The countryside charity
Kent

Response for Improving the implementation of Biodiversity net Gain for minor, medium and brownfield development

1. Improving exemptions

Q1. Would you like your response to be confidential?

No

Do you support the following statements (yes/no)

I. **No changes should be made to exemptions**
II. Some changes should be made (please state which options you support with thresholds where applicable)
III. All minor development should be exempt.

1. Self and custom build development

Question: Do you agree that the self and custom-building exemption should be removed and that it should be replaced with an exemption for a single dwelling house?

We are not against this in principle; however, we are concerned that this may incentivise developers putting land at risk of being developed piecemeal and therefore, avoiding BNG altogether. It would also be important to continue with a baseline survey, carried out by a suitably qualified person/s so as to establish if there are any priority habitats on site.

Question: Do you agree with the proposal for a 0.1 Hectare threshold?

Yes

2. Development below the 'de minimis' threshold

Question: Do you agree the area de minimis threshold should be extended?

No

This may simplify the administrative burden for small developers, but it undermines the principle and purpose of BNG and weakens the overall effectiveness of the metric.

Increasing the de minimis threshold is highly likely to lead to an aggregated loss of biodiversity. Although small developments taken in isolation may seem insignificant, collectively the biodiversity loss is likely to be significant.

Raising the de minimis for small developments would allow developers to evade BNG and therefore, ultimately lead to a biodiversity loss as supposed to a net gain. Furthermore, this proposal would be undermining and eroding local biodiversity strategies that some Local Planning Authorities (LPAs) have with their own bespoke biodiversity goals.

It is inevitable that would lead to a negative impact on biodiversity around poorer areas especially. These areas, often urban in nature, generally have a low baseline for biodiversity, therefore, hedges, open areas etc become ecologically valuable and important places for residents' wellbeing. This proposal is likely to put these poorer areas at risk of losing these small, but important ecological pockets.

Extending the de minimis threshold could also mean missing out on opportunities for urban greening such as green roofs, small parklands etc. Especially important in inner city areas where every bit of green space is valuable and valued.

3. **Full exemption for all minor development**

Question: Do you think the BNG requirement should be removed for minor development (for example including up to 9 residential homes) please provide evidence for your response where possible.

No

Again, the cumulative loss of biodiversity that would occur if the BNG requirement was to be removed from minor developments would equate to a significant sum. This would undoubtedly result in a net loss and undermine the whole ethos of BNG as well as damage public trust in the policy. The environmental loss could be significant.

No BNG for minor developments would result in habitats being fragmented or lost with no compensation. Urban areas would become degraded and devoid of green spaces and valuable wildlife corridors would be lost ultimately resulting in a BNG net loss.

The 25-year Environment Plan would be undermined by this option and may even risk, it could be argued, the UK's Convention on Biological Diversity for instance.

This would create a two-tier system with the larger developer having to comply. This may be perceived as prejudicial or discriminating.

There would be the lost opportunity to enhance local green spaces, connect habitat and implement urban greening. Furthermore, this may encourage further eroding of the BNG Metric and environmental protection.

This incentivises larger developments being divided up to avoid BNG. This undermines the whole reasoning behind the legislation and risks escalation - significantly eroding the biodiversity protection that BNG is there to provide and prevent a net loss in nature.

A quote in the Times stated that minor site exemptions would reduce BNG delivery by 500-1,500 hectares per year, that equates to 1, 236 – 3,707 acres, over years this would be a fair chunk of our natural history gone. Furthermore, this would seriously damage

the evolving credits market. They could suffer a catastrophic drop in revenue as a result through the loss of trading.

The BNG metric only became mandatory for minor developments in April 2024. We are barely a year in, and the evidence so far is not good. According to Spruce Town Planning only around 50% of expected habitat targets have been delivered. The University of Sheffield reported that of 42 new housing estates, developers had fulfilled less than half of the ecological enhancements they had committed to.

Therefore, the evidence to retain BNG for minor developments is compelling. Removing BNG from minor developments would undermine the BNG policy, lead to a net loss for nature, damage the environment credits market and deliver few or no ecological compensations.

