

2nd August 2021

Report of	Assistant Director of Place and Client Services	Author	Catherine Bailey ☎ 503530
Title	Net Gain		
Wards affected	All		

1. Executive Summary

- 1.1 This report is for Members' information and provides a summary of the Government's approach to biodiversity 'net gain' which is due to be introduced as a national policy through the Government's Environment Bill¹, currently undergoing its passage through parliament. The bill is anticipated to be enacted in Autumn 2021.
- 1.2 The potential for mandatory biodiversity net gain was introduced in the Government's 2018 publication, 'A Green Future: Our 25-year plan to improve the environment' (the "25 Year Plan"²) and would extend existing policy of providing net gains where possible. Net Gain provides a tool to enable proposed future development to have environment at its heart to create better places for people to live and work.
- 1.3 The Government has identified that to meet the net gain condition for planning permissions, biodiversity gains will need to be measured using a biodiversity metric. An updated metric, Biodiversity Metric 3.0, was launched by Natural England on July 7, 2021, anticipated to be the industry standard once the bill is enacted later this year. Mandatory biodiversity net gain provisions only take effect following a two-year transition period, estimated to be in late 2023.
- 1.4 Colchester Borough Council has identified the principle of measurable biodiversity net gain for development sites, as appropriate, in the emerging Local Plan.

2. Recommended Decision

- 2.1 No decision is required since the report is for information only.

3. Reason for Recommended Decision

- 3.1 The report provides information on biodiversity net gain.

4. Alternative Options

- 4.1 Not applicable

¹ <https://bills.parliament.uk/publications/41447/documents/196>

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693158/25-year-environment-plan.pdf

5. Background Information

- 5.1 The concept of measurable biodiversity net gain was introduced in the Government's 2018 publication, 'A Green Future: Our 25-year plan to improve the environment' (the "25 Year Plan"), extending existing policy of providing net gains where possible. The 25 Year Plan recognises the existing degradation in the natural environment due to intensive agriculture, pollution, development and climate change, as well as the drive to deliver 300,000 new homes per year.
- 5.2 Net gain provides a tool to enable proposed future development to have biodiversity at its heart to create better places for people to live and work. Net gain could help deliver green infrastructure networks, both on and off site, protecting ecosystem services and creating nature recovery networks for wildlife and biodiversity, as well as accessible natural green spaces for recreation and play.
- 5.3 The Environment Bill (which reached the House of Lords in May 2021) makes provision for biodiversity net gain to be a condition of planning permission in England. It introduces the idea of a Biodiversity Gain site register, whereby sites that are subject to habitat enhancement and/or management for a period of at least 30 years, as a result of either planning obligation or conservation covenant, would be required to be registered, along with details of the site, such as location and size, the baseline biodiversity value of the site, works to be carried out, the landowner and/or developer etc.

6. Biodiversity Metric

- 6.1 The Government has identified that to meet the net gain condition for planning permissions, biodiversity gains will need to be measured using a biodiversity metric. The Government has been developing a metric that uses habitat features to calculate biodiversity value. It can be used to:
 - assess the biodiversity unit value of an area of land.
 - demonstrate biodiversity net gains or losses in a consistent way.
 - measure and account for direct impacts on biodiversity
 - compare proposals for a site - such as creating or enhancing habitat on-site or off-site.
- 6.2 The metric calculates the values as 'biodiversity units'. Biodiversity units are calculated using the size of the habitat, its quality and location, and can be used for land and intertidal habitats, including woodland, hedgerows, grassland, rivers and streams. Biodiversity Metric 2.0 was published by Natural England in 2019 and has been tested and refined by the government as well as the development industry and ecological advisers. It is currently not the only Biodiversity Accounting Tool, and there is no existing policy or law requiring the use of the DEFRA Metric. The updated metric, Biodiversity Metric 3.0, was launched by Natural England on July 7, 2021, with the Environment Bill due to identify it as the industry standard once enacted, which is anticipated in Autumn 2021. Mandatory biodiversity net gain provisions only take effect, for Town and Country Planning Act developments, following a two-year transition period, estimated to be in late 2023.
- 6.3 The principles for Biodiversity Metric 3.0, include that:
 - *The metric focuses on typical habitats and widespread species; important or protected habitats and features should be given broader consideration.*

- *Protected and locally important species needs are not considered through the metric, they should be addressed through existing policy and legislation.*
- *Impacts on ... irreplaceable habitats are not adequately measured by this metric. They will require separate consideration which must comply with existing national and local policy and legislation.'*

6.4 The Biodiversity Metric 3.0 User Guide makes clear that the metric is designed to inform decisions but not to override them, and that the biodiversity mitigation hierarchy still applies; namely avoid, mitigate, compensate.

