

Written Evidence Submitted by the British Property Federation

British Property Federation

1. The BPF represents the real estate sector – an industry that contributes significantly to the UK economy. We promote the interests of those with a stake in the UK's built environment to government, and our membership comprises a broad range of real estate owners, managers, developers and supporters. Their investments help drive the UK's economic success; provide essential infrastructure and improve society by creating great places where people can live and work.
2. The BPF has a committee dedicated to sustainability issues, reflecting the priorities that its leading members place upon issues of environmental enhancement, climate change and resource efficiency. We also provide secretariat support to the Green Property Alliance, a group of the leading organisations representing both landlord and tenant interests (this includes: Association of Real Estate Funds, Better Buildings Partnership, British Council of Shopping Centres, British Council for Offices, BPF, Investment Property Forum, Royal Institution of Chartered Surveyors, UK Green Building Council and the Urban Land Institute).
3. We welcome the government's long-term commitment to protecting and enhancing the UK's variety of natural landscapes and habitats through the production and publication of the 25 Year Environment Plan (25YEP). We wholeheartedly support the broader goals and aspirations of the plan and its long-term vision, helping to provide certainty for future projects. This includes the 25YEP commitment to mandate biodiversity net gain through the planning process.
4. We and our members are supportive of the introduction of Biodiversity Net Gain requirements as a mechanism by which many of the current measures to improve ecology and habitats through development can be formalised. Whilst we support the broader aspirations set out within this consultation, we have provided a number of comments that address the balance between achieving best outcomes and ensuring the sustainability and efficiency of the development process.
5. The comments provided within this submission addresses a number of the stated questions raised through the consultation, to primarily ensure that the principles of biodiversity net gain are implemented in a way that enables the real estate industry to continue its significant contribution to the economy and the delivery of infrastructure whilst simultaneously delivering positive environmental outcomes.
6. We would be delighted to provide further information on any aspect of this submission. Please contact Alex Green (Assistant Director), on either agreen@bpf.org.uk, or 020 7802 0107.

BPF Response to the Net Gain Consultation Questions

Q1 - Should biodiversity net gain be mandated for all housing, commercial and other development within the scope of the Town and County Planning Act?

Yes.

First and foremost we welcome the Government's commitment to biodiversity and the continued, sustainable, interaction between the built and natural environments. It is in this aspiration that we believe biodiversity net

gain should be mandated for all housing, commercial and other development within the scope of the Town and Country Planning Act. A standardised approach to biodiversity net gain, designed to be simpler and clearer for all relevant stakeholders is undoubtedly of benefit to our environment, industry, and our society. A system by which net gains are measurable and verifiable is likely to deliver better outcomes over time. We believe that the proposed approach can operate well alongside the existing planning process and associated policies, however we would encourage the Government to give some additional thought to the diversity of site locations, development types, and associated constraints with respect to capacity to deliver on-site biodiversity gains.

This is to say that more clarity is needed to understand the impacts of the proposed approach on different locations such as urban sites compared to rural sites. Additionally, some clarity would be welcome with regard to how net gains will be balanced against the potential economic and social considerations of any given development project. Whilst we would like to see significant gains by way of biodiversity, we must ensure that the proposals for mandating such efforts through planning are achievable and viable across the spectrum of developments that contribute greatly to the country's continued growth.

Whilst we acknowledge and agree that a standardised, mandated approach to net gain will help to improve associated behaviours, and that a level of uniformity is crucial to this endeavour, we would suggest that a key condition for the long-term success of biodiversity measures will be some element of flexibility in how gains are delivered in practice. For instance, forcing an on-site net gain target may not always be the most appropriate method nor the most beneficial by way of outcomes. Any policy must adopt a pragmatic approach that allows local authorities, developers and respective experts to prioritise net gain mechanisms that best suit a locality as opposed to a specific development site. We would suggest that any net gain policies should allow development schemes to meet other aspects of sustainable development (i.e. social, environmental, and economic) as per those outlined in section 2 of the revised National Planning Policy Framework (NPPF, July 2018) and should consider wider development viability in doing so.

