

Response to the Department for Environmental Food & Rural Affairs

Consultation on biodiversity net gain regulations and implementation

The Department of Environmental Food & Rural Affairs (“DEFRA”) is seeking views on how the proposed biodiversity net gain regulations will work in practice when applied to both Town and Country Planning Act developments and Nationally Significant Infrastructure Projects. The feedback received will help develop the legislation, processes and guidance required to ensure mandatory biodiversity net gain delivers positive outcomes for the environment.

The response to this consultation is provided by the Planning and Environmental team of Irwin Mitchell LLP which has answered the specific questions raised by the consultation document. We have worked alongside some of our key clients to bring forward this response. The team supports a range of clients with many planning and environmental issues linked with bringing forward development across a range of sectors; this includes volume housebuilding to manufacturing and logistics plants.

This response is not intended to represent the views and opinions of all Irwin Mitchell clients, but we are well placed to produce an informed response based on its collective expertise in planning and environmental law.

Preliminary points

All of the clients and contacts we spoke with agreed with the principles underpinning the introduction of biodiversity net gain (“BNG”). There were, however, widely expressed concerns about how the policy is intended to integrate into the wider planning system.

Before we turn to the specific questions raised in the consultation, we wanted to set these concerns out in full. If BNG is to be a success, it needs to successfully integrate into the planning system. If the policy is introduced in isolation, without fully considering how it relates to the government’s other planning policy requirements, it is unlikely to achieve its intended purpose.

Set out below is a summary of our key areas of concern:

Prioritising of BNG against other policy requirements

Achieving BNG will add to the cost of new developments. On sites where viability is already a concern, the introduction of a new statutory requirement for at least 10% BNG will require trade-offs with other planning policy requirements if the development is to come forward.

If, as a statutory requirement, BNG provision cannot be reduced on viability grounds, then this will disproportionately affect the funds available for the provision of other planning obligations – such as affordable housing, education or highways works. The effect of this will be compounded where local planning authorities have adopted the Community Infrastructure Levy (“CIL”), but have not adopted exceptional circumstances relief (as is the case with most CIL charging authorities). In these authorities, both BNG and the CIL payments will be irreducible, meaning that very little would remain for any other infrastructure funding or the provision of affordable housing.

The consultation does not give any guidance as to how BNG is to be balanced against other policy requirements on sites where viability is an issue. Given how contentious the question of infrastructure funding can be; clear guidance will be needed as to the government's priorities if the provision of BNG is not going to result in either a reduction in the number of brownfield sites coming forward for development; or a disproportionate reduction in infrastructure funding for other priorities – such as the provision of affordable housing.

Interplay between BNG and CIL

The consultation also contains no information on how BNG is intended to operate alongside CIL in the medium to long term. As stated above, the vast majority of charging authorities have not adopted exceptional circumstances relief. In these authorities, CIL payments cannot be reduced on viability grounds. This means that any reductions in planning obligations or policy requirements required to enable a scheme to come forward necessarily fall on other policy areas – such as the provision of affordable housing or other infrastructure funding obligations.

Clear guidance is required to demonstrate how BNG is intended to fit in with the CIL regime. In particular: is BNG intended to be funded ahead of CIL contributions; or can BNG requirements be reduced if the combination of BNG and CIL funding will render the scheme unviable?

It is also unclear whether Councils will be able to apply CIL funding towards creating their own habitat banks and, if so, how this would affect the requirement for developers to buy biodiversity credits for off-site schemes. Again, clear and detailed guidance is required to ensure that developers are not funding the same BNG improvements twice through different funding regimes.

Interplay between BNG and Heritage Protection

The current consultation also fails to consider how BNG is to apply to developments that involve works to heritage assets, such as listed buildings or registered parks and gardens. In these situations, the BNG proposals would need to be viewed through the lens of heritage protection, which may limit the type or amount of mitigation work that could be delivered on site.

Again, clear guidance is required to aid local planning authorities, and developers, in navigating the inevitable conflicts that will arise between the need to preserve or enhance a designated heritage asset and the requirement to deliver BNG as part of a development proposal.

Impacts of proposed Planning Reform on the deliverability of these consultation proposals

Concerns have also been raised about how BNG will operate in the event that the government decides to abolish s.106 Agreements, as envisaged in both the Planning for the Future White Paper and more recent announcements about the government's planning reform agenda.

At present, BNG requires s.106 Agreements to be entered into to secure both the delivery of on-site and off-site habitat enhancements and their long term maintenance and management. If s.106 Agreements are abolished, there will no longer be a mechanism in place that would allow BNG to be secured as part of the planning system. Care needs to be taken to ensure that the government's proposed planning reforms do not undermine the deliverability of BNG and/or that BNG requirements do not undermine the deliverability of the government's planning reform agenda.

RESPONSE TO SPECIFIC QUESTIONS

Q1. Do you agree with our proposal to exempt development which falls below a de minimis threshold from the biodiversity net gain requirement?

(a) for area based habitat

Yes

(b) for linear habitat

Yes

Q2. Do you agree with our proposal to exempt householder applications from the biodiversity net gain requirement?

Broadly, yes, especially as the biodiversity metric 3.0 makes allowance for householders who may develop their gardens in ways which reduce biodiversity. However, this exemption should continue to be reviewed as it would be best if all parcels of land could contribute to biodiversity in some way, especially as it is known that such applications can and do result in a loss.

