on compensation sites (including a GIS data standard). This should include a national inventory of sites through possible mapping. A national inventory or map of areas which have been identified as compensation sites for development, managed by Natural England or Defra, would make it easier for Local Planning Authorities and developers to identify whether an area has already been allocated to compensate for a proposed development from the outset. This would help avoid double counting and ensure any outcomes are additional, whilst also aiding both enforcement and monitoring. Independent auditors, responsible for monitoring compensation sites, could use such an inventory for keeping track of both in-use and potential offset locations.

Under the current scope of this consultation, major infrastructure projects have been excluded. Projects such as HS2 have a significant impact on biodiversity and the natural environment, alongside the potential to deliver multiple benefits through net gain. Major infrastructure providers, such as Network Rail and Highways England, have voluntary biodiversity targets. However, we believe that Nationally Significant Infrastructure Projects should be required to strongly consider net gain and illustrate how they have taken steps to follow the mitigation hierarchy. We believe that government at all levels should set an example and trial effective biodiversity standards throughout infrastructure projects. This would help establish clear guidance and markets for green infrastructure, whilst insulating against risk. The use of biodiversity metrics, techniques and measurement in national infrastructure would reduce the burdens on developers, ensuring the costs associated with these approaches maturing are fairly distributed.

Natural England are already required to provide mitigation guidance for any schemes impacting on designated sites or irreplaceable habitats. This would commend an expanded role for Natural England in biodiversity net gain assessments. This could also involve review, comment or even

conducting the initial assessments, in order to determine if any additional actions are required to ensure quality biodiversity net gain is delivered.

We believe net gain and biodiversity enhancement should be considered as early and strategically as possible, including in Strategic and Local Plans. This will help address concerns from local communities, provide clarity to developers and help to avoid the most potentially harmful aspects of new development. Considering biodiversity on the broader strategic planning scale would help coordinate with initiatives such as Nature Recovery Networks and Nature Recovery Maps, ensuring coordinated, cross-boundary approaches to create joined-up, genuinely enhancing networks for biodiversity recovery. This should also include clear integration of the mitigation hierarchy into local plans, and the allocation of sites for development.

As per UKGBC's response to the NPPF, we believe that this should incorporate a stronger net gain requirement for new developments. The net gain principle must be more strongly embedded in the NPPF Planning Framework to ensure that it is considered from the outset of any new development and reflected in planning applications. This must include clear demonstration and details of efforts to follow the mitigation hierarchy.

However, the NPPF was only recently revised, and Policy Planning Guidance (PPG) is updated more regularly. PPG currently includes direction on how biodiversity can be considered in planning, with a specific reference to offsets being used to achieve no net loss and preferably net gain (Paragraph: 020 Reference ID: 8-020-20140306). However, this has not been reviewed since 2014, and should be updated in line with any new requirement. UKGBC agree PPG should be reviewed to explain more clearly how net gain may be achieved, including through the adoption of policies in development plans that require this (as currently allowed for, but not required by, the NPPF).

The future principle of environmental net gain must be approached with care so as not to undermine biodiversity net gain or result in trade-offs between ecosystem services (i.e. by prioritising easier or cheaper environmental gains, such as improved air quality, or trading high quality or irreplaceable habitat with larger amounts of poorer habitat) and avoid other unintended consequences.

We also welcome the consideration within the Policy Statement alongside the Environment Bill that this Bill will legislate for biodiversity net gain. Further such legislation would be a positive driver to ensure net gain and the aims of the 25-year Environment Plan are successfully delivered, monitored and effectively enforced.

The Environment Bill explanatory note suggests that town and country planning law is excluded, but the text of the Bill does not seem to rule this out. UKGBC do not see any reason why planning should be excluded. Planning decisions have significant impacts on the environment and should therefore be within the scope of the Bill. We would not expect the new Office of Environmental Protection (OEP) to be intervening on all small developments, but there may be large (or Nationally Significant) developments where there are significant or strategic potential breaches of environmental law. The OEP should have the power to investigate strategic breaches in relation to net gain, and include connection to an open citizen reporting framework, whereby lower level breaches may be investigated or pursued according to its own discretion.

We agree with calls for the future OEP to have a role in reporting and monitoring net gain delivery in line with the 25-Year Plan. This should include the publication of an annual report with detailed disclosure of gains and losses across the relevant areas. For this it needs access to the right data from Local Authorities, developers and public agencies, to judge whether the net gain system is delivering a net gain in biodiversity or if it is not living up to this ambition. The government's own draft environmental indicators will measure individual elements of the environment, but do not appear at present to interpret these through the lens of specific policy frameworks. The OEP should have the remit, ability and expertise to do so in specific relation to net gain. A truly independent

voice that can judge the effectiveness or otherwise of the net gain system will be important to ensure the efficacy of, and public trust in, any net gain system.

The process for producing and affirming Neighbourhood Plans should involve stronger requirements for the consideration of biodiversity enhancement, delivering net gain and adherence to the mitigation hierarchy. This could be achieved through enhanced evidence requirements, guidance and subsequent Local Planning Authority (LPA) appraisal focus.

Further guidance should be explored and provided regarding permitted development. Such development does not pass through the usual planning application procedures and therefore any related requirements cannot be imposed. However, some permitted developments have substantial ramifications for local biodiversity, such as when located near to an ecologically sensitive area, when exceeding a certain size or cause light pollution. Clear and readily available guidance related to the size and nature of a permitted development would help avoid harm to biodiversity and promote opportunities for enhancement. We support the work of ALERC in this area, in suggesting a 'banded system with stepped tariffs and other suitable measures to achieve net gain'. (See also question 3)

**3. Should there be any specific exemptions to any mandatory biodiversity net gain requirement (planning policies on net gain would still apply) for the following types of development? And why? a. House extensions b. Small sites c. All brownfield sites d. Some brownfield sites (e.g. those listed on brownfield, or other, land registers)**

UKGBC believe there should not be explicit exemptions within the scope of current proposals. However, alternative approaches may be desirable in certain cases, with flexibility in how developers may be able to contribute to net gain. An approach similar to the Urban Greening Factor in the draft London Plan may be applicable in some circumstances, allowing improvements to be achieved on a small scale. Likewise, contributions to local government or small-scale community initiatives may offer flexible routes for delivering biodiversity enhancement.

