Net gain consultation proposals by Defra

Response by National Parks England

February 2019

1. National Parks England (NPE) exists to provide a collective voice for the nine English National Park Authorities and the Broads Authority, all of whom are Local Planning Authorities. NPE is governed by the Chairs of the ten Authorities. Our response represents the collective view of officers who are working within the policies established by the National Park and Broads Authorities and follows internal consultation with the All Parks' Heads of Planning Group. Individual National Park Authorities and the Broads Authority may submit separate comments, which will draw on the specific issues for their particular area.

2. NPE would welcome the opportunity to work with the Government on developing its approach to environmental net gain. NPE broadly supports the concept of net environmental gain subject to a number of important caveats being robustly explored and addressed. We have considerable practical expertise on the subject with wildlife built into the first purpose of National Parks and the Broads, and many of our local plans and partnership management plans already addressing net biodiversity gain. We have stated in our detailed comments that we would be happy to engage further on viability issues related to net gain. We would be happy to broaden out our engagement to help deliver the introduction of a mandatory requirement for environmental net gain in line with the Twenty Five Year Environment Plan.

3. There are eight overarching comments that we would like to make in response to the net gain consultation proposals; these are set out below. Appendix 1 provides detailed answers to all 45 questions set in the consultation document.

4. Holistic approach

5. The holistic approach enshrined in the statutory first purpose of all National Parks and the Broads to 'conserve and enhance the natural beauty, wildlife and cultural heritage of the area' provides a robust model for how development within the wider landscapes of England should be considered. This integrated landscape led approach ensures the ecological, biological, cultural and scenic values of our environments are all respected and safeguarded through the protection and enhancement of our environment.

6. Biodiversity net gain needs to be considered as an integral part of this broader and holistic landscape framework. This allows for meaningful net gain to be sought that delivers multiple environmental, social and economic benefits, and ensures wider connectivity is both achieved and maintained on a local and national scale. We note the recently launched 6th annual report of the Natural Capital Committee which says that "*the net gain consultation published by the government in December last year falls short of what is required to ensure that development does not lead to a net environmental loss. The proposals are not comprehensive, and focus almost exclusively on biodiversity. This risks overlooking significant natural capital costs and benefits, which are typically highly spatially dependent and context specific*".

7. Biodiversity is an important layer within the landscape. By taking an integrated environment approach to biodiversity net gain through the use of landscape tools, such as National Character Area profiles and more local Landscape Character Assessments (where they exist), the proposed habitat mapping and provision of green infrastructure would be considered in a strategic and planned manner that both respects and is informed by the limited natural and cultural resources. Consideration of the natural landscape form, wildlife, land use, history and the human experience of that landscape should all collectively shape and guide the future planning and development opportunities for a site. At a broader scale, National Park Management Plans, the Broads Management Plan, and more detailed biodiversity strategies, such as Living Dartmoor, can provide the framework for identifying local priorities and opportunities for delivering net biodiversity gain. It is important that planning authorities have the ability to refuse net gain works, which are in clear conflict with this strategic environmental approach.

8. Environmental net gain

9. Although this consultation on biodiversity net gain is welcomed by NPE, we would encourage the Government to move to wider environmental net gains as soon as possible in line with the Twenty Five Year Environment Plan.

10. Mitigation hierarchy

11. Net gain should not be used in such a way that it compromises the mitigation hierarchy of 'avoid, mitigate, compensate'. It must never enable inappropriate development and should be assured for the long term and monitored to ensure effectiveness.

12. Sequential approach

13. A sequential approach should be taken to the three scenarios set out on page 7 of the consultation proposal. There must be a strict sequential approach to ensure that net gain is prioritised on site and then if that is not possible as close as possible to the development. Only after those two options are exhausted should tariffs be considered. We strongly object to the suggestion that developers be allowed to pay tariffs without fully exhausting on-site and local compensation opportunities.