Q2 – What other actions could government take to support the delivery of biodiversity net gain?

Although this consultation seeks to ultimately deliver net environmental gains through policy and regulatory mechanisms, we would also emphasise the role that increased understanding, knowledge sharing and associated environmental initiatives could have on positive outcomes. We would suggest that funding provided by the Government could be used to disseminate advice and expertise to a wide range of stakeholders, which would positively supplement the net gain mandates.

In some cases, the optimum outcome in terms of achieving sustainable development (which includes other economic, social and environmental objectives, including the wider notion of natural capital as set out in Figure 2 of the Consultation Document) may not necessarily arise from focusing solely on biodiversity net gain. Rather a more holistic and strategic approach could be more effective in the delivery of sustainable development.

We would also take this opportunity to highlight that a national metric predicated on a value-based quantification of habitats could be at the expense of a more holistic planning approach whereby landscape, biodiversity, recreational value and local distinctiveness/sense of place are considered in combination. Biodiversity net gain, based on habitat creation, may not automatically deliver enhanced, multi-faceted green infrastructure and could result in piecemeal and sporadic pockets of habitat, with only a short-term impact, that have been factored into development proposals to simply comply with the mandate requirements without having regard to a wider ecological or green network, or indeed societal needs.

Q3 – 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)

(a) House Extensions

Our view is that house extensions should be afforded an exemption. We understand that in many instances it would be impracticable and unreasonable to require applications relating to house extensions to provide net gain mitigation, and that limited biodiversity benefits would be achieved. House extension applications will most likely relate to developments within residential curtilages where there is little opportunity to provide on-site mitigation and the small scale of development would mean any individual mitigation provided would be minimal and disproportionate in terms of cost.

Adding an extra layer of complexity, and cost, for an individual extending their home is unlikely to deliver the desired results. This will create additional requirements and may put further strain on local authority resources with minimal associated gains.

(b) Small Sites

We have received a mixture of views on smaller sites. Whilst there is some opinion that small sites may offer opportunities for biodiversity gains, others have suggested that the requirement of net gain on smaller, minor development schemes could be disproportionately onerous. This is to say that additional cost could impact the viability of these developments, which provide a large amount of the housing that the Government has targeted. We would suggest that if the net gain for biodiversity was mandated for smaller sites this should be fully evidenced and piloted.

(c) All brownfield sites

No.

See below – 'Some Brownfield Sites'

(d) Some Brownfield Sites

Recent research has identified that brownfield sites can serve as important habitats for a number of rare species such as black redstarts and bombardier beetles. Accordingly, brownfield sites can have a high biodiversity value, occasionally higher than some intensively farmed greenfield land. It is for this reason that we would suggest a balanced approach to the issue of brown field sites. Whilst a blanket exemption would not seem appropriate there are some matters that should be considered when addressing the topic of brownfield sites. A number of these are provided below.

Section 11 of the Revised NPPF (July 2018) encourages the use of brownfield land for development and directs planning policies to ensure that as much of this land is appropriately used. We would therefore encourage the

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Government to consider the likely increased cost of developing these sites and the national desire to focus development on previously developed land as a priority. The regeneration of these sites provides a strong economic and social benefit through the redevelopment of previously developed land and indeed provides indirect environmental benefits through doing so.

Developing brownfield sites is typically a costlier exercise than developing greenfield land due to a number of factors including demolition, remediation, and multiple/fragmented land ownership. The viability of such sites may therefore be more sensitive to additional costs associated with their planning and development. These impacts should be considered and where possible, viability evidenced, to ensure that both biodiversity gain and societal growth can be achieved in tandem.