We support the work and guidance of ALERC to produce suitable options for permitted development, which could be expanded and made more readily accessible to provide clarity and practical guidance. We agree with ALERC that for all small developments below a certain level and of certain types (both yet to be fully determined) there should be a banding system (notionally 5 bands) with stepped tariff levels (based on the metric) which would apply if the scheme cannot deliver adequate gains through small-scale on-site improvements.

As a result, when a planning application is submitted, this should:

- 1- Let small developers/householders identify their banded payment obligations, or whether their proposal falls outside banding arrangements, and demonstrate that they have undertaken the necessary assessments (which should be supplied with the application if it is to be validated, helping to avoid delays).
- 2- Enable the applicant to identify how any built-in, on-site, near vicinity or offset biodiversity enhancements may be set against these options, and whether any additional tariff contribution is proposed.
- 3- Allow validation officers to verify the proposals and check applicant tariff calculations [\*this should be automatically calculated based on size, type and location where banding applies] and payments, and flag up schemes for scrutiny where needed, i.e. incorporating it into the existing process rather than adding an additional step.
- 4- Let banded tariff payment be taken together with the planning application payment (doing this with the Community Infrastructure Levy (CIL) would be an alternative but not all LAs operate CIL). For developments above the threshold, any agreed tariff payment would need to be made either prior to approval or as part of addressing a pre-commencement net gain condition.

- A. Housing extensions: when classed as permitted development, these do not go through the usual planning application procedures and so would not be within the scope of the current proposals. The majority of such work, in line with current guidance, is likely to have minimal impact. However, when located near to sensitive areas, exceeding a certain size or containing certain built features (such as exterior lighting or artificial surfaces), extensions can have a negative impact on biodiversity. Further additions should be made to relevant guidance to ensure biodiversity impacts and the potential net gain are fully considered, in line with an appropriate typology and impact factor consideration.
  
- B. Small sites: the consultation is unclear which definition of these may be considered. The cumulative impact of development on small sites, whichever definition is used, can be significant in terms of biodiversity enhancement or reduction. Conversely, small collective improvements in biodiversity could substantially assist the development of local nature corridors, support existing species populations and potentially recolonization by new species. Small sites should therefore not be exempt as they can offer significant cumulative biodiversity potential.

A significant concern is the maintenance of such small sites' enhancements post-completion. Whilst larger developers may have the resources and land to provide significant offsets elsewhere on economies of scale, smaller developers may lack the resources to provide significant offsets if they are unable to deliver or maintain these on-site. Concerns around smaller developers must be managed to ensure they are not priced out of the market. This could include a simplified version of the current framework, that rewards micro-habitat creation or cumulative contributions from smaller developers on smaller sites to other local nature projects (for example through sponsoring street trees or contributing to local council conservation projects such as allotments, hedge planting or wildlife habitats in parks). This would also alleviate long term concerns over maintenance if efforts could dovetail into projects with pre-existing management funding (such as parks, local streets or roads). We support efforts by ALERC to produce relevant guidance in this area. Clear guidance should be produced and made clearly available through an accessible centralised information portal or hub, to ensure small developers and Local Authorities are well placed to respond to such projects through guidelines on both viable on-site and off-site measures.

A threshold should be set to determine for which size sites any simplified process is applicable. An example of an existing threshold is in the new Land Use and Ecology section of BREEAM's UK Non-Domestic New Construction guidance published in March 2018. In this case, the simplified method can only be used when there is less than 500m<sup>2</sup> of habitat on site and there are no habitats of high distinctiveness or principal importance present.

C./D. There should be no exemption for brownfield land. The redevelopment of brownfield land accounted for half of development in 2016/17 according to MHCLG's land use change statistics (live table P350). To exempt all brownfield land would mean a missed opportunity to create significant biodiversity improvements.

The current definition of brownfield land is very broad, including derelict urban sites, alongside airfields and former hospitals. Some such sites could have significant biodiversity value, given low levels of building density and associated marginal green space. In addition, some derelict urban brownfield sites, termed open mosaic habitats, can support key

invertebrate species, which in turn are a vital part of the food chain and plant fertilisation. Such sites should be factored into the metric.

A net gain approach would offer a significant opportunity to avoid biodiversity loss from the development of these sites, alongside helping to garner greater community support for developments, which may be on a significant scale if located on airfields or former barracks for example.

However, we recognise that it is important to ensure that biodiversity net gain does not reduce the number of suitable small and brownfield sites coming forward for development. In such cases we would support a transparent viability assessment being used, in line with existing planning policy, to establish an appropriate level or mechanism to achieve gain, or alternatively default directly to the tariff in certain circumstances. On suitable brownfield land with little current biodiversity value, an approach similar to the Urban Greening Factor in the draft London Plan would enable a minimum standard to be achieved. This could be set locally to reflect local conditions.

Development of low value brownfield sites should be incentivised to encourage the most efficient use of land, urban regeneration and to minimize impacts on biodiversity. The current proposals would implicitly favour such sites, given that compensatory units required would often be lower.

Further guidance could be provided, linking with habitat mapping, brownfield registers and the National Land Use data base to ensure the mitigation hierarchy is followed in relation to delivering a strong preference for low-biodiversity value brownfield.

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## Exemptions and adaptations

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### **4. Are there any other sites that should be granted exemptions, and why? For example, commercial and industrial sites.**

Commercial and industrial sites can have a negative impact on biodiversity and the wider environment. Residential development only accounts for 16% of all greenfield development over the last 4 years, with industrial and commercial development representing 22% (MHCLG Live table P351). In order to deliver significant improvements for biodiversity, it will therefore be essential for these types of development to be within the scope.

However, there are concerns over the viability of delivering a net gain approach on commercial and industrial sites, with minimal marginal land and low direct income.

Whilst some intensive land uses may be challenged by net gain provision to a greater extent, such as commercial warehouses with reduced public realm potential. The primary impact factors relate to size - of the site, developer or supporting business resources. This includes the relationship to local land prices. Typologies, guidance and case studies would be welcome to provide clarity on impacts and options for different development types and sizes, such as encouraging green roofs for commercial warehouses, alongside similar innovation. Warehouses specifically should not be exempt. To exclude them would exempt an area of substantial new retail construction growth, given the continued rise of online shopping, with warehouses often sited on the environmentally valuable rural-urban fringe.

We support the production of further guidance by CIEEM/IEEMA and ALERC to provide consistency and clarity in how to deliver net gain, whilst encouraging innovative solutions. We would support a role for government in centrally cohering guidance, to improve accessibility and clarity.



**5. As an alternative to an exemption, should any sites instead be subject to a simplified biodiversity assessment process?**

See question 3.