14. Tariffs

15. Following on from our comment in paragraph13, the payment of tariffs is only acceptable in exceptional circumstances and after all alternatives have been thoroughly explored through a sequential approach. The collection of tariffs under Scenario C in

a National Park or the Broads is considered to be contrary to the first purpose of National Parks set out in the 1949 National Parks and Access to Countryside Act and the Norfolk and Suffolk Broads Act 1988. Indeed, collection of a tariff under scenario C would cause harm rather than conserve and enhance the landscape. On this basis we urge that National Parks and the Broads are exempt from the collection of tariffs and that government develops a robust and deliverable mechanism for on- and off-site delivery (under Scenario A and B) which ensures that other local plan objectives are not unreasonably obstructed. We believe this to be achievable and that sites to secure local, compensatory habitat creation (scenario B) are much more likely to be available within a protected landscape than outwith.

16. However, there is the potential for National Parks and the Broads to provide local compensatory habitat under scenario C for development outwith but close to their boundaries. This would be paid for by tariffs and would necessitate close partnership working between the relevant Local Planning Authorities.

17. Exemptions

18. Brownfield sites should not be exempted under any circumstances from the requirement for mandatory biodiversity net gain. A brownfield site is often richer in terms of biodiversity than a mono cropped green field both in terms of existing and potential value. The brownfield/greenfield split is indeed irrelevant to net gain, which should be all about the biodiversity value of the habitat.

19. We also think that there should not be any exemptions for small sites because small interventions and provisions on small sites can make for significant gains in biodiversity, particularly when enhancing connectivity. We suggest a two tiered approach of either a full biodiversity assessment process for significant schemes or a simplified process with set solutions for small ones. This would allow all types of sites to achieve net gains of biodiversity in a manner which would make the most of their opportunities without placing undue burdens on the developer.

20. Viability

21 We understand that net biodiversity gain would be an additional cost to development. This would need to be assessed through whole plan viability assessments at the plan making stage and individual viability assessments at the application stage. The introduction of net gain in a phased manner would allow it to be integrated gradually into viability assessments so that it did not slow down the delivery of development. It should be recognised that sites with poor viability, such as rural exception sites providing 100% affordable housing, may not be able to meet the demands of this policy.

22. Compensatory land

23 It is very important that the maintenance is 'permanent' rather than 'in perpetuity' in order for it to deliver net gain. The Government should explore alternative funding opportunities to ensure maintenance is continued after a developer's contribution is depleted; this might be done, for example, through ELMS. Without permanent safeguarding and maintenance compensatory sites could be lost or fail to deliver on

intended biodiversity gains. It needs to be remembered that it will take time and effective management to establish many habitat types.

Appendix 1: National Parks England response to Net Gain Consultation Proposals

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 it should be mandated, but with a move to wider environmental net gains as soon as possible.

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

Clear guidance is required to clarify that net gain is separate from avoidance, mitigation and compensatory measures. The adequacy of net gain proposals, over and above avoidance, mitigation and compensatory, should then be assessed separately.

Area wide habitat mapping could also assist developers, helping them to scope out at an early stage likely high impact sites and consider alternative development locations which could cause less harm to biodiversity. Consideration of alternative sites which causes less harm is a first principle of mitigation. However, this would need to be kept up to date and archive versions be available to look at habitat change.

It should be made clear that wherever habitat compensation/net gain is being delivered that it must be in the context of ensuring that meaningful biodiversity net gain is not confused with providing recreational green space. Where green space is required as part of Alternative Natural Greenspace, this needs to be additional to a scheme and not on the back of biodiversity requirements as the two often do not sit well together. Undue disturbance of a habitat can significantly reduce it function and overall value to wildlife. This is particularly important where specific species requirements need to be considered as part of an overall mitigation scheme.

There should be a requirement for Local Planning Authorities to produce guidance on a range of net biodiversity gain measures, which may be appropriate to their planning area in different circumstances. A national framework produced by Natural England may be helpful.