Question: If minor development were to be exempted from BNG, do you agree that the de minimis threshold should be extended to cover other types of development outside of the minor development category having little or no impact on biodiversity?

No.

If the de minimis threshold was to be extended to cover other types of development this would further erode the ethos behind preserving our natural heritage and biodiversity for the same reasons listed above, especially non minor development.

4. **Parks, public gardens and playing fields development**

Question: Do you agree that parks, gardens and playing fields development, as defined above, should be partially exempt from BNG? Please five evidence where possible.

No

Parks, public gardens and playing fields may have, what would be classed as 'low distinctiveness amenity grassland' or described as 'other neutral grassland', these low amenity grasslands have the potential for nature recovery and enhancement if better management practices were to be adopted. These potentials could be realised as wildflower meadows, ponds, hedgerows etc. Making these developments exempt from BNG would be removing the chances to elevate the biodiversity on site. Often these green spaces have hidden but recoverable habitats often due to intensive management and mowing regimes. If allowed to grow and mature it is not unusual to find orchids and other rich flora. These areas provide an easy win for BNG because the potential is already there waiting in the soil. A 2023 Natural England (NE) study found that just altering the mowing regime delivered 10-20% net gain at little to no cost.

Parks, public gardens and playing fields act as green corridors or biodiversity corridors breaking up hardscaped urban landscapes. Exempting these spaces would cause

habitat fragmentation limiting migration and immigration for wildlife. This would be contrary to the LNRS and the NRN which seeks to make nature stronger, bigger, better and more connected. Habitat connectivity is vital in terms of supporting wildlife, be it urban or rural, but especially urban.

The cumulative or aggregated loss of biodiversity is a risk with this proposal. Often these green spaces get paved over or reconfigured with hardscaping incrementally. If these sites were exempt, then this would be allowed to occur with little to no compensation resulting in a net loss in biodiversity. BNG would safeguard against this ensuring quantification and accountability with the loss/gain calculations.

Any exemption would undermine BNG integrity creating a danger of exploitation by classifying land as of 'low distinctiveness' in order to avoid and sidestep their environmental responsibility. We already witness this with the classification of farmland. All too often best and most versatile (BMV) farmland gets re-classified from grade 1, 2 or 3a/b to 4 for the purposes of development. This could result in public trust waning, regulatory confusion and legal challenges.

Exempting these green spaces would be a missed opportunity not just in terms of restoring and protecting nature but also climate resilience – reducing surface runoff and improving air quality.

This proposal would undermine and stifle nature recovery agendas. BNG should be the means to propel nature recovery and protect our flora and fauna.

5. **Development whose sole or primary objective is to conserve or enhance biodiversity.**

Question: Do you agree that development whose sole or primary objective is to conserve or enhance biodiversity should be exempt from BNG? Please provide evidence where possible, including examples of developments that you think would be exempted.

No

If yes, do you think there should be an upper size limit?

This may on the surface seem a logical step to take, however, it is not without significant risks that are likely to undermine the integrity of the metric.

Just because an organisation's sole purpose is to conserve or enhance biodiversity it still can harm habitats and cause habitat loss during the construction phase be it site access, clearance, fencing etc. With no BNG assessment these impacts would fall through the cracks and not be accounted for. Removing the need for BNG would remove the prerequisite to show net gains via the metric. Without the initial assessment, how would any measurable gains be proven? There is a risk of a net loss occurring if a proposal of exemption is implemented.

This proposal incentivises developers to re-brand projects and plant trees and create ponds without being conservation led to avoid BNG. This runs the risk of more greenwashing, less regulatory control and public confidence. The BNG process validates these schemes and is contrary to the 'do no harm' principle.

A conservation target or aim does not necessarily guarantee no net loss in biodiversity and could result in the wrong habitat in the wrong place and ecosystems being overly simplified. BNG safeguards against this ensuring rigorous impact assessment and scrutiny and at the same time supporting the LNRS initiatives.

Exemptions reduce the opportunity for scrutiny by the public and LPA and the need for monitoring. Monitoring ensures that the project will be a success, an exemption could allow conservation efforts that fail to go under the radar and be unaccountable in their failure. Furthermore, BNG ensures that habitats are appropriately implemented with proper scrutiny and management plans with mechanisms and safeguards in place that would protect those efforts for a minimum of 30 years. Exemption would wipe those safeguards away.