**6. Do you agree that the Defra metric should allow for adjustments to reflect important local features such as local sites? Should the Defra metric consider local designations in a different way?**

Yes.

We believe it is important for locally designated sites, including local wildlife and green space, to be given full weight in the metric. This would be the best way of providing a joined-up approach to biodiversity, encouraging partnerships and promoting coherence across existing biodiversity plans and schemes. The metric should develop adjustments for alignment with Sites of Importance for Nature Conservation (SINC) and where the development may impact existing green corridors. Any adjustments should aim to maintain comparability and consistency across local authorities.

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

No comment.

**8. For what species is it plausible to use district level or strategic approaches to improve conservation outcomes and streamline planning processes? Please provide evidence.**

No comment.

**9. Are there wider elements of environmental net gain that could be better incentivised? If so, please specify which, and any benefits that such incentives could provide.**

Yes. However, we believe that a biodiversity net gain approach must focus primarily on delivering gains for biodiversity. We believe the current approach of first developing net gain for biodiversity, followed by subsequently expanding to net environmental gain in the future, is correct. The ongoing decline in the UK's biodiversity is an urgent problem that must be specifically addressed. Incorporating consideration of wider environmental gains, whilst potentially providing broader benefits, could adversely detract from the urgently required focus on specifically addressing biodiversity decline, through potential trade-offs. The planning system already requires consideration of a wide range of environmental and social issues in plan preparation (tested by Strategic Environmental Assessment) and determining planning applications. The addition of detailed further metrics at this stage would add complication, compromising the aims for simplicity and improved efficiency.

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## **The Metric**

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**10. Is the Defra biodiversity metric an appropriate practical tool for measuring changes to biodiversity as a result of development?**

Yes. We believe that the DEFRA metric is broadly speaking the right approach for measuring biodiversity changes. The UK urgently needs to make green infrastructure and biodiversity enhancement national infrastructure priorities, so this represents both a welcome and crucial first step.

The updated metric and forthcoming spreadsheet tool provide clarity on aspects of significant ecological concern, such as the preference for 'like-for-like' replacement, spatial connectivity and habitat quality. These aspects are of significant value in ensuring the right habitats are delivered in

the right places, to provide the best enhancements for biodiversity. Likewise, the metric provides a welcome, simple tool for developers.

UKGBC members have been involved in piloting the current metric and have found it a simple, practical tool that is clear and easy to use, albeit still with some training requirement. The framework outlined provides a strong initial basis for assessment. This is in turn sufficiently flexible to allow for further revision and perfection over time, as further evidence from in-use performance becomes available. Further trials and evidence would be of value in terms of integrating concerns over specific species, habitat time-lags and spatial connectivity.

### **11. What improvements, if any, could we most usefully make to the Defra metric?**

Concerns have been raised over the failure to include a system focused on specific species, in favour of the habitat proxy system. We would support the further inclusion of species within the metric, without compromising the simplicity and practicality of the current framework. We would echo supplementary concerns raised that the 'condition' aspect of the proposed metric may, as currently proposed, suffer from subjectivity issues. We would therefore support calls for some form of species-based assessment or counting to be integrated into this section in a simple, clearly defined way, in order to reduce potential for disagreement and inconsistency. This could be developed as a result of further trials.

We agree with calls for the visual impact on the local landscape character to be included. This could potentially be incorporated under both the distinctiveness or spatial connectivity assessment categories or accounted for under the proposed risk factors (in terms of the time taken to mitigate).

The condition assessment method needs to be updated to make it more robust whilst maintaining simplicity. There is currently no integrated method for assessing the condition of rivers and streams which should be addressed. The hedgerow condition assessment is likewise too simplistic at present, as it does not consider species diversity or value for wildlife.

We share concerns that the current metric does not adequately reward small increases in biodiversity (e.g. gardens, young plantations, and green roofs). These and other small components, such as bat boxes, hollow bricks for nesting birds, fruit trees, hedgehog highways, pollinating plants for bees, etc. should be rewarded in the metric. There are numerous examples of good design practice from members that should be encouraged though incorporation into the metric. This would help to encourage innovation and the delivery of tailored solutions, helping to develop green industries associated with such products. Single trees (including street and veteran trees) should also be included in the condition assessment method, with potential reward for Tree Protection Orders, TPOs.

UKGBC believe that the creation of new habitats should be strongly incentivised, as this will help provide the greatest benefit for biodiversity enhancement. New habitats with full management plans and clear ownership accountability should receive a higher score than land not legally committed to be maintained in a biodiverse state. Permanently committed habitat should receive an upward weighting factor in the metric.

We share concerns that the current metric risks disincentivising habitats that take longer to establish, such as woodland, through the time multiplier. This should be rectified through compensatory changes to the metric, whilst ensuring risk multipliers are maintained.

### **12. Would a mandatory 10% increase in biodiversity units be the right level of gain to be required?**

We believe that a net gain requirement of 10% should be mandated, with the potential to go further. Proceeding based on a generalised target is beneficial as it offers consistency and would help to streamline the process. A looser case-by-case approach would be too complex, adding layers of negotiation, room for challenge and disagreement that could potentially delay applications and increase costs. This could be addressed though a differential subset of targets, although this would



require detailed guidance in order to maintain clarity. As explored in questions 2 and 4, we do not believe there is sufficient evidence for differential targets on the basis of development type, instead, the primary focus should be on factors related to size, including models to fit smaller developments and developers.

Page 18 of the impact assessment suggests a net gain of 10% to infinity is required to avoid net loss of biodiversity, with a relatively low financial impact. Projects and sites delivered by members have successfully achieved a 10% increase or even more substantial gains; in some instances 180-200%. This has been achieved primarily through changes in site design. Such scores were highly contingent on site types, with more consistent gains corresponding to brownfield projects. Furthermore, certain members have set percentage biodiversity targets exceeding 10%. Landsec, for example, have a commitment to a 25% net gain across 5 sites by 2030.<sup>2</sup>

These have demonstrated that a 10% target is eminently achievable in certain circumstances, particularly in sites with initially low biodiversity value. Proposals would therefore provide a positive incentive for development of contaminated brownfield land especially in areas such as inner cities, encouraging urban regeneration. We would support such incentives, which encourage the most efficient use of land in urban areas, assist regeneration, and minimise the negative environmental impacts of development. Likewise, this has the opportunity to encourage greener development in areas where it is lacking, delivering benefits for the locality and community, such as air pollution mitigation, for example.