Holistic mapping is required of an equivalence to Local Landscape Character Assessments.

Local planning authorities (LPA) will need to be adequately resourced to help deliver net biodiversity gain.

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)

Most importantly, brownfield sites absolutely should not be exempted under any circumstances from the requirement, because previously developed land has the potential to be important in terms of the natural environment. For example, it could have open mosaic habitat of intrinsic biodiversity value, which is a UK Biodiversity Action Plan habitat or be home to a number of protected species. A brownfield site is often richer in terms of biodiversity than a mono cropped green field both in terms of existing and potential value. The brownfield/greenfield split is irrelevant to net gain, which should be about the biodiversity value of the habitat.

There should not be any exemptions for small sites because small interventions and provisions on small sites can make for significant gains in biodiversity, particularly when enhancing connectivity. Local planning authorities should require the application of net gain on all development types. Net gains for householders can be achieved through little expense, for example, box schemes for bats and birds, or incorporating features into the building for these species where it is not required for statutory mitigation/compensation purposes.

Draft Policy SD2: Ecosystem Services in the South Downs Local Plan applies to all planning applications including householder. This allows everyone who wants to develop in the National Park the opportunity to contribute to ecosystem services. The same case could be made for biodiversity net gain. The Policy was not modified by the Inspector as a result of the examination in public.

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

No, we do not think that any sites should be exempted. It is possible for all sites, through simple but innovative solutions, to provide a net gain in biodiversity. Indeed for some sites, there are real opportunities that can be realised from commercial, industrial, community use or other schemes.

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

Yes, we think that this would be a sensible and proportionate response. We suggest a two tiered approach of either a full biodiversity assessment process for significant schemes or a simplified process with set solutions for small ones. It is important to distinguish between a set of simplified solutions and net environmental gain, since the former doesn't involve survey or establishing a baseline. However, we consider it to be a useful and proportionate tool. This would allow all types of sites to achieve net gains of biodiversity in a manner which would make the most of their opportunities without placing undue burdens on the developer.

An example of the two tiered approach has been taken by the South Downs NPA with their Ecosystem Services Policy. This is supported by a simple checklist for householders and a more thorough process for non-householders. The Yorkshire Dales NPA has adopted a simplified approach with policy W2 of their adopted 2016 Local Plan, while Dartmoor NPA are also pursuing a policy in their 2018 Draft Local Plan (Policy 2.3).

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, this is very important but it must be done in a more transparent and comprehensive way. Local designations and features are very important parts of the ecological network and the DEFRA metric must, if it is to achieve the net gain aim, fully and appropriately incorporate local designations and features.

Local priorities and objectives, for example, biodiversity opportunity areas or Partnership Management Plan priorities in protected landscapes should be factored in.

The future potential of sites is an omission from the metric so far. Sites may have potential to be priority habitat, to meet local conservation objectives or to provide a critical link in habitat connectivity. Development of these sites may prejudice the goal. The future potential should also be used to determine the habitat that is enhanced/created.

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.

There is a long list of ecosystem services that could be incentivised to achieve environmental net gain such as cultural heritage, water quality, air quality, flood attenuation, pollination, carbon sequestration and soils.

However, as biodiversity net gain is developed into Environmental Net Gain the relationship between these different environmental aspects needs careful thought. NPAs would be willing to assist the Government in this thinking. It should not be possible through future schemes to undermine the foundations of the environment that the Government is pledging to improve for future generations.

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

No, not by itself, the metric is too simplistic. We are concerned that the metric does not adequately take into account the habitat potential of a site. The metric focuses on widespread species and typical habitats and it is not a useful tool for measuring change to a specific species affected by the development, for example, S41 species, which may be a particular consideration of a development.

The metric requires a greater focus on ecological networks and functional connectivity otherwise it is too narrowly focused at site scale or species. For example, an arable field would score low but it could score higher as a possible connector site between two areas of high habitat value.

This is a baseline tool but inevitably has trade-offs to reflect local priorities.