It should also be noted that development on brownfield land delivers indirect environmental benefits through the recycling and reclamation of previously developed land in sustainable locations near to the services and amenities serving the urban population. These benefits should be considered alongside habitat creation. What we would suggest the Government should guard against, is a situation in which the aspiration of developing brownfield first is disincentivised at the detriment of wider economic, social, and environmental gain. This is not to say that biodiversity gain should not be targeted on brownfield sites, but that the respective assessments should be undertaken to set the most practical method for achieving these gains and in a way that encourages rather than discourages action. This may be best implemented through simplified biodiversity assessments as per question 5 of this consultation.

Q4 – Are there any other sites that should be granted exemptions, and why? For example, commercial and industrial sites.

Whilst we have not received many representations suggesting broader exemptions, we have received the following comments for consideration, pertaining primarily to industrial employment land.

Recent government action has resulted in a gradual loss of employment land and this had been particularly acute in London, as evidenced in the London Industrial Land Supply and Economy Study published by the Greater London Authority (GLA), which indicates that three times the target annual loss of land has been released in the last five years. This rate of loss has resulted in a policy change in the Draft London Plan from managed release to no net loss of industrial floorspace in Strategic Industrial Locations (SILs) and Locally Significant Industrial Sites (LSISs) (See Draft London Plan Policy E4).

This issue is important in the context of mandating biodiversity net gain with reference to Paragraph 82 of the NPPF that requires planning policies and decisions to take into account the locational requirements of storage and distribution operations. Modern day industrial and commercial schemes are often space intensive and require a large footprint with sufficient yard space for vehicle parking and manoeuvring. Given the paucity of employment land in urban areas, there is often little scope to provide on-site habitat creation which can prevent an occupier making the most effective use of land. Brownfield sites can be more constrained and there is often little space for habitat creation after a viable and usable scheme is planned. The Draft London Plan also includes an Urban Greening Factor (UGF) which, in combination with the requirement for biodiversity net gain, may further constrain the delivery of logistically important development. The provision of green walls and green roofs can result in structural, operational and maintenance issues for operators and may not be sufficient to satisfy the metric approach proposed in the net gain proposals.

Notwithstanding the above, we acknowledge that the biodiversity net gain proposals allow for off-site mitigation or a tariff to be agreed where on-site provision is not possible. It is important that this is proportionate to the development proposed. This should not act as a disincentive to bringing forward commercial and industrial

schemes that are required to ensure balanced growth amidst the shortage of employment land in many of our urban areas.

In addition to the above, there is a need to assess proposals on a site-by-site basis to ensure that the provision of habitat takes place within the most appropriate context. It may be suggested that providing an element of high value habitat on an industrial or logistics estate is less desirable than providing this in an appropriate manner off-site. Notably, this calls for both flexibility and pragmatism during early discussions between developers and local authorities.

Q5 - As an alternative to an exemption, should any sites instead be subject to a simplified biodiversity assessment process?

As outlined under our response to question 3, we would consider that any future iteration of the net gain proposals should take into account the complexities, and particular circumstances, of development on brownfield land, smaller sites, and house extensions.

Q6 - 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 the DEFRA metric should allow adjustments for important local features such as Sites of Importance for Nature Conservation (SINC) or where the development can link into existing green corridors.

As the consultation document correctly states, planning policy and legislation already recognises our network of internationally and nationally designated sites to protect and enhance our most valued wildlife habitats. We consider that it is important to give higher weighting to designated sites to reflect their relative importance.

Q10 - Is the Defra biodiversity metric an appropriate practical tool for measuring changes to biodiversity as a result of development?

Yes.

We believe the DEFRA metric does provide a useful measure for calculating biodiversity net gain and we have received representations that the metric is the best example of such a measure for biodiversity value.

Further, we agree that an effective biodiversity net gain policy should be transparent and robust, workable and practical (i.e. proportionate) and consistent (i.e. centrally mandated).

We would however reiterate that the use of the biodiversity metric should be closely monitored to ensure that uplifts in quality are achieved alongside statistical net gain. The metric uses habitat as a measurement for increases in biodiversity and requires the creation of areas of certain types of habitat. This may not necessarily translate into enhancement by stakeholders who do not have a deeper professional knowledge of habitat creation and relative value of the different types of habitat against one another.