However, concerns have been raised over the 10% target in conjunction with the risk multipliers present in the metric. When applied, the risk multipliers alone could result in a post-development target exceeding a 10% increase on previous unit score. Together with an additional 10%, this may represent a much more challenging target for developers.

The recently published BREEAM guidance, which uses the Defra metric, for calculating ecological change, suggests that a 5%-unit increase would be sufficient to deliver biodiversity net gain. Adopting a target of 5% would therefore mirror this existing guidance. However, we are concerned over any dilution of ambition and potential risk to net gain delivery, particularly as significant gains are both already achievable and have been achieved. Any recourse to a 5% threshold should be carefully and robustly justified. If a lower target were implemented, a clear 'staircase' or ratchet mechanism should be introduced to ensure such an approach is reviewed and progressively strengthened over time, building on clear transparent reporting and evidence. This would correspond to a phased implementation period, with the aim being to implement a policy that delivers net gain with a secure margin.

We believe that a 10% increase is the correct goal for government to set. This matches with the experience of members, with projects that have illustrated that gains of 10% in conjunction with (or in line with the expectations associated with) multipliers, are eminently achievable. This should follow a phased implementation period, in line with accrued evidence on the delivery of biodiversity improvements. Any phased implementation period must remain mindful of key ecological "milestones", such as species decline trajectories, in order to avoid certain species suffering irreversible decline.

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## The Tariff

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### **13. In clearly defined circumstances, should developers be allowed to pay through the tariff mechanism without fully exhausting on-site and local compensation opportunities?**

Yes. A tariff offers a viable solution where both on-site and off-site delivery of net gain may be too challenging or inappropriate. This should only be in exceptional, clearly defined circumstances, in

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<sup>2</sup>Landsec, "Sustainability performance, methodology and data 2017", [https://landsec.com/sites/default/files/2017-06/SRB\\_Performance\\_Data\\_Report\\_2017.pdf](https://landsec.com/sites/default/files/2017-06/SRB_Performance_Data_Report_2017.pdf)

line with the mitigation hierarchy. Tariff spending should go directly to supporting both a local and national strategic plan for biodiversity. Where a development crosses multiple local authority boundaries, we believe that a national governing body, such as Natural England, should be given authority to decide where best to invest the tariff, in line with strategic biodiversity priorities and mapping.

We consider that where the possibility of a development on a suitable brownfield or small site is at risk, there may be a case for applicants to make use of the viability assessment process in national planning policy. Development of such sites may have the potential, through the tariff, to contribute positively to efforts to enhance biodiversity, more so than if they were allowed to fall through. In such cases, there would need to be a limited, fair and transparent process to ensure that the mitigation hierarchy is adhered to, and all possible opportunities, in line with feasibility, have been examined sufficiently. Local Planning Authorities should have the right to refuse planning permission when it is evident that all on-site or local options have not been adequately considered.

#### **14. Would this be an appropriate approach to directing the location of new habitat? (On-site or off-site hierarchy)**

We broadly support the current proposals for an implicit hierarchy. On-site measures would be initially attractive to developers, being easily accommodated through the design stage. On-site benefits also provide a significant advantage for addressing local concerns surrounding development, providing clear visual evidence for the accommodation of environmental considerations associated with opposition to new development. Likewise, on-site measures may subsequently be maintained through residents' associations or property management companies on larger estates and associated projects.

Off-site offsetting can be of significant ecological value in creating joined-up habitats, such as habitat corridors between the fragmented natural landscape. However, when delivered remotely from the development location this can fail to deliver sufficient reassurances for impacted local residents. This may be addressed through further education, clarification and publicity initiatives to promote the net gain approach. If the tariff, in conjunction with others, paid for a local woodland, this is likely to add more value for the residents than localised shrubs and bat boxes. It will be important to define clearly the process by which it may be judged that net gain 'cannot viably be delivered on-site'. A biodiversity net gain spatial strategy that draws on biodiversity mapping could provide developers and decision makers with clarity on when it is appropriate to provide compensation on-site and allow developers to factor that into the price they pay for land.

The long-term maintenance of off-site offsets offers a significant challenge in terms of funding, with developers and landowners concerned over longer term funding and land-use restrictions. Likewise, off-site offsetting, in areas of high development pressure, may lead to regionalised biodiversity deficits, compromising local distinctiveness. New partnerships with NGOs, landowners, water companies and other offset providers offer the potential for innovative solutions in this area. However, these will require further investigation, trialling and research in order to fully mature and avoid the issue of regression or similar unintended consequences. Further centralised guidance may subsequently be issued when such approaches have been fully developed on the necessary scales and timeframes.

We believe that the current proposals provide sufficient flexibility to deliver the benefits of both location principles. However, the viability threshold that determines the developers' ability to deliver gains on-site should also be clearly defined. The system should not risk a 'viability loophole' as experienced with affordable housing provision.

### **15. How could biodiversity assessments be made more robust without adding to burdens for developers or planning authorities?**

The capacity and resources of Local Authorities to conduct or verify robust ecological assessments are a significant concern. This could be met by central government funding, or alternatively, where local expertise and resources are lacking, bodies such as Natural England may be able to take a greater role in providing experts for conducting assessments. Natural England would be well placed in this role, given its pre-existing involvements with developments and environmental assessments. This would minimise the additional funding burden, with biodiversity assessments matching pre-existing obligations as far as possible. However, Natural England currently faces its own capacity challenges which would need to be addressed.

The biodiversity net gain assessment should be audited by an independent auditor or specialist industry body (i.e. CIEEM, CIRIA). The same independent auditor could also be responsible for monitoring the offsets and habitat management plans which are put in place for protected species.

There should be accreditation to ensure those conducting net gain assessments are qualified. This could be similar to the approach used in BREEAM which requires a Suitably Qualified Ecologist (SQE) to have 5 years of ecological experience, membership of an industry body, such as the Chartered Institute of Ecologists and Environmental Managers, and an appropriate degree. The BREEAM method also stipulates that an ecologist is required to visit any site with habitats likely to be of high biodiversity value, offering a means of verification and monitoring.

In some cases, developers are already reliant on non-statutory organisations, such as the Wildlife Trusts, for ecological advice related to net gain. Further recognition and standardisation of the role of such providers may also present a cost-effective option. In addition, Local Nature Partnerships may also be able to play a role in a similar capacity, although these also may share funding issues and are not currently ubiquitous across England.