Presuming that there will be a net gain is not the same as ensuring that there will be a net gain.

NE BNG guidelines stipulate the importance of applying the metric to all land use changes, regardless of intent, to ensure net positive outcomes and avoid unintended consequences.

6. **Temporary development**

Question: Do you agree that temporary planning permission should be exempt from BNG? Please provide evidence where possible, including examples of developments that you think would be exempted.

No

If yes, do you agree with the 5-year time limit?

Temporary development can cause lasting and irreversible damage to habitats depending on their nature. Habitats can take decades to recover if at all causing ecological loss and irreversible damage.

An example of this in Kent is the Nemo Link's damage to the saltmarsh at Minster in 2017. The cable installation caused long-term damage to the saltmarsh and its chalk bed, the scars of which are still visible. Furthermore, the works altered the water flow for six years after completion.

There is also a risk of developers exploiting this proposal as a loophole and applying for temporary permissions with the ulterior motive to either extend or make permanent in the future, thus bypassing their BNG environmental obligations.

Over time, numerous temporary permissions, such as storage, access roads etc across multiple sites become cumulatively significant, especially if poorly restored as with the Nemo Link case study.

Once permission has been granted for a temporary site, the restoration process post development becomes an inconvenience, it is non-binding and often goes unpoliced with the habitat left in a worse state than before and a net loss. BNG would ensure that the land is restored to a favourable condition with a net gain.

BNG, once NSIPs adopt it, will become a universally recognised and dependable planning requirement across all disciplines that will and may cause harm to our biodiversity. This proposal would undermine that consistency and erode public confidence and protection for our nature.

Temporary developments could undermine or stall the LNRS's efforts to join up nature. Exempting temporary developments could set back the ecological function of the land and hinder the LNRS progression.

BNG would ensure a net gain with all habitats being measured, accounted for, appropriately and proportionately compensated and ultimately protected for at least 30 years, closing any loophole and the opportunity to exploit temporary permissions.

2. Streamlining the BNG metric process

Small Sites Metric

Question: Do you think the SSM should be able to be used for medium development?

No

The SSM was designed specifically to simplify the BNG process for minor developments of up to 9 dwellings on up to 1ha or 0.5ha if numbers are unknown. Utilising the SSM for medium scale developments is likely to undermine the protection of habitats and the BNG process.

The SSM is effectively a dumbed down version of the main metric. Designed for small time or one-off developers to navigate the BNG process. It excludes certain criteria that is required in the statutory metric such as habitat and condition assessments. This means that if it is adopted for medium scale developments that important habitats could be missed leading to ecological losses which could be underestimated or recorded, and this would result in inadequate compensation requirements and ultimately a net loss in biodiversity.

An example of this could be a site with semi-improved grassland wrongly identified by a so-called competent person who wrongly records the habitat as being of low

distinctiveness. This would result in the compensation being of limited value and a net loss.

The SSM offers limited options for strategic significance and has fixed habitat condition values this could lead to inflating the gains figure and the lowballing of losses resulting in misleading/inaccurate claims of a net gain.

This proposal would seriously undermine confidence in the BNG process which is often under scrutiny. It may lead to inconsistent planning decisions and a toothless process.

Medium scale developments offer green opportunities for nature recovery through the statutory metric, the opportunity to link up fragmented habitats in line with the LNRS and deliver meaningful and measurable outcomes for nature. Using the SSM would negate at worse and reduce at best the potential for all these positive outcomes.

NE's own guidelines specify that the SSM is designed for 1-9 dwellings on less than 1ha or non-residential development on less the 0.5ha. It was never designed, nor intended for medium scale developments.

The use of SSM for medium scale developments would increase the risk of an inadequate biodiversity assessment and misleading net gains.

Question: Do you think the SSM should be able to be used on sites with European protected species present?

No

This is likely to be highly problematic and could easily have severe ecological risks. Due to the SSM's simplified calculations there are highly likely to be inadequate evaluations of habitats on site because the SSM simplifies habitat conditions and type. In a nutshell, the SSM lacks the detail to adequately assess specific habitat requirements and types. Furthermore, SSMs can be administered by unqualified but seemingly competent individuals who are likely unable to differentiate in any detail between habitat types or recognise protected species field signs onsite.