Finally, we would highlight one potential unintended consequence of the suggested metric. The requirement to quantify habitat may not translate into the 'real world' where negotiation is required to create successful schemes. For example, when changes are required to a proposed layout in response to other considerations (e.g. turning space for vehicles or flood compensation). Whilst with good intentions the biodiversity net gain approach may have been agreed with local authority planners at the pre-application stage, some consideration must be given to

instances when changes must be made further along the development process, to ensure that undue delays are not caused.

Q11 - What improvements, if any, could we most usefully make to the Defra metric?

We have received the following suggestions for improvements that the Government may wish to consider.

The net gain proposals have an over-riding emphasis on habitat creation that could fail to mitigate against impacts on individual species. We received the opinion that the net gain proposals may wish to consider incorporating species mitigation into the metric to avoid an added layer of complexity.

The metric may unduly cause applicants and developers to prioritise the habitat that provides the highest score within the metric system, such that there is a convergence or homogenisation in the type being delivered, when a more diverse network of habitats is ideally required. It is important that any biodiversity net gain takes into account adjacent habitats (and connectivity), the needs of local species and whether habitats complement existing nearby land uses and are appropriate to the local context.

Some thought may also be given to attributing a higher score to new habitats with full management and ownership structures, over land not legally committed to be a biodiverse state. Effectively giving a greater weighting to permanently committed habitats.

Other green infrastructure elements could be included in the metric, for example garden features, street trees, or SuDS channels, as could provisions that encourage flora and fauna development such as hollow bricks for nesting birds, bat boxes, fruit trees, or pollinating plants for bees.

We received representations that the value of open mosaic habitats should be increased in urban environments and that bio diverse roofs (as opposed to brown roofs) should be highly valued to incentivise green infrastructure creation.

Although not a direct improvement to the metric, we would suggest that in order to ensure best outcomes into the future, up to and beyond the Governments 25-year vision, there should be a clear and accessible feedback mechanism through which suggestions can be lodged for improvements to the metric and in line with experiences had over time.

Q12 - Would a mandatory 10% increase in biodiversity units be the right level of gain to be required?

Whilst we wholly welcome a proposed net gain increase, we would welcome some clarity as to the reasoning for the suggested 10% figure as we believe mandating a level of 10% across the board may be problematic and may not be the best approach in all cases. The requirement to secure 10% net gain could be difficult to achieve on very large development, where the site is more ecologically sensitive, or on small sites where the loss of higher value habitats is unavoidable. We have also received representations that highlight an instance in which achieving even a minimum on-site net gain using the current DEFRA metric on a residential site in the north of England (Salford) was not achievable.

We would welcome sight of evidence that a 10% figure is realistic when assessed against a range of different development typologies and sizes and suggest that this information should inform any final figure agreed. It should also be noted that as with other regulatory mechanisms a specific 10% increase may act as a cap for ambition, resulting in opportunities to surpass 10% gain being lost in some instances.

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We would welcome greater clarification as to how 10% would be measured, and would question whether this will be over the lifecycle of the development? Further questions exist with regard to whether the management and maintenance requirements of the habitat will be factored into the metric?

Notwithstanding the comments provided above, a more effective approach might be to assess levels of potential gain on a case by case basis, and with regard to viability. We believe this would allow a respective level of flexibility in terms of delivering biodiversity net gain.

Development typologies and their physical requirements vary greatly, and this should be taken into account when deciding the final gain figure. Whilst we acknowledge the intent to provide a uniform mandatory approach for development, a 'one size fits all approach' pertaining to the level of gain may not deliver the required level of action.

Q13 - In clearly defined circumstances, should developers be allowed to pay through the tariff mechanism without fully exhausting on-site and local compensation opportunities?