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## **Mapping**

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### **16. Should a baseline map of broad habitats be developed?**

Yes. The Magic Map website offers a potential starting point. It already provides a broad baseline of habitats and is available for public use <https://magic.defra.gov.uk/MagicMap.aspx>. Future mapping should maintain transparency but provide more detail, helping bring together relevant information as clearly and coherently as possible.

Underpinning data sets within Magic will need to be revised and updated. For example, the Ancient Woodland Inventory should include smaller sites which are currently missed as well as ancient wood-pasture and parkland, which are currently treated inconsistently. The map would need to be regularly updated, to ensure the data is current, and monitored to ensure accuracy.

On the local level, the LPA should be obliged to make available (itself or via the relevant Local Environmental Records Centres, LERC) a live and up-to-date map which identifies whether a percent biodiversity gain or urban green factor applies to a particular location and at what level(s). This should feed into national mapping to aid strategic planning.

We support the work of ALERC in this area, particularly around cohering various strategic biodiversity allocations and plans through a single map with relevant designations labelled. This would help streamline the process through putting data and information from Biodiversity Action Plans, Green Infrastructure Plans and Biodiversity Opportunity Areas into one place. This would provide clarity and simplicity for developers, helping to promote efficiency.

Local mapping should be of sufficiently high resolution, with detailed ecological information on the importance of wildlife sites, habitats and species. This should be combined with the relevant designation information, with input from Biodiversity Action Plans, Green Infrastructure Plans and

Biodiversity Opportunity Areas, Strategic Environmental Impacts Assessments, local plans and nature recovery networks. Further information should outline how important each of these is at a national, regional and local level, with opportunity maps to highlight where sites, habitat patches and populations/assemblages could be expanded, linked or improved.

Furthermore, mapping could also utilise geospatial data for monitoring and reporting on the delivery of required gain sites. This information should be available to whichever body is responsible for delivering the local nature recovery network.

LERCs have already begun to develop tools to address the local delivery needs of local authorities, commercial habitat providers, developers and their agents. They are looking to do so in a way that will allow data and maps to be merged at regional and national level, and to provide the reports which will allow national agencies to monitor the progress of net gain outcomes and the development of nature recovery networks on a large scale. This includes facilitating preparation for a broader environmental net gain approach in future.

**17. Should this be applied, as a minimum baseline, to: a. net gain calculations for all development?  
b. net gain calculations in cases of suspected intentional habitat degradation?**

We believe that broad scale mapping and a national dataset would provide a valid starting point for assessing development, particularly for strategic planning and nature recovery networks. However, a national baseline map would require regular updates and finer scale checking for accuracy. This would involve working in tandem with local level mapping initiatives and datasets. These would need to be readily available and accurate to be effective in monitoring net gain on a local level, whilst also providing detailed data for the national map. In this regard, there should be a greater role for environmental local records centres, who are well placed to provide up-to-date local data to inform developments and national strategic mapping. Developers often already rely on local records centres, so an approach to create an integrated system that joins up local and national data would be welcomed in delivering consistency. Any such integrated data system should be easily accessible.

**18. What other measures might reduce the risk of incentivising intentional habitat degradation?**

See also question 17. The availability of clear baseline environmental data is crucial to reducing the risk of intentional habitat degradation. This information could be gathered through regular landowner and land quality reporting to Local Planning Authorities to ensure that incidents are more readily apparent. Likewise, LERC's data should play a greater role in providing up-to-date information. Data and progress relating to net gain should be transparently disclosed, in order to reinforce public trust.

Ensuring that the biodiversity net gain approach is simple to follow would alleviate any incentive for biodiversity degradation. This should involve ensuring consistency and coordination across existing standards, relevant plans and guidance.

Local Authorities should be empowered to reject planning applications if they are presented with evidence that the habitat has been intentionally degraded.

**19. How can the risks of penalising landowners making legitimate land use change decisions before deciding to sell their land for development be mitigated?**

A potential requirement for notification to the Local Planning Authority or Natural England of any land-use change, working alongside the national land use database, would provide a record of land-use changes which could then be referred to in the case of imminent subsequent development. In such cases, the body involved in conducting or verifying the initial net gain assessment may thus have discretion to refer back to a previous land use designation if it was suspected that changes had been put forward in order to minimise potential biodiversity net gain obligations. This could

likewise be cross-checked against local Biodiversity Action Plans, Green Infrastructure Plans and Biodiversity Opportunity Maps.

**20. The provision of compensatory habitats will need to be guided by habitat opportunity maps. At what scale should these maps be developed? a. Locally (e.g. Local Authority or National Character Area) b. Nationally (i.e. England) as a national framework to be refined, updated and amended locally**

We agree that compensatory habitat maps should be at a landscape scale so as to accord with natural environmental factors rather than arbitrary government boundaries. Opportunity maps should tie into national strategic initiatives, baseline mapping and strategic planning, such as Nature Recovery Networks, in line with the strategic coordination role of the overarching responsible governance body. Natural England's National Character Area (NCA) profiles have already identified Statements of Environmental Opportunity, and local landscape character assessments should be used to inform habitat maps, which should be produced at local authority level. This would therefore make such data readily accessible on the level of planning permission. Opportunity mapping should aim to tie in with pre-existing mechanisms, such as Biodiversity Opportunity Areas, Biodiversity Action and Green Infrastructure plans to avoid duplication. The frequent lack of landscape and ecological expertise within local authorities means that habitat opportunity maps will be important to guide decision-making about where new development should be permitted and the impact it would have on habitats and biodiversity in the area.

The Biodiversity Opportunity Areas developed for the South East of England and Warwickshire provide good examples of habitat opportunity mapping within designated areas. All opportunity maps should be built upon existing data and focus on delivering the principles set out in Making Space for Nature for making sure the areas of existing habitat are improved, made bigger and joined up.<sup>3</sup>

**21. What other measures should be considered to identify biodiversity and natural capital priorities?**

Local Nature Partnerships, National Park/AONB Management Plans and existing catchment-based approaches should also be used to identify biodiversity and natural capital priorities. We agree with calls for the government to work towards incorporating natural capital assessment as part of due diligence checks for land use change.

The current volume of relevant biodiversity schemes, plans and initiatives may make coordination challenging, creating complex work for Local Authorities. Further guidance should aim to clarify and cohere habitat mapping with various existing schemes, such as Biodiversity Opportunity Areas, Biodiversity Action and Green Infrastructure Plans. Any approach should be as simple and user-friendly as possible to promote efficiency and efficacy.