This is likely to lead to inappropriate assessment of the site and a net loss in biodiversity and is the reason that the default position for protected species being present on site, is that the statutory metric should be adopted.

This proposal is likely to confuse the system and be incompatible with NE licencing criteria which requires a comprehensive survey, detailed mitigation and compensation strategy. NE state that the SSM should not be used where protected species or habitats of principal importance are present or likely to be affected.

Therefore, using the SSM when EPS are present is likely to render any BNG assessment unsound, incompatible with NE licencing and undermine public confidence in the effectiveness of the metric.

Question: Do you think the SSM should be able to be used on sites with protected sites present?

No

Using the SSM on sites that contain or are adjacent to protected sites such as SSSIs, Ramsar sites and ancient woodland could pose serious legal implications, flawed methodology and procedures.

Any development next to or containing a protected site is high risk and should use the full statutory metric. The SSM was designed for low risk, small developments that would cause minimal harm to ecologically sensitive receptors.

Using the SSM in this context would undermine the BNG's intended purpose and damages its integrity as a tool meant to protect our most valuable habitats from harm.

The simplified SSM is not fit for purpose in this kind of scenario with its simplified habitat categories and default condition scores, it is not capable of assessing and adequately compensating for high value or irreplaceable habitats, protected or designated sites that consist of complex habitat mosaics.

There is a danger of noncompliance with National Planning Policy Framework (NPPF) and legal duties which require enhanced scrutiny and protection of designated areas. The SSM circumvents granular ecological assessment and used in this context is likely to undermine The Environment Act (2021), LNRS, Habitats Regulations and LPs.

There is also the possibility of damaging or losing irreplaceable habitat and inadequately compensating such habitat of which the BNG cannot be utilised to offset damage or loss to irreplaceable habitats. Only avoidance first or bespoke mitigation can do that.

Using the SSM for protected sites is akin to using a child's tool set to mend a 44 tonne fully articulated HGV.

There is a very real risk of underestimating the ecological value of complex habitats and underestimating habitat loss. Therefore, the compensation would be inadequate and without doubt there would be net loss in biodiversity. Furthermore, a competent person is not the same as a professionally trained and qualified ecologist and is therefore, not suitable to assess this kind of habitat and its strategic importance.

Question: If these changes are taken forward, and the SSM is re-badged as a low impact metric, do you think there should be any other restrictions on sue of the SSM?

No

Amendments to the Small Sites Metric

I. Removal of the trading rules

Question: Do you think the trading rules should be removed in the SSM (which contains only medium and low distinctiveness habitats)?

No

If no, do you think the trading rules should be amended in the SSM to allow the losses of any medium distinctiveness habitat to be compensated for with any other medium distinctiveness habitat (but not with low distinctiveness habitats)?

No

Removing the trading rules from the SSM would reduce the effectiveness of an already dumbed down tool. The trading rules are a crucial element that ensures any biodiversity losses are appropriately matched and compensated for insuring no net loss occurs and a 10% net gain in biodiversity is achieved, which is exactly what the Metric's purpose is.

If this proposal were to be implemented, we would have a mismatch in offsetting and developers are likely to compensate with a lower value or easy win habitat. This fundamentally breaks the central principle of BNG which is like for like or better.

This is highly likely to result in the loss of rare or priority habitat and an increase in low value easy win habitat types leading to a biodiversity loss. This in turn would undermine LLNR's objectives and local nature recovery priorities.

Removing the trading rules would give a green light to developers to purchase off site units anywhere with little to no strategic significance, leading to habitat fragmentation, loss of local biodiversity, less joined up nature and a net loss in biodiversity.

Furthermore, this strategy would ultimately result in loss of species as their habitat type is not compensated for and disincentives developers from providing onsite BNG.

It states on Page 29 that 'SSM does not contain high or very high distinctiveness (priority) habitats…' this habitat has been assessed by a competent person, not a qualified ecologist, who will not necessarily be able to assess high distinctive habitat types.