Whilst we welcome systemic flexibility - as one solution will certainly not be appropriate for all development sites - we would wish to see more information relating to how the tariff system would work in practice, how it would be governed and how the money paid would be used to provide a public benefit. We appreciate that the proposals are fundamentally intended to reverse the loss of biodiversity in the UK and therefore on-site or local off-site mitigation measures are most valuable to this effect. One potential approach to a mitigation hierarchy would be for the tariff mechanism to include a governance designation given to a local expert body such as the Wildlife Trusts for smaller projects, whilst development spanning local authority boundaries could be governed by a national body such as Natural England. Further, Statements of Common Ground provide a possible mechanism that could be used to identify certain ecological target areas within a defined regional geography to which funding collected by the tariff could be channelled to deliver biodiversity gains. There is clearly a need for transparency and accountability if this approach is to be effective.

If a tariff-based system is proposed, we would also wish to see how the system would work in tandem with the existing CIL regulations.

Q14 - Would this be an appropriate approach to directing the location of new habitat?

Yes.

However, the consultation document states that the pricing of the tariff for distant habitat creation will be more expensive than delivering habitats on site or locally. This may have disproportionate impacts on those uses/sectors where there is typically less space available within the site as it is required for operational reasons (e.g. industrial and commercial developments). Perhaps a more relaxed approach to constrained sites might be appropriate where benefits arise from maximising the use of previously developed land within urban areas. The balance between optimising the use of previously developed land and creating on-site or localised biodiversity benefits needs to be resolved in a pragmatic manner.

Q15 - How could biodiversity assessments be made more robust without adding to burdens for developers or planning authorities?

In direct response to the question posed, we have received representations to the effect that:

Robustness could be encouraged through a qualified ecologist being required to undertake a phase 1 habitat survey, and that the ecologist be trained by an approved body such as the IEMA or CIEEM.

Robustness could be encouraged through the use of complimentary assessment data such as aerial imagery or drone surveys allowing either very simple or very large sites to be assessed more cost-effectively.

With regard to the issue of potential burdens for planning authorities or developers, we would suggest that the Government carefully considers the ability of the proposals to streamline the process by reducing the cost and complexity of ecological reports, particularly if an additional requirement is added on top of the existing requirement to protect wildlife. If the net gain proposals are designed to sit alongside other measures within national and local policy this may have the undesired effect of increasing complexity as well as cost instead of reducing it. This is an issue referenced in an extract from the below study:

“However, evidence from the pilot programme suggests that whilst biodiversity offsetting has the potential to deliver improvements in biodiversity outcomes it will require additional resources and ecological expertise in local authorities to deliver it, and will increase costs overall for developers. It is likely that it would, at best, deliver only marginal benefits in terms of streamlining the planning process for agreeing compensation for biodiversity loss.” - *Biodiversity offsets in theory and practice (Bull and Suttle et al, 2013)*.

Q16 - Should a baseline map of broad habitats be developed?

Yes.

However, any map should be kept up to date by the respective local authority where appropriate.

Q19 - How can the risks of penalising landowners making legitimate land use change decisions before deciding to sell their land for development be mitigated?

We note that most planning authorities already require ecological assessments to be undertaken, and this forms part of the existing planning process. Standardising this approach may however be beneficial.

Furthermore, we have received representations to the effect that landowners should be allowed to make legitimate use of their land within the existing legal framework and should not be penalised for doing so.

Q20 - 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 would suggest that maps could be developed at both a local and a national level.

However, more broadly, many of the respective evidence base studies have been produced at the sub-regional/regional level and the emergence of combined authority areas also seems to provide an appropriate strategic scale for the identification of agreed target areas for biodiversity net gain where the tariff could be used to good effect. This has the benefit of making long term monitoring more effective and streamlined and would ensure benefits are felt by local populations as opposed to the tariff being disproportionately used for mitigation in areas completely divorced from the contributing site itself.

Q21 - What other measures should be considered to identify biodiversity and natural capital priorities?