Mapping should not be used to prevent other appropriate opportunities coming forward, such as an area outside of a mapped 'opportunity', although the type of habitat will need to be appropriate to the site and be informed by local knowledge and expertise.

**22. Would mandating net gain through the planning system be enough to stimulate the growth of a market for biodiversity units?**

We agree that mandating net gain will help develop a market for biodiversity units, alongside assisting markets for both offsets and biodiversity enhancement products in construction. However, such a market will require clear regulation to avoid double counting and unintended consequences.

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<sup>3</sup> "Making Space for Nature: A review of England's Wildlife Sites and Ecological Network", <https://webarchive.nationalarchives.gov.uk/20130402170324/http://archive.defra.gov.uk/environment/biodiversity/documents/201009space-for-nature.pdf>

The sale and exchange of credits earned from excess improvements on-site could disincentivise the creation of new habitats, which would be of greater value to biodiversity enhancement.

Net gain should be clearly measured, being subsequently monitored and tracked transparently, for each planning application, and should be preferably delivered as near as possible to the proposed site. Concerns about the relative merits of quality and quantity for biodiversity enhancement should be explored more fully in regulation and guidance of any offset market. This should include consideration with reference to both regional and national strategic biodiversity priorities and planning.

We would support moves to explore possible connection between the provision of net gain and the Agriculture Bill, ensuring farmers, land owners and managers are rewarded for providing enhancements for nature and beneficial land management practices.

**23. What further measures would help to ensure that the market provides: a. Sufficient biodiversity units for development? b. Cost-effective biodiversity units?**

The involvement of Local Nature Partnerships would be beneficial in assessing the priorities and needs of local areas. Local Nature Partnerships could play a vital role in facilitating wider partnerships between developers and NGOs, in order to help provide viable, cost-effective and strategically located, offset sites. Any net gain governance framework should incorporate a clear mechanism for easily identifying potential partnership opportunities in a region or wider area, alongside ensuring clear guidance on viable options. This should help developers to demonstrate compliance with the mitigation hierarchy.

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**Covenants**

**24. Should there be a minimum duration for the maintenance of created or enhanced habitats?**

Yes. New habitats are often initially vulnerable and will take time to reach maturity. In practical terms, for net gain to be delivered successfully and the risk of offset failure addressed, minimum durations of maintenance will be required. However, longer durations can represent a significant financial challenge for developers. Suitable models and best practice guidance should be developed through trials and partnerships, to establish sustainable offset frameworks.

**25. If so, what should the minimum duration be? a. Less than 25 years b. 25 to 30 years c. Longer than 25-30 years d. Permanent**

Minimum durations required to secure net gain will depend on the type of habitat created. Woodland, for example, would take many years to fully establish and deliver the associated benefits. Likewise, in order to successfully halt the decline in the UK's biodiversity, the amount of biodiverse habitat should not decline, and the potential for mature habitats to fall back into less beneficial uses should be avoided. Mature habitats are typically of significantly greater worth in terms of biodiversity than those newly created. However, as habitats mature the level of biodiversity goes up but often then decreases upon full maturity, known as succession. The optimal state of a habitat for biodiversity purposes is often the intermediate phase. The regression of previously created habitat (quality) will therefore be of a greater ecological concern vis-à-vis simple annual net unit additions (quantity).

Long maintenance timescales represent a significant challenge for developers, particularly those with limited resources or operating on a smaller scale. A requirement for longer minimum periods may act as a disincentive to landowners providing sites, as these would reduce their flexibility and potential for future risk mitigation. In current cases, developers often work in partnership with NGOs to deliver offsets long term, with clear management frameworks. This should be encouraged further, with clear guidance, information hubs and options produced in line with habitat opportunity mapping which would allow developers to easily access and view potential options



through clear information hubs. This would streamline the process, providing efficiency savings and assist in demonstrating compliance with the mitigation hierarchy.

Current conservation efforts around 'rewilding', restoring habitats to a state where they are, to a degree, self-sustaining through natural processes, should be explored in relation to the provision of offsets. Such initiatives have the potential to produce significant benefits for biodiversity and key species, whilst reducing maintenance costs and intervention work required.

#### **26. Would conservation covenants be useful for securing long term benefits from biodiversity net gain or reducing process and legal costs?**

Conservation covenants would be a useful option for delivering net gain. They can ensure sites are maintained in perpetuity, therefore providing continuous benefits for biodiversity enhancement in line with the recommendations of environmental NGOs. Long term covenants may, in some cases, provide savings through both long-term management planning and certainty.

However, covenants have generally seen low take-up and popularity amongst landowners, due to the inherent lack of flexibility and restriction from perpetual land-use designation. For farmers and land managers, this can reduce their ability to respond effectively to specific land-use or external market pressures.

Covenants should remain an option for delivering net gain, however a diversity of approaches should be maintained in order to provide flexibility and attract initial investment.

#### **27. What safeguards might be needed in the implementation of conservation covenants?**

Conservation covenants should be monitored by an appropriately registered or accredited body, such as the National Trust. This could be expanded to other non-statutory organisations, such as the Wildlife Trusts or WWT.

#### **28. Does this proposed range for tariff costs fit with the principles set out in this section?**

Yes. We believe the proposed range for tariff costs broadly fit with the principles set out in this section. However, we agree with concerns that the estimated cost per unit may be too low, and there are insufficient safeguards to ensure this is inherently reinforced as a last resort in line with the mitigation hierarchy.

It should be clear that any payment for mitigation or compensation that cannot be made on-site or by the developer in the immediate locality is only acceptable in highly exceptional circumstances. Planning practice guidance should define these circumstances. Guidance should detail how agreements are reached regarding losses that cannot be avoided, minimised or mitigated on-site, and this should be a transparent process. Independent qualified assessors should play a role in assessing biodiversity value and potential impacts. We would support the relevant overarching net gain governance body, such as Natural England or the OEP, taking a greater role in enforcing and monitoring compliance with these requirements.

We would agree with others that the figures in the impact assessment do not reflect the full range of costs associated with habitat maintenance and creation, and therefore do not offer a sufficient disincentive to prioritise the former. For example, the management of a fenland habitat may cost significantly more than managing an area of semi improved grassland. A developer impacting on fenland should be obliged to pay a higher priced tariff to reflect the costs of future management of the habitat. This would also encourage developers to impact on less biodiverse habitats.