On page 30 it is suggested that medium distinctiveness habitat could be compensated with medium but not low distinctiveness habitats, and the example used is for the loss of individual trees could be compensated for with mixed scrub or other neutral grassland. These are very different habitat types. Nightingales nest in scrub but don't

nest in neutral grassland, bats roost in individual trees but rarely in scrub and certain ground nesting birds will utilise neutral grasslands but not individual trees. Although all of medium distinctiveness they support very different species assemblages.

This proposal serves to dilute BNG requirements and fairness of the system, undermine the credit market and creates inconsistencies across the planning system. It will ultimately incentivise low distinctive habitats and undermine local biodiversity policy.

II. Changing how habitat condition is fixed

Question: Do you think habitat condition should be fixed at 'poor' for baseline habitats, and 'moderate' for the target condition of enhanced habitat in the SSM?

No

This is likely to undermine BNG goals. It sets a very low bar for ecological condition and stifles the objective of improvement where many habitats have the potential to achieve good or high conditions. This does not feed into the ethos of BNG and attaining the sites full ecological potential.

While degradation of onsite biodiversity occurs, this policy would actively incentivise developers to lower the baseline. An example would be to allow grassland to deteriorate to such a degree as to lower the baseline enough to attain a moderate gain for the purposes of the metric analysis affording a larger gain. This would be difficult to police and prove.

BNG was created to leave nature in a measurably better state than before. This policy seeks to undermine this and deliberately dumb down biodiversity on a site regardless of condition and drive low ambition. It will mislead and give false positives when in reality, there are no benefits for nature.

A fixed target of 'moderate' is unlikely to echo what is present on site especially if there are ecologically distinctive habitats on site that are site specific. Fixing the targets ignores diversity amongst habitat types and any higher achievable targets with appropriate management.

Nature is variable, dynamic and diverse and this proposal totally ignores that fact seeking to standardise and shoehorn nature into a fixed type. There is no one size fits all and it is not possible to square the sides with nature without causing significant harm.

Question: Are there any other changes to the SSM or metric process for minor and medium development that should be considered to overcome challenges or streamline the process?

No

BNG is not there to 'make it easy' for the developer. It was carefully created after much deliberation and consultation to protect nature and to enhance biodiversity with at least a 10% net gain with a hope that it may halt, or at least stem, the flow of biodiversity loss that is occurring in the UK.

The SSM is barely a year old and has not had time to bed in and already this consultation seeks to remove the baby teeth before any data and measurable results are available.

Simplifying and amalgamating SSM habitats

Question: Do you think some habitats of the same broad type with the same value should be amalgamated in the SSM?

Yes/No

We are not against this idea in principle; however, it depends on which habitat types are to be amalgamated. Very careful consideration must be given to which habitat types are to be joined and we would need more information before we could comment further on this. There would need to be a consultation process on just this theme before we fully supported any proposal.

Question: Do you think the habitats in the SSM should be reviewed, to ensure they are easily identified by non-ecologists?

Yes

Any supporting documentation or guide that would enable or help a competent person to evaluate the habitats on a site proficiently has to be helpful. That said, any 'competent' person of a certain level should be able to carry out this exercise effectively, otherwise it could be argued that they are not competent.

Question: Do you think there should be a watercourse module in the SSM, or should all developments within the riparian zone of watercourse habitats use the main metric tool?

For the first part of this question: No

For the second part of this question: Yes

As the watercourse Metric is a statutory tool within the Metric utilising a different nonstandard method could and likely would be contrary to the Environment Act (2021) and possibly LPA policy and therefore be non-compliant.

LPAs need to have confidence that any gain has been assessed using appropriate methodologies.

Ecologists are more and more expected to have attained River Condition Assessment (RTA) training and attend specific watercourse module training. A 'competent' person assessing a watercourse using the SSM is unlikely to have attained this qualification and so would not have the necessary skills to adequately assess watercourses.

Any alternative survey methodology may not align with the statutory metric's assessment of watercourses which would create a two-tier system where the condition of the baseline for a watercourse is either overstated or understated resulting in a net loss but showing a false gain. This could lead to long term or permanent ecological damage.