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

We think that the metric, which uses habitat as a proxy for biodiversity, is a reasonable and proportionate means of accounting for biodiversity loss as a consequence of development. The metric allows Local Planning Authorities to account for a variety of widespread species relatively accurately. Habitats with medium or low distinctiveness are not currently accounted for in the planning system and so accounting for them through the metric represents a laudable improvement

in how we account for developments' environmental impact. The importance of collective habitats represented as mosaics also needs to be properly accounted for.

In rural areas the majority of biodiversity units requiring compensation will come about through development of greenfield sites adjacent to existing settlements. The metric is currently unclear how the distinctiveness of different agriculturally improved or semi-improved grassland habitats should be measured. Including specific guidance on this would be very helpful, ensuring that officers, applicants and agents are clear about how these common habitats should be scored. For example, it should be possible to give species-poor permanent pasture, which is more distinctive than a temporary clover ley but not as distinctive as species-rich semi-improved grassland, a distinctive score of 3.

The metric is rightly robust, for example making it impossible to achieve compensation for loss of permanent pasture through provision of on-site biodiversity enhancement alone. Doing so on a housing site would decrease its capacity to such an extent it would make development not worthwhile and compromise Local Planning Authorities' ability to meet their housing need. This will be a common issue when implementing the metric on greenfield sites and guidance should inform applicants, agents and officers of this upfront so they know what to expect and can plan for it effectively. It will be particularly important for this to form part of site allocation evidence during local plan preparation. Dartmoor National Park Authority have been discussing net gain with stakeholders as part their current Reg 18 Local Plan consultation and have found that knowledge of the metric's consequences is very poor; further guidance, worked examples and open discussion of the metric's consequences is strongly recommended.

Given the metric relies on off-site delivery to work it is essential that the off-site delivery model is robust, critical to the metric's success will be providing sufficient incentive to land owners to bring schemes forward whilst also protecting enhancements from future harm.

Although we appreciate that accounting for species loss in the metric is very difficult, Government should consider including the ability for tariff payments to contribute towards strategic landscape-scale work to support or reintroduce species that have a significant role to play in the wider ecosystem. This species work would need to be supported by evidence and Natural England. This option could broaden the potential benefits of the metric, making the tool more robust and holistic, and help ensure that the metric is not blind to species. There would need to be an acknowledgement that this work is far more risky than habitat improvement and delivery will be difficult to control in the same way. The option would however usefully diversify sources of spend for Local Planning Authorities, where many contributions default to the tariff because off-site enhancement is not forthcoming.

We believe that the condition score is given undue weighting in the metric and results in perverse outcomes where priority habitats can be devalued. For example, a medium distinctiveness habitat (4) in good condition (3) gets a score of 12, but a highly threatened priority habitat (8) in poor condition (1) gets a score of 8. So even though the priority habitat is inherently more valuable, poor management results in a lower score than a medium habitat. This could be resolved by assuming a minimum baseline condition of good for habitats being lost. This would acknowledge the habitat potential of a site and disregard poor management or intentional degradation as a factor. This would make the metric more demanding, but to control this to some extent it could only be applied to habitats of certain distinctiveness, for example, those scoring 4 or more.

Scoring the condition category (section 5.2) could be interpreted to mean that all land in agricultural use would be given a condition score of 1. However, some of the National Parks' and Broads most valuable and priority habitats occur on land in agricultural use, such as species-rich hay meadows. This interpretation should not be allowed.

The first offsetting metric included guidance on the approximate time needed to recreate certain habitats. This guidance was useful, particularly for non-specialists unfamiliar with different habitats, and should be retained and improved in v2.0.

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

This may be reasonable, but there is no justification for this arbitrary figure.

A minimum figure could be set but each project will have its particular characteristics that needs to be considered. For example, what habitat type and condition might be required and how achievable this may be against factors such as the time requirement to achieve target condition.