Likewise, the tariff does not currently cover local authority administration. The tariff must be additional to, or a ringfenced element of, income received through Section 106 or CIL that goes towards specifically green infrastructure as a condition on the development. Spending the tariff must be a transparent process, to ensure public trust and successful delivery. Upfront clarity and transparency about costs of achieving biodiversity net gain and phased payments (potentially

including from resident service charges) would ensure they are factored into land values and viability appraisals minimising impacts on wider infrastructure delivery.

**29. Would this proposed range for tariff costs provide opportunities for cost-effective habitat banks and compensation providers to compete?**

No comment.

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**Who administers the tariff and how should it be spent**

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**30. Do you agree with the proposed principles for setting the tariff rate, as set out in this section? Please suggest any other factors that should be taken in to account.**

Yes.

UKGBC agrees with the principle that any tariff should cover the costs of both the replacement and maintenance of habitats and the delivery and monitoring costs. Receipt of tariff funds should correspond to directly associated need and involvement in any offset provision.

Irreplaceable habitats should not be part of a tariff scheme.

**31. How should the tariff revenue be collected? a. Locally (e.g. through a local authority) b. Nationally (e.g. through Natural England or another national body) c. Other, please specify**

Our initial preference would be for the collection of the tariff to be as local as possible. This would help ensure accountability and be more likely to link to the provision of specific, direct benefits for those most impacted. This could occur as part of the planning application process, similar to Section 106 agreements, as a standardised requirement or ringfenced commitment. This would link in with existing mechanisms and administration for streamlining and efficiency. It would be more convenient for developers for the net gain tariff to align with Section 106, as this has the ability to phase the tariff, e.g. for larger sites, as is already the case for things like affordable housing contribution. Not all LPAs have Community Infrastructure Levy schemes, so we do not think this would be an appropriate mechanism.

A Strategic Planning Authority could also collect and spend the funding, including devolved or Mayoral authorities. This may correspond to the nature of the application in question, for example, if it crosses multiple local authority boundaries and whether a devolved authority is present. Transparency is crucial to the administration and spending of the tariff, in order to build public trust and show the delivery of clearly discernible biodiversity benefits associated with development.

However, as problems with the affordable housing contributions illustrate, any alignment with Section 106 suffers from the issues of negotiation and enforcement. This is to some extent mitigated by the clear methodology associated with net gain, reducing the room for disagreement.

In designing the governance structure for the tariff, consideration must be given to any negative impacts and perverse incentives accruing as a result of external pressures on the governance body. For example, local authority housing target pressures must not unduly encourage recourse to the tariff at the expense of the mitigation hierarchy.

A nationally administered scheme would help deliver a degree of separation from adverse local pressures. This would not necessarily represent a complicated additional burden for developers, if delivered according to a clear methodology as outlined in the current proposals. National collection would also help address local authority capacity issues, alongside transparency issues associated with Section 106 spending. This would also allow for greater focus on national-scale strategic biodiversity planning, if aligned with the spending of the tariff. However, a national body would not have the same level of public accountability as a local or regional authority, unless sufficient public

communication and reporting methods were developed. Transparency and accompanying accountability are crucial concerns in achieving public support for any approach.

UKGBC would support either a national or locally collected tariff. To achieve transparency, accountability and the greatest alignment with existing mechanisms, we would implicitly favour local collection. However, given practical constraints, we would also support a national approach.

**32. How should the tariff revenue be spent? a. Locally (e.g. through a local authority) b. Nationally (e.g. through Natural England or another national body) c. Through a blended model, allowing spending at both levels d. Other, please specify**

For the wider strategic benefits of biodiversity net gain to be realised, it would be important for a variety of bodies to be able to acquire and spend a portion of funding. In some areas, this could mean the devolved authority, such as the mayoral authorities. On a national scale, in line with a net gain strategic governance framework, this could involve Natural England. This would allow for spending in line with national or otherwise cross-cutting strategic biodiversity priorities, such as Nature Recovery Networks.

We would support the direction of tariff funds towards third parties, such as the Wildlife Trusts or WWT, to specifically provide offsets, or contribute to broader conservation work.

The Aggregates Levy Sustainability Fund, formerly administered by DEFRA and distributed to a wide range of agencies for spending, would offer an alternative model. Any similar version of the ALSF specifically for the aggregates industry should be viewed as a tariff contribution, to avoid duplication.

**33. If tariff revenue is collected and spent nationally, should spending prioritise areas which have contributed the most through biodiversity net gain tariff payments?**

Yes. We agree it is important to prioritise new and enhanced habitats, which are near to where the development environmental loss has occurred. This would help avoid certain areas from accruing significant losses to local biodiversity, whilst helping to preserve and distribute biodiversity benefits. Likewise, it is important to provide clear, discernible enhancements for the benefit of local residents most affected, in order to secure support for development. Where this is not possible due to practical constraints, or a compelling case on the basis of biodiversity enhancement value, tariff revenue could be better spent elsewhere. Spending beyond the immediate local area should be guided by a clear spatial hierarchy, with preference inversely proportional to distance from the site.

**34. What further measures will help to prevent burdens on local authorities increasing?**

See also question 15.

A significant challenge for local authorities will be in the monitoring and enforcement of net gain, due to the shortage of qualified personnel and ecologists. This may be mitigated through Natural England assuming a greater role in this area, effectively pooling expertise and building on its pre-existing role in environmental assessments. However, concerns have also been raised regarding the resourcing and capacity of Natural England at present, which will require resolution for it to meet further demands. The idea of a single, national, cross-boundary coordinator was well received by members. Therefore, work to strengthen the role of Natural England in net gain would be welcomed.

Making net gain a statutory requirement may help planning teams argue for more resources within their councils. The pilot experience shows that there must be central impetus and guidance to ensure effective implementation.

The use of existing processes, for example securing the required mitigation through planning conditions and collecting financial contributions through a model similar, or parallel to, Section 106 may streamline the process and produce efficiency savings. Making the approach, and application

of the metric including any tools, as simple and user-friendly as possible would reduce the administrative burden.

**35. How could the proposals be refined to manage any negative impacts on the scale and delivery of other developer contributions (e.g. through Section 106 or Community Infrastructure Levy payments)?**

Where different contributions are under threat, the viability assessment system can provide a mechanism to fully assess the impacts. Where this is undertaken, for example for a contaminated brownfield site, a transparent process is required to ensure the mitigation hierarchy is followed and biodiversity enhancement concerns duly considered.