Whilst we welcome an approach that highlights biodiversity and natural capital priorities, we would again take this opportunity to emphasise the need to deliver a suitable regulatory balance that provides biodiversity gains whilst avoiding undue pressures on the delivery of much needed built infrastructure. If the Government's intention is to ultimately move towards a requirement for developments to secure a mandatory "net gain" against a range of environmental factors, including biodiversity, water quality, flood risk and air quality, this may have significant implications for the efficiency of the planning approval process.

We note that under the current approach, adverse environmental impacts do not represent an insurmountable obstacle to securing planning permission in principle, as long as such impacts are "significantly and demonstrably" outweighed by other social and/or economic benefits (e.g. housing need, job growth, etc). If the Government intends to move towards the need for developments to improve the natural environment as an absolute prerequisite of planning approval this could reduce the reliance which can be placed on the 'balancing exercise', resulting in a significant and fundamental shift in how planning applications are determined.

Again, this is not to say that the aspirations for significant environmental improvements should not be targeted and achieved, but that a balance should be struck to ensure that it is done so in complementarity with growth. We would envisage more broadly that opportunities will arise on a case by case basis to provide significant net gains above and beyond those initially targeted, whilst some sites will not be able to contribute with the same level of ease.

Further to this, we would highlight an issue that may need greater attention by way of ensuring broader natural capital enhancements/protections. The time needed to deliver woodland to the desired level/condition is necessarily lengthy, and this may impact the delivery of such measures in favour of the creation of other habitats that can achieve a higher metric score. This holds significance not only by way of achieving a diversity of net gain measures but also in relation to the wider natural capital benefits associated with woodland (i.e. pollution mitigation, sequestering carbon, flood and water quality regulation).

Q22 - Would mandating net gain through the planning system be enough to stimulate the growth of a market for biodiversity units?

Other.

We have received representations indicating that mandating net gain through planning may be enough to stimulate sufficient market growth, as biodiversity units would subsequently become a viable asset. However, we have also received representations to the effect that on its own mandating biodiversity net gain may not be enough to stimulate the respective market. It is difficult to provide a consolidated view before the extent at which offsite provisions are used is truly known.

Q24 - Should there be a minimum duration for the maintenance of created or enhanced habitats?

Other.

It is likely that regarding maintenance durations and associated agreements a slightly more nuanced and site-specific approach will be needed.

It is acknowledged that some habitats will take many years to reach their target value and functionality and therefore some assurance must be provided that such biodiversity mitigation is not simply implemented and forgotten about.

The impacts of future climate or environmental change do however present issues on two sides of the coin. On the one hand if the impacts of broader climate/environmental change result in the rapid decline of a particular species, a requirement for further action and the allocation of additional resource may be required to sufficiently adapt a given habitat to combat said decline. In some cases this may require the creation of new habitat. On the other hand, more information is needed on the type and extent of maintenance agreements if an informed decision is to be made. We would question who would be responsible for the associated costs? And again, what the implications would be for remediation costs if a habitat fails due to natural events such as flooding or climate change?

Further to this, what is the most sustainable and cost-effective way to create long-lasting off-site habitats without the need for costly and expensive legal agreements which may complicate the system and perhaps result in delays to the latter stages of the planning application process.

Notwithstanding this, the impact of biodiversity net gain must be measurable and capable of being monitored if the proposals are to be effective and with this comes the need for a sensible duration albeit this will be dependent on-site specifics and the type of habitat created. This also brings into question who will be monitoring the maintenance agreements and who will pay the costs of ongoing monitoring?

Q25 – 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***

As per our response provided to question 24, we would suggest that whilst measures to ensure long-term habitat maintenance is achieved are wholly welcome, the implementation of a minimum duration may not be the best approach for two principle reasons. The first being that the real estate industry is slowly moving towards whole life assessments of development projects and a minimum duration may act contrary to this. The second being that a minimum duration may disincentivise the adaptation of habitats where necessary and appropriate. Given the associated considerations around the complexity and cost of associated legal agreements, a different method for ensuring long-term maintenance may deliver better outcomes. Part of this will be to facilitate a broader culture of stewardship and long-term investment across real estate development in general.