Schemes should always seek to engage with existing local offset strategies in the first instance. Habitat created at a great distance from the site of habitat losses carries a risk of depleting local areas of natural habitats. If net gain cannot be attained within a defined geographic area a larger percentage should be required.

10% has been defined in DEFRA's Impact Assessment as 'the lowest level of net gain that the Department could confidently expect to deliver genuine net gain, or at least no net loss, of biodiversity and thereby meet its policy objectives.' There does not seem to be much margin for error with this figure and could at worst result in no overall gain. This figure does not seem to be ambitious enough.

In addition the metric allows for enhancement of an existing habitat as an alternative to providing new habitat. Some past cases of offsite measures have taken place on land already owned by conservation NGOs or local government. For example, tree planting or habitat restoration on existing habitat which may be poorly maintained. It is difficult to understand whether this kind of offset is truly additional, because the owner may have sought funding elsewhere for the measures if a developer had not offered funding. This is effectively an artificial achievement of net gain.

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

National Parks England strongly objects to this proposal.

A sequential approach should be taken to the three scenarios set out on page 7 of the consultation proposal. There must be a strict sequential approach to ensure that net gain is prioritised on site, and then if that is not possible as close as possible to the development. Only after those two options are exhausted should tariffs be considered.

This approach would disregard the principle of the mitigation hierarchy.

14. Would this be an appropriate approach to directing the location of new habitat?

No, as stated in the previous response a robust sequential response should always be taken.

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

Tools such as area wide surveying, improved satellite and remote sensing habitat mapping could be very useful aides to ecological assessments but these need to be deployed alongside standardised field survey and assessment by an ecologist. It is far too simplistic to purely rely on the use of 'high level' surveying methods. Expert knowledge in the field, particularly of qualitative evidence that is otherwise unaccounted for, will always be needed to assess habitats and species interests and appropriately assess impacts and prioritise designs and approaches to development and optimise gains achieved.

Making sure the requirements are up front will decrease burdens for developers and LPAs. There will be no hidden requirements and schemes can be designed with the requirements in mind from the start rather than retrofitting net gain later in the design process.

Access to and interpretation of technical data is important, both in terms of expertise and funding. There is a potential role for Biodiversity Records Centres. Sussex Biodiversity Records Centre, for example, already provides elements of this function.

Pre-application advice provided by the Local Planning Authority can assist with this whole process, but technical funding is needed to support specialist roles such as a local authority ecologist.

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

Yes a baseline map would be useful as a broad tool, but there are considerable practical obstacles in the way such as significant resource implications.

A national map of habitats could provide an overarching framework for local habitat maps to sit within as is currently the case with National Character Areas (NCA). Guidance would be helpful for LPAs to establish local baselines.

The baseline maps should also include connectivity corridors and not just the actual habitats, otherwise there is a risk that sites will become isolated.

The local baseline needs to be sufficiently detailed to be of any robust use, for example, a phase 1 ecological survey. Any baseline survey needs to be strategic and up to date. Resources and skills to develop this needs to be acknowledged and provided for.

17. Should this be applied, as a minimum baseline, to:

a. net gain calculations for all development?

A baseline map of broad habitats is likely to be too high level to be used routinely as a baseline and would present significant risk to loss of unknown biodiversity. A baseline map of broad habitats may be useful context but net gain calculations should be based on local assessments by professional ecologists.

b. net gain calculations in cases of suspected intentional habitat degradation?

A baseline map of broad habitats could be a safeguard against intentional habitat degradation. In the absence of any other records of the biodiversity of the site, such a map may be useful to give a broad indication of habitat types that were there previously. The mapping would need to be sufficiently accurate and detailed to support this. This would need to be used alongside an ecological site assessment to inform the likely importance of the site in context of what remains, and other data sets such as those for known records of species. In circumstances of suspected intentional habitat degradation a baseline map could be used to help inform minimum net gain calculations.