7.0 Local Plan Policy

7.1 The Adopted Local Plan identifies conservation and enhancement of biodiversity within development sites within **ENV1 – Environment**, including the following:

Where new development needs, or is compatible with, a rural location, it should demonstrably...
vi. protect habitats and species and conserve and enhance the biodiversity of the Borough; and
vii. provide for any necessary mitigating or compensatory measures.

7.2 Within the adopted Section 1 of the emerging Local Plan, **Policy SP8 – Development and Delivery of a New Garden Community in North Essex**, identifies that:

The design, development and phased delivery of ... new garden community will conform with the following principles:
xi. Secure a smart and sustainable approach that fosters climate resilience and a 21st century environment in the design and construction of each garden community to secure net gains in local biodiversity...

7.3 In relation to **ENV1 – Environment**, within the emerging Local Plan, the proposed modifications are seeking:

For all proposals, development will only be supported where it:
(v) Incorporates beneficial biodiversity conservation features, measurable biodiversity net gain (10% minimum) and habitat creation where appropriate.

7.4 Within **Policy SC2: Middlewick Ranges** of the emerging Local Plan and proposed modifications, is to read:

.....development will be supported on land within the area identified on the policies map where it:
(vii) Is supported by the submission of appropriate mitigation and net gain plans to enhance the ecology of the remaining areas of the Local Wildlife Site including the provision to provide of compensatory habitat to replace habitat lost to development and a minimum of 10% biodiversity net gain;

8 Next Steps

8.1 Colchester Borough Council currently requires developers to provide biodiversity enhancements in line with Adopted Plan ENV1, based on appropriate recommendations

proposed by the developer's ecological consultant or on advice in relation to landscape proposals by the Council's landscape officer as part of the consideration of landscape and biodiversity within planning applications.

- 8.2 The need for a Biodiversity Net Gain SPD has been recognised in the Council's Climate Emergency Strategy, in order to inform developers, officers and the public of upcoming requirements in the emerging Local Plan once adopted and the Environment Bill when enacted later this year, and ways to achieve this. The Council will work with partners to draw up suitable guidance that can be considered for adoption as SPD in due course.
- 8.3 One of the other likely necessities to successfully deliver net gain in the borough through habitat creation or enhancement, will be identification of sites that can be promoted as sites for delivery of off-site net gain. This is likely to be a necessity, in particular, for smaller development sites or those in urban environments where there isn't room to deliver the gains on the development site itself. This could include sites in The Council's ownership such as existing open space. The Council will work with partners to draw up a provisional list of suitable sites.

9. Equality, Diversity and Human Rights implications

- 9.1 Net gain provides an opportunity to enhance nature conservation close to both existing and proposed communities bringing health and wellbeing benefits to both local communities as well as benefits for biodiversity. A clause relating to net gain has been proposed within the modifications for the emerging Local Plan. An Equality Impact Assessment has been prepared for the emerging Local Plan. It is available to view by clicking on this link:

<https://cbccrmdata.blob.core.windows.net/noteattachment/Equality%20Impact%20Assessment%20June%20202017.pdf>

10. Strategic Plan References

- 10.1 All themes in the Strategic Plan are relevant, in particular 'Tackling the climate challenge and leading sustainability' including the priority of 'Conserve and enhance biodiversity' and the theme of 'Creating safe, healthy and active communities' including 'Tackle the causes of inequality and support our most vulnerable people'.

11. Consultation

- 11.1 A clause relating to net gain has been included within the policy modifications for the emerging Local Plan. If accepted by the Local Plan examiner, the proposed modifications will be consulted on for a six-week period later in the year. The development of a net gain SPD would also be subject to a public consultation by the Council at the appropriate time (for instance, once the emerging Local Plan is adopted and the Environment Bill enacted).

12. Publicity Considerations

- 12.1 No direct implications at this time.

13. Financial implications

- 13.1 Development of net gain guidance forms part of ongoing Local Plan work which is provided for in the Council's budget.

14. Health, Wellbeing and Community Safety Implications

- 14.1 Development of net gain guidance and identification of potential net gain sites forms part of the ongoing development of the Local Plan in response to evolving Government policy that is intended to support the health, wellbeing and community safety of Borough residents.

15. Health and Safety Implications

- 15.1 No direct implications.

16. Risk Management Implications

- 16.1 Development of net gain guidance and identification of potential net gain sites forms part of the ongoing development of the Local Plan in response to evolving Government policy that will help shape future development in the Borough, and which is intended to reduce the risk of inappropriate development. It will provide consistent advice to landowners, developers, officers, Councillors and members of the public, based on the most up to date legislation and technical practice.

17. Environmental and Sustainability Implications

- 17.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. Development of net gain guidance and identification of potential net gain sites will contribute to supporting several of the actions within the Council's Climate Emergency Action Plan through mitigation, climate adaptation and environmental stewardship.