There is a lot to consider for watercourse assessments and that is why there is a lot of training for it. Any different approach from the status quo risks missing key riparian features or considering longitudinal connectivity, upstream or downstream impacts etc.

It is vital that best practice is used for the Watercourse Condition Assessment Method for the Watercourse Metric to protect this complex habitat and ensure correct calculations in net gain and appropriate compensation. Only this would ensure that any net gain is validated. Not doing so would erode confidence in the Metric's ability to deliver.

Competency, habitat identification and guidance

Question: Do you think providing additional guidance on the identification and management of habitats in the small site metric would be helpful?

Yes

Any guidance would be helpful.

Question: Do you think more clarity is required within the definition of a competent person undertaking a BNG assessment using the SSM, and reviewing the completed SSM?

Yes

If yes, do you have any suggestions as to how competency could be defined for the SSM?

The current description of a competent person says;

'A 'competent' person is someone who is confident in identifying the habitats present on site (pre-development) and understanding the management requirements for habitats to be created or enhanced within the landscape design (post development).'

This paragraph is meaningless. It describes anyone who thinks they may have the skills but don't. This could represent anyone with a big enough ego and self-belief to walk on a

site and assess what they are looking at. Many species of flora are found at many different sites; they do not define a habitat type.

The description goes on;

'A competent person is someone who can demonstrate they have acquired through training, qualifications or experience, or a combination of these, the knowledge and skills enabling that person to perform specified tasks in completing and reviewing metric calculations.'

We know of qualified ecologists that struggle to interpret the SSM at times, not because they do not know what they are looking at, but because the SSM is so restrictive they struggle to fit nature into a limited Metric. Often, they give up and revert to the statutory Metric. This makes us wonder how someone not as qualified and competent as an ecologist would get on.

Therefore, we suggest that the description of the criteria that makes someone a competent person is made much clearer. A list of appropriate/acceptable qualifications, jobs roles, length of experience etc.

Minor Development using the main metric tool

Watercourse metric – condition surveying and when to complete for minor development

Question: Should a different watercourse condition survey be employed for minor development using the watercourse metric?

No

For the same reasons as for SSM

Question: Should a different watercourse condition survey be employed for minor development using the watercourse metric when there is no impact?

No

For the same reasons as for SSM

Question: Do you think that minor developments should be able to agree with the relevant planning authority that they do not need to complete the watercourse module of the metric when there is no impact?

No

Utilising the BNG Metric is the only sure way to determine any impact on watercourses. Many developments have water sewage treatment plants onsite, light pollution and hard surface run-off. Whilst a development may seemingly not have any impact on watercourses present within the redline boundary or just outside it, very often they do

and therefore, the BNG Watercourse Metric should be applied to ensure a 10% net gain is achieved and suitable compensation provided.

There is much to consider with watercourses which involve hydrology, morphology, ecology and connectivity and due to their very nature, upstream and downstream can be negatively impacted by development. A development may on the surface appear to have little or no impact, when it's actually causing long-term ecological harm.

All development

Improving the tool

Question: What specific features or improvements would you like to see in a digital version of the metric tools?

It would be good to be able to carry out the following tasks;

To draw and label habitat types directly onto a baseline arial map that automatically calculates habitat areas in ha, m^2 or acres, that one can overlay on with designations, red line boundaries etc and possibly links directly to the LNRS, MAGIC or both, or any other national data set.

It would also be useful to have NE condition sheets as part of the digital package with geo-tagging for evidence. The automatic calculating of Biodiversity units, trading rules and risk multipliers. Being able to test net gain/loss and time to target conditions.

A reporting feature such as a dashboard which tracks if a 10% net gain is achieved or not along with an automatically generated export function to submit BNG Reports directly to the LPA along with Condition Assessments etc.

Being able to link to live data to the offsite BNG register which updates automatically so no risk of double counting and for the app to highlight errors etc with explanations of what needs to be done to resolve any errors.

It would also be really useful to be able to use these features out in the field on a mobile device.

Question: Do you think we should allow biodiverse features to be counted within vegetated gardens being created as part of a development?