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

There are a number of potential measures that could be used to reduce this risk. A clear phasing plan for the development with agreed milestones would be useful as would establishing an acceptable cut-off date for the baseline calculations against which net gain/loss could be assessed. Finally, increased tariffs could be incurred for net loss prior to the land use change. These tariffs would need to be meaningful to act as sufficient deterrent.

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

This is outwith the remit of the British planning system.

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

These maps should be developed and aligned with national and local strategic habitat and species priorities and objectives.

The National Habitat Network project provides a good starting point, but misses some key habitat types and would need refining with local data. The National Habitat Network gateway and local record centres provide species data.

Locally, with appropriate resourcing, Local Planning Authorities should have the ability to evidence and identify opportunities and focus net gain works to those areas.

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

A good starting point would be to look at the Partnership Management Plan priorities for the national park authorities and the Broads Authority. Some natural capital tools that are in development and could be of use are the Natural Capital Planning Tool and Natural Capital Valuation Online (NEVO) Tool.

National natural capital data sets that are regularly updated could be used to fill in the gaps and where appropriate target multiple benefits. They include data sets such as the Water Framework Directive Surface Water Status , Flood Map for Planning (Rivers and Sea) and Agricultural Land Classification.

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

It is overly simplistic to see this as a market for biodiversity units. As stated above a sequential approach must be taken with scenarios A and B being thoroughly tested first before collecting tariffs.

We think that overall there would be a very limited market for biodiversity units as net gain paid for by the tariffs should be delivered close by.

23. What further measures would help to ensure that the market provides:

a. Sufficient biodiversity units for development?

b. Cost-effective biodiversity units?

Again, a good starting point would be to look at the Partnership Management Plan priorities for the national park authorities and Broads Authority. It would be good planning to look at habitat connectivity and sites suitable for habitat creation.

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

It is very important that the maintenance is 'permanent' rather than 'in perpetuity' in order for it to deliver net gain. Government should explore alternative funding opportunities to ensure maintenance is continued after a developer's contribution is depleted, for example through ELMS. Without permanent maintenance compensatory sites could be lost or fail to deliver on intended biodiversity gains. It needs to be remembered that it will take time and effective management to establish many habitat types.

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

It should be permanent as explained in the previous answer.

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

Conservation covenants are used in many other jurisdictions, but do not exist in the law of England and Wales. New primary legislation would therefore be required. We think that Conservation Covenants could be a good mechanism for securing long term benefits from net biodiversity gain if they are correctly worded so that sites are protected and their interest is properly managed and maintained. They could help ensure the necessary long- management of sites, which is necessary for some habitat types to be successfully re-established.

Difficulties can arise with defining management and biodiversity outcomes within covenants. They can often be problematic and too loose or ambiguous and therefore open to wide interpretation and potential abuse. Weak covenants that refer simply to 'managing for biodiversity' or that 'environmental features are maintained' are not fit for purpose. There would need to be clear objectives and outcomes associated with any management agreement.

As with all covenants there would need to be a mechanism for monitoring and incentive for enforcement. These would need to be paid for and regulated. Penalties would need to be meaningful to ensure long term protection.

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

These could be linked to management agreements with a recognised conservation body.

As above, there would need to be a mechanism for monitoring and enforcement and sufficient penalties to be meaningful. This regulator role could be supplied by local planning authority enforcement officers and funded by the original developer in some way.

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

We would like to repeat that the payment of tariffs is only acceptable in exceptional circumstances and after all alternatives have been thoroughly explored through a sequential approach. The collection of tariffs under Scenario C in a National Park or the Broads is considered to be contrary

to the first purpose of National Parks set out in the 1949 National Parks and Access to Countryside Act and the Norfolk and Suffolk Broads Act 1988. Indeed, collection of a tariff under scenario C would cause harm rather than conserve and enhance the landscape. On this basis we urge that National Parks and the Broads are exempt from the collection of tariffs and that government develops a robust and deliverable mechanism for on- and off-site delivery (under Scenario A and B) which ensures that other local plan objectives are not unreasonably obstructed. We believe this to be achievable and that sites to secure local, compensatory habitat creation (scenario B) are much more likely to be available within a protected landscape than outwith.