Q26 - Would conservation covenants be useful for securing long term benefits from biodiversity net gain or reducing process and legal costs?

We would suggest that there may be some merit in the use of conservation covenants, particularly by way of separating maintenance commitments from other planning commitments and by mitigating the sale or transfer of ownership. We would however require further evidence of the practicality of such measures before a consolidated opinion could be formed. Again, we would note some concern about the continued sustainability of the development process if land uses are unduly restricted.

Q28 - Does this proposed range for tariff costs fit with the principles set out in this section?

Yes.

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Q31 - 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***

We would welcome more detail relating to how the tariff would be collected in the respective circumstances, how this would be administered and the options and timing of payment.

If the tariff is collected nationally, consideration would need to be given to the spatial differences and the prosperity of different places, including impacts on project viability. The current proposals assume a level playing field across the country when in fact the tariff could affect certain parts of the country disproportionately. Similarly, a nationally collected tariff should give consideration to ensuring that certain areas are not ultimately paying for significant biodiversity gains elsewhere with little benefit locally.

If the tariff is collected locally, consideration must be given to the respective mechanisms that will be needed to collect tariff payments in the first instance. Local authorities are typically under resourced and may not have the skills in house to demonstrate that they are achieving best value for money in terms of social, economic, and environmental gain.

Q32 – 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***

What is important when it comes to implementing the proceeds of the tariff, is ensuring that the correct balance is struck between empowering local communities/authorities whilst giving due regard to the UK's strategic approach to the enhancement and restoration of important habitats, and ultimately a net gain in biodiversity.

Hybrid or regional approaches to revenue spending seem to lend themselves to the best outcomes. Whilst we believe revenue spent locally would deliver more targeted results associated with specific development activity and provide greater transparency (and potentially trust in the system), we would also suggest that a more strategic approach is required on a national level to mitigate the UK's climate and environmental commitments in tandem with local action.

Further, some of our members have questioned the ability to create a national system that fits within current planning laws/regulations and the requirements of associated obligations.

Q33 - If tariff revenue is collected and spent nationally, should spending prioritise areas which have contributed the most through biodiversity net gain tariff payments?

Other.

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When assessing the mechanism for tariff revenue spending, consideration should be given to an area's capacity to deliver truly beneficial biodiversity gain and to contribute to restoring the UK's significant habitats. This is to say that allocating collected revenue to areas on the basis of how much they have contributed may deliver quantitative parity, but not necessarily best outcomes in terms of the quality of biodiversity provision.

Q34 - What further measures will help to prevent burdens on local authorities increasing?

It should be ensured that sufficient resource is in place to administer any net gain system to ensure it does not impact on other council priorities. If the proposals for biodiversity net gain are to be effective, we would suggest that any given local authority will require specially trained staff (technical and legal expertise), that are available at the requisite stages of the planning process including a presence at pre-application meetings. Standardised templates for the legal agreement wording should also be made available as this is where delays (without the addition of biodiversity net gain) are already experienced.

Q35 - 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)?

S106 agreements are enacted to ensure that a specific development proposal and its impacts are acceptable in planning terms, where it would otherwise not be acceptable. Biodiversity mitigation and enhancement measures may in some instances fit this qualification. However, the overarching aspiration to elicit a UK wide biodiversity net gain is not necessarily compatible with localised planning obligations. In instances where biodiversity net gain measures can contribute to the acceptability of a development proposal (such as through job creation or open space provision), thought should be given to ensure that developers are not required to double up on contributions with the same ultimate social, economic, and environmental benefits through two different mechanisms. It is also important to ensure that the operation of the net gain regulations do not add undue complexity to the development process.

Notwithstanding the ultimate form of the biodiversity net gain mandates, it should be ensured that any proposals comply with the legal framework controlling Section 106 payments and the Community Infrastructure Levy.