No

Gardens are private entities where there is no control over what happens. Trees get felled, hedges manicured, grass is regularly mown, often with no survey and during the bird nesting season, plastic grass can be laid, or gardens paved over, insecticide and fungicides get sprayed and light pollution from outside lights is a real issue. Gardens are places where football nets, swings and screaming children play and dogs and cats

defecate. The recreational pressure on some gardens is immense and there is no way of guaranteeing proper management for 30 years.

Gardens are not suitable to count towards BNG net gain due to the high risk of recreational pressure and inappropriate management.

3. Increasing flexibility to go off-site for minor development

I. Relaxing the biodiversity gain site hierarchy for minor development

Question: Do you agree the biodiversity gain hierarchy should be updated for minor development?

No

The purpose of BNG is to protect nature and deliver a minimum of a 10% net gain in biodiversity. If offsite gains are allowed without penalty, this defeats the object of retaining habitat types and biodiversity as close to its original location as possible. The knock-on effect of this will undoubtedly be a negative effect on protected species who will lose out to habitat elsewhere nowhere near to where they are located, running the very real risk of localised extinctions of some species.

This incentivises developers to pay to offload BNG elsewhere. The cumulative loss of local biodiversity is likely to cause long term local loss as minor developments make up a large share of the market. Green infrastructure is essential for public wellbeing, pollinators, urban cooling and nature as a whole.

This policy would de-incentivise developers to integrate green initiatives into their design, initiatives such as green roofs, wildlife friendly SuDs, tree/hedgerow planting and other features.

Question: Would relaxing the biodiversity gain hierarchy for minor development support small developers to deliver BNG more easily?

No

As for the above but to add, BNG is not there to save developers' money, its primary role is to increase our depleting biodiversity and safeguard nature into the future. This incentive would create a two-tier system and undermines the equality of opportunity. It would be inconsistent and there is no reason why small developers should be less accountable when it comes to enhancing biodiversity onsite.

Allowing small developers to have free or cheap off-site gains would devalue those units in the credit market and may put at risk existing habitat banks rendering their business unviable. Why should small developers have advantage and habitat banks lose out?

This policy creates an uneven playing field and undermines the principles of net gain at source. Combinations in local losses of biodiversity add up to significant losses overall.

Question: Do you think placing off-site habitat enhancements with the same preference as onsite habitat enhancements for minor development would deliver better outcomes for nature? Please provide evidence to support your answer where possible.

Possibly

This depends on the location of the development along with the habitat types that are to be negatively affected. There is not a one size fits all. Developers should always seek to compensate onsite first if possible, which is the default preference for the Metric.

Offsite can be preferable in certain situations. Offsite areas are generally larger and sometimes have better connectivity. They may be in areas where nature recovery is ongoing.

Offsite habitats are often managed by professionals such as NGOs, farmers or habitat banks with a 30-year agreement and management plan in place that will produce regular reports on progress and offers landscape scale BNG. Onsite BNG can get neglected without a robust management plan and face pressure from further development in the future.

That said, onsite BNG can offer huge benefits for protected species locally, urban cooling, wellbeing and better air quality.

The BNG hierarchy should always be followed of avoid, minimise, deliver onsite, deliver offsite and finally statutory biodiversity credits.

The following offsite or onsite pros and cons should be considered.

Would the onsite BNG area be viable long term? If no, then offsite should be considered.

The Spatial risk Multiplier for minor development purchasing off-site units

II. Disapplying the Spatial Risk Multiplier for minor development

Question: Should the Spatial Risk Multiplier be disapplied for minor development purchasing off-site units?

No

This is contrary to the LNRS and local nature recovery. The spatial risk multiplier incentivises BNG delivered locally or as close to the development site as possible. Therefore, removing it would have the contrary effect of keeping biodiversity local for any strategic habitat gains. It could also mean developers are able buy units anywhere, even far away as they shop around for the cheapest option.

This could create undercutting locally for local habitat banks that may have more suitable and valuable habitat types available and could damage the emerging BNG unit market.

There is a risk of a net loss in biodiversity locally and communities not benefiting from local green spaces.

This policy would create a two-tier system where small developers are treated differently to large developers.

LNRSs are meant to be closely aligned with the BNG Metric ultimately leading to the delivery of national biodiversity aims. The removal of the spatial risk multiplier would weaken this alliance and runs the risk of habitat fragmentation increasing. This would not follow the philosophy of bigger, better, more joined up.