Q3. Do you agree with our proposal to exempt change of use applications from the biodiversity net gain requirement?

It is felt that the way a change of use can impact the biodiversity of a site needs to be more carefully considered, especially with the introduction of such wide use classes and the use of Article 4 in many planning authorities allowing changes between the use classes without full planning permission (and therefore without a biodiversity gain plan). Having a blanket approach for all change of use applications may not be appropriate.

It is recognised that some such applications may fall within other exemptions or be considered small sites.

Q4. Do you think developments which are undertaken exclusively for mandatory biodiversity gains should be exempt from the mandatory net gain requirement?

It is agreed that such projects should be exempt for biodiversity net gain and for some other environmental mitigation purposes to ensure that such developments remain as attractive and viable as possible for developers.

Q5. Do you think self-build and custom housebuilding developments should be exempt from the mandatory net gain requirement?

While it is recognised that some such developments will be ambitious in sustainability terms, it is ultimately up to the developer to use their land as desired. Much like our response to question 2 regarding householder applications, we believe any such exemption should be reviewed over time to ensure that biodiversity outcomes are being maximised on all parcels of land, where appropriate.

Q6. Do you agree with our proposal not to exempt brownfield sites, based on the rationale set out above?

It is agreed that brownfield sites offer great redevelopment potential. As such sites often have low biodiversity, the work required to introduce and sustain a 10% increase should generally be less than that required on a greenfield site and therefore may be attractive to developers. This in turn may encourage urban regeneration.

However, developers of brownfield sites already generally face a lot of additional costs. For example, because the site is contaminated and requires remediation, or the site may require the removal of existing infrastructure. The addition of BNG costs may make such sites unattractive to developers. Brownfield sites are often eyesores in urban areas and their development should be encouraged.

Also, some brownfield sites that have been vacant for a long time may actually have unexpectedly high biodiversity. It may be appropriate for planning authorities to be able to reduce the 10% requirement for brownfield sites that they are keen to be developed but score surprisingly high on the metric.

As stated in our introductory comments, above, clear guidance will be needed as to how BNG costs are to be factored into viability appraisals for brownfield sites and the order of priority to be given to them. If the government's intention is that BNG is to be prioritised over the provision of CIL, affordable housing or other local infrastructure, then this will need to be clearly set out.

Q7. Do you agree with our proposal not to exempt temporary applications from the biodiversity net gain requirement?

Yes, but there should be a measure against the length of time and use a temporary planning permission can be utilised before any BNG should be measured. So as with the answer to 8 below, careful monitoring is essential so as to not overburden a system which may be seeking a planning permission of a modest length. In reality it may take a habitat a significant period of time to fully recover and so expecting full recovery within two years may be unrealistic.

Q8. Do you agree with our proposal not to exempt development which would be permitted development but are not on account of their location in conservation areas, such as in areas of outstanding natural beauty or national parks?

It is felt that such sites will need to be carefully monitored to ensure that developers and planning authorities are not overburdened and efforts are not duplicated due to the demands already in place when submitting or considering applications in conservation areas.

Q9. Are there any further development types which have not been considered above or in any previous net gain consultation, but which should be exempt from the BNG requirement or be subject to a modified requirement?

In order to protect heritage assets, heritage gardens, registered parks and listed buildings, their development, and therefore maintenance, should be encouraged so that they do not fall into disrepair. Such sites should be considered for exemption or for a lesser requirement.

With designated heritage assets, the listing itself may well limit a developers ability to provide BNG enhancements on site without adversely affecting the historical significance of the asset in question.

Additionally, the developers of such sites will already incur additional costs when protecting the, for example, heritage assets and so development and protection of such assets may become unviable with additional costs required for increasing biodiversity by 10%.

It should also be considered whether exemptions or lesser requirements could be provided for housing types that are critically needed; for example, affordable housing and provision for the aging population. By providing temporary exemptions, developers may be encouraged to provide housing to meet the existing shortfalls.

Q10. Do you agree with our proposal not to exempt development within statutory designated sites for nature conservation from the biodiversity gain requirement?

Much like Question 8, it is felt that such sites will need to be carefully monitored to ensure that developers and planning authorities are not overburdened. However, it is agreed that such sites should not be exempt in principle due to the limitations of biodiversity metric 3. For example, the metric does not monitor the impact a development may have on different species.

We would, however, recommend reviewing the metric to see whether better account can be taken of non-landscape based measures that can be taken to improve the biodiversity of a development site or its impact on different species found within a site.

Q11. Do you agree with the stated proposals for development (or component parts of a development) on irreplaceable habitats, specifically:

(a) The exclusion of such development from the quantitative mandatory biodiversity gain objective?

Yes, alternative consideration is required to protect irreplaceable habitats due to the limitations of biodiversity metric 3.

(b) The inclusion of a requirement to submit a version of a biodiversity gain plan for development (or a component part of a development) on irreplaceable habitats to increase proposal transparency?

Yes, and such plans should be publicly available in the same way as a biodiversity gain plan in order to be as transparent as possible. However, if the default position is that development on irreplaceable habitats will only be permitted in exceptional circumstances then the developer should not need to provide a plan until it has been confirmed to them that the development meets this standard.

(c) Where there are no negative impacts to irreplaceable habitat, to allow use of the biodiversity metric to calculate the value of enhancements of irreplaceable habitat?

Yes

(d) To use the powers in biodiversity net gain legislation to set out a definition of irreplaceable habitat, which would be