**36. Would you, as a planning authority stakeholder, prefer any net gain tariff revenue to be paid through: a. local authority administration? b. a nationally managed funding scheme (which could then reinvest in local habitat schemes best aligned with national strategic environmental priorities)?**

See question 31. We believe that the tariff should preferably be collected and paid through a local administration authority, aligning as closely as possible with existing mechanisms, such as Section 106 in order to streamline the process. A nationally managed coordination scheme may then subsequently be entitled to a percentage in order to fund schemes on a broader scale. Any percentage should correspond clearly to strategic environmental priorities, with clearly banded guidance and criteria to avoid potential disagreement.

If this is unworkable due to current local authority capacity constraints, we would support national collection through Natural England or a model similar to the Aggregates Levy Sustainability Fund.

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**Impacts on developers**

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**37. How could the proposed net gain process be improved for developers?**

We agree that mandating net gain will provide welcome clarity for developers. Likewise, we agree that a consistent and simple approach would be beneficial, accompanied by clear practical guidance. This could reduce reliance on external consultants and sources of both potential disagreement and delay. Any policy must be accompanied by a clear timescale, to provide further certainty. We would strongly emphasise the value of clarity, simplicity, transparency and consistency across any approach.

The use of phased implementation periods with clear timescales would provide ample time to adapt (see question 40). A lead-in time of 1-3 years would be appropriate for developers. Further, successive increases in required biodiversity provision should be clearly outlined and timetabled, in line with regular reviews of the accumulating evidence.

Government could play a welcome role as both a facilitator and coordinator, setting up relevant and accessible hubs for coordinating guidance. Strategic policies should highlight opportunity areas for enhancement, joining up coherently with pre-existing local policies. Site allocations should also use a net gain approach to guide development towards the least damaging sites in terms of the environment. Existing mechanisms, such as Strategic Environmental Assessments and Environmental Impact Assessments should be consistent with any net gain approach to encourage efficiency.

**38. What other steps, considerations or processes in environmental planning could be integrated within a net gain approach?**

Guidance should be developed to strongly encourage a net gain approach in neighbourhood plans. A Neighbourhood Planning forum should be encouraged to consider local opportunities for enhancement as part of their plans. These should then hold weight when authorities take decisions

on spending any monies received and by developers undertaking off-site mitigation work.

See question 37. Existing mechanisms, such as Strategic Environmental Assessments and Environmental Impact Assessments should be consistent with any net gain approach to encourage efficiency. The production and coordination of clear practical and planning guidance should aim to streamline the net gain approach, and outline how it coheres with existing mechanisms, such as Biodiversity Action Plans, Biodiversity Opportunity Areas and Green Infrastructure Plans. Clarity, simplicity, consistency and transparency should be pursued throughout.

**39. Would any particular types of development (e.g. commercial, industrial, public sector, local infrastructure) be disproportionately affected by a mandatory biodiversity net gain requirement?**

Through feedback from members, it has not been evident that any particular development types would be disproportionately impacted by a mandatory biodiversity net gain requirement. Local Authorities and Metro Mayors are already implementing similar approaches in some areas, especially in London. This has expedited adaptation.

Retail sites are unlikely to be severely impacted by the current proposals at present. Current development efforts within retail are largely focused on repositioning and refitting, rather than new construction. However, this may alter in future, so the proposals should still apply. A concern for the sector will be the impact of current proposals on already tight margins, particularly in relation to high streets. The sector would benefit from further guidance on how to practically apply net gain, whilst maintaining room for innovation on how to meet these obligations.

Mineral extraction sites can only be worked where they lie, but this is often in areas of biodiversity opportunity e.g. river valleys for sand and gravel. Minerals extraction likewise differs from other types of development given scale and longevity, with gains deliverable over much longer time scales. These developments can deliver substantial net gain on-site after restoration, but also prior to and during extraction in many cases. The large-scale gain occurs at end of extraction and restoration, which may be years in the future. The metric and its application should reflect the above and not unduly 'penalise' minerals development in the short term, as large-scale net gain can be delivered in the long term.

**40. Do you agree that the proposal for staggered transitional arrangements would help to ensure smooth implementation of biodiversity net gain policy?**

The use of phased implementation periods with clear timescales would provide ample time for the industry to adapt. A lead-in time of 1-3 years would be appropriate, in order for the industry to effectively adapt to the new requirements. Areas already advancing similar, existing approaches, such as London, would require lower lead in times.

Further, progressive increases in required biodiversity provision should be clearly outlined and time-tabled, in-line with regular reviews and accumulating evidence. There should a goal to achieve 10%, and potentially more, embedded in any policy timeline. Any transitional period should be used to harness data to develop a consistent and accurate baseline from which to evaluate net gain and inform the future ratchet framework. This should also feed into the indicator framework for the 25-year Environment Plan.

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**Dispute resolution**

**41. Would the existing dispute resolution process provide the best way to overcome any disagreement over whether net gain is achieved?**

We believe the current dispute resolution mechanism must be improved through parallel provision of clear guidance for delivering a net gain approach and ensuring adherence to the mitigation hierarchy. Local councils' ability to access independent qualified assessors will also be key in dealing

with disputes. Likewise, capacity concerns for Natural England should also be addressed, to ensure it can play a positive role on a broader scale, as welcomed by our members.

We share concerns that any arbitration body should be independent. There could be a role for the new Office for Environmental Protection, as proposed in the Environment Bill, in order to provide independent arbitration and reporting.

**42. Would an additional arbitration or approval process be necessary? If so, please specify why.**

See question 41.

**43. Are there any issues or measures, other than those outlined, that we should take into account when considering how to monitor biodiversity net gain?**

No comment.

**44. Should local authorities be required to provide information about habitat losses and gains?**

Yes. We believe that it is important for there to be high levels of accountability and transparency as well as a uniform, standardised reporting system. We agree with calls for annual reporting and disclosure of net gains delivered, on local, devolved authority, and national scale. This should also feed into the indicator framework for the 25-year Environment Plan and a report produced annually by the Office for Environmental Protection or other relevant governance body. Data should be provided by Local Authorities, developers and Local Environmental Records Centres.

Local Authorities or the relevant body, such as Natural England, should be properly resourced in order to ensure they have sufficient capacity to collect and collate data effectively. We believe the role of a national body or coordinating agent is essential in order to effectively inform a national strategy and biodiversity priorities. UKGBC would stress the value of a guiding national body, providing a valued role in both coordination and the provision of a guiding, strategic impetus.

**45. What technological or other innovative mechanisms could facilitate the delivery and monitoring of biodiversity net gain?**

No comment.