Q37 - How could the proposed net gain process be improved for developers?

We would suggest that future iterations of the net gain proposals should consider how existing local and national planning policy will sit alongside any net gain proposals without the creation of double counting or duplication. It should also consider how clear guidance will be provided and conveyed to the development industry to provide a simple, accountable and transparent system. This guidance needs to be written in such a way that it is accessible to all stakeholders. Members of the public should also be able to understand and engage with the metric. In accordance with the eventual form of the mandates, the relevant administrative bodies should develop a transparent system for communicating the biodiversity net gains achieved through the development process.

In relation to large and complex sites where reserved matters are applicable and development subsequently phased over 10 years or more, we would welcome greater clarity as to how the net gain approach will be applied.

Q38 - What other steps, considerations or processes in environmental planning could be integrated within a net gain approach?

We would highlight that many of the examples (i.e. water, air quality and flood risk) shown within the consultation document are currently mitigated within either the planning system or other regulatory mechanisms. As such, any future consideration around integrating wider aspects of environmental planning into the net gain approach would need to be tested to confirm that any shift would be beneficial to the planning system as a whole.

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Notwithstanding this, we would note that greater emphasise needs to be placed on climate adaptation and resilience given our evidenced climate change trajectory.

Q39 - Would any particular types of development (e.g. commercial, industrial, public sector, local infrastructure) be disproportionately affected by a mandatory biodiversity net gain requirement?

Although not a type of development for which the BPF or our members have extensive experience, we would suggest that medium and large sized infrastructure projects (particularly transport) may have a disproportionate need for offsetting. Rail and road infrastructure in particular require significant levels of hardstanding and will typically be constrained in terms of space.

For broader views please see our response to questions 3, 4 and 5.

Q40 - Do you agree that the proposal for staggered transitional arrangements would help to ensure smooth implementation of biodiversity net gain policy?

Yes.

We agree that a transition period is a sensible way forward and welcome this inclusion within the consultation proposal.

Q41 - Would the existing dispute resolution process provide the best way to overcome any disagreement over whether net gain is achieved?

Yes.

However, it would need to be considered whether the existing planning appeals system can cover all potential issues that may arise through the net gain proposals. This includes the potential to use conservation covenants and other legal mechanisms captured within the consultation.

Q44 - Should local authorities be required to provide information about habitat losses and gains?

Yes.

The monitoring and publication of data relating to gains and losses could enable greater collaboration between developers and local authorities when assessing priorities for an area, as well as helping to ensure commitments are met. This could assist in identifying shortages in a particular habitat that may then be addressed by building flexibility into the proposals and incentivising the delivery of said habitat in certain priority areas. This could serve to counteract a point that we have raised previously within this consultation response around homogenisation of habitat creation based on achieving the highest scoring credits and would assist with diversification.

Q45 - What technological or other innovative mechanisms could facilitate the delivery and monitoring of biodiversity net gain?

We would encourage the Government to consider remote habitat monitoring. This is to say that the use of new technologies such as drones to survey large areas can help reduce costs and to keep habitat maps more regularly updated.

We would also suggest that the Government may be able to signpost best practice that encourages developers to collaborate across site red lines to help ensure biodiversity net gain is addressed in a cohesive manner rather than

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risk a disjointed site by site approach. We have provided below one such example of a collaborative industry approach that highlights the methods that can be deployed.

'Wild West End – This is a partnership between the West End of London's largest property owners, including BPF members; Grosvenor Britain & Ireland, The Crown Estate, Great Portland Estates, The Portman Estate, and the Howard de Walden Estate, as well as the Greater London Authority, Arup and the London Wildlife Trust. The partners have collaborated to monitor biodiversity across each estate to elicit a unified approach. The partnership also allows the organisations involved to pool resources leading to a higher quality output, when compared to operating on their own. To this effect, all the participants are required to use a standard habitat and planting matrices as a minimum to ensure consistency in approach.'