However, there is the potential for National Parks and the Broads to provide local compensatory habitat under scenario C for development outwith but close to their boundaries. This would be paid for by tariffs and would necessitate close partnership working between the relevant Local Planning Authorities.

It is necessary to be mindful of land values as the range of costs will not cover delivery of meaningful habitats in an area where land values are high, for example in the south east of England.

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

There are a number of questions arising on this point that need to be addressed first such as who are the compensation providers, is the habitat in the right place, is it a comparable habitat and is it local priority habitat? More transparency on the accounting behind the figure is needed.

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.

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

It should be collected locally by the Local Planning Authority. Please note that this is not always the same as the 'local authority.' Both terms are used interchangeably in this consultation. National Park Authorities and the Broads Authority are local planning authorities but are not Local Authorities. This distinction is therefore important when Government considers how revenue should be collected and/or spent.

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

It should be spent locally on net gain as close as possible to the habitat lost. A blended model may be appropriate within regions so net gain can be delivered by a neighbouring authority when appropriate.

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

We disagree with spending the money nationally.

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

The new system would need to be resourced properly on local and a national level. We would also recommend seeking expert advice from a number of bodies such as the Landscape Institute, Chartered Institute of Ecology and Environmental Management etc.

There are a number of further measures that could be introduced. Firstly, the introduction of a statutory requirement to manage and update/review the data every 5 years. Secondly, ring fence management fees for LPAs from the tariff. Thirdly, provide powers to compulsory purchase land for biodiversity receptor sites.

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)?

All policy requirements that impact on the viability of development are assessed through whole plan viability studies; any tariffs for net biodiversity gain would need to be assessed in the same way.

Any tariff relating to net biodiversity gain would be separate to any existing contributions to biodiversity such as the Solent Bird Aware Project.

In response to footnote 28 of the consultation document we would be happy to engage further on this matter.

The introduction of net gain in a phased manner would allow it to be integrated gradually into viability assessments so that it did not slow down the delivery of development.

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)?

A local scheme would definitely be preferable and this could be done in partnership with other bodies such as the local wildlife trust or local biodiversity record centres.

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

Please refer to the answers to questions 5 and 15.

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

Please refer to the answers to question 9.

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?

No, we don't think any types of development would be disproportionately affected if a two tier approach was taken as set out in the response to question 5.

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

Yes, this is probably a sensible approach.

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

We are presuming that you are referring to the Planning Inspectorate. Further training would be required to acquire the necessary expertise on net biodiversity gain. The answer is yes in principle.

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

This would create an unwelcome additional layer of bureaucracy. Also, there would be a danger of splitting off biodiversity from landscape and cultural heritage. This could in the long term hamper progress to net environmental gain.

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?

There is the potential for local nature partnerships to monitor net biodiversity gain. There could be developer based performance scores. Also developer bonds/deposits, held by a third party, could prevent 'accidental' damage to biodiversity net gain sites.

So far the emphasis of biodiversity net gain has been on habitats and therefore as a proxy measure for widespread species. Monitoring may also be needed to measure change to a specific species affected by the development, for example, S41 species which may be a particular consideration of a development.

Tools such as area wide surveying, improved satellite and remote sensing habitat mapping could be very useful aides to ecological monitoring but these need to be deployed alongside standardised field assessment by ecologists. It is far too simplistic to purely rely on the use of 'high level' surveying methods. Expert knowledge in the field, will always be needed to appropriately assess gains achieved.

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

Yes, this could be monitored through Authority Monitoring Reports (AMR).

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

There could be a number of innovative approaches such as drones, satellite monitoring and machine learning. All information gathered by remote sensing would need to be ground truthed in order to attain a robust level of information for habitat evaluation. Parish and town councils could be involved with local management. Land could be owned permanently by a charitable body similar to community land trusts.