The penalty that the spatial risk multiplier adds within the metric deliberately incentives the developer to keep BNG as local as possible, if possible. This helps to prevent local areas from becoming biodiversity deserts.

III. Assessing spatial risk using Local Nature Recovery Strategy areas

Question: Should the Spatial risk Multiplier assessment methodology be amended, so that it is based on Local Nature Recovery strategy and National Character areas rather than Local Planning Authority and National Character areas?

No

We have said no because we would not wish to see biodiversity lost from local areas, however, the Metric could be amended so it keeps the spatial risk multiplier to encourage locally first, but another tier could be added for LNRSs before going completely offsite. So, the order would be local first, LNRSs second, then offsite, then statutory BNG credits.

4. Brownfield developments with Open Mosaic Habitat

Options

Question: Should we review the metric habitat definition, condition assessment criteria and guidance to assist with the correct identification and classification of OMH?

Yes and no

Due to OMH being so diverse and dependent on the substrate the flora is developing on, plus the length of time it takes for OMH to develop and mature can be 15 years plus, it can be almost impossible to successfully reproduce and therefore, compensated for

because of the time to target condition. We, therefore, despite the Metric classing OMH as being of high distinctiveness, would be inclined to add OMH to the list of irreplaceable habitats because of this.

No two OMH sites are the same. They are unique in their own right and often support incredibly rare fauna and flora. Species that often get out competed elsewhere, thrive in OMH.

This makes it very difficult to accurately identify OMH, a hard area such as a car park may have pockets of OMH and other areas might be bare tarmac. Another site, however, may be almost completely OMH such as the slag heap at Betteshanger Country Park which plays host to the second largest colony of Lizard Orchids.

We would need to see more information on how OMH would be defined within the Metric and identified for the purposes of classification.

Question: Should we allow alternative habitat delivery for the loss of Open Mosaic Habitat?

No

Allowing an alternative habitat delivery would undermine the like for like principle within the Metric. OMH is classed as a priority habitat under Section 41 of the NERC Act (2006) and is often irreplaceable or extremely difficult to replicate.

OMH can support extremely rare and niche flora and fauna that would ordinarily not survive elsewhere. This is problematic as if an alternative habitat was created, these species would not necessarily survive or thrive depending on what was created. There is a real risk of losing some of our best and unique flagship species from the Site especially invertebrates which often have the inability to travel far.

These highly distinctive assemblages, some of which will be protected species, could be lost all together, even if the OMH is heavily compensated for. They occupy niche pockets of habitat colonising early successional and pioneer plants and are often highly specialised feeders and bare ground specialists.

We fail to see how an alternative habitat would replicate or come close to what these species need to survive. Furthermore, replacing OMH with an alternative habitat would cause functional loss and be contrary to the NPPF which seeks to protect priority habitats.

Question: Do you have any suggestions as to the habitat mosaic which may provide the same ecological benefits as OMH or the key considerations we should be incorporating?

No

As with above, because OMH is not one habitat type such as lowland meadow or calcareous grassland, it would be difficult to define in terms of criteria required to replicate such habitat. OMH could be tarmac, cement, brickworks, slag heaps from mining, indeed any hard, often hostile environment. The other issues are time to target condition which can be upwards of 15 years, natural colonisation over long periods of time, the requirement of poor nutrient rich soils and site-specific requirements.

Question: Do you have any further suggestions of how we could improve the viability of brownfield sites with Open Mosaic Habitat present, in relation to their requirement?

Yes

What grows and does not grow on OMH is a never-ending study and there is a high failure rate for replicating OMH. Therefore, each OMH would need to be carefully assessed, and the substrate or hard surface would need to be replicated for each site.

Careful translocation of the site piecemeal may be an option to consider, if this is even possible. It is a method that has been used for ancient woodlands on occasions.

The other option may be to secure an OMH nearby if there is any, however, as OMH are so unique this would not necessarily compensate for the habitats to be lost.

Lastly, coexistence, instead of OMH blocking development, could a development be designed around the OMH sectioning off the most sensitive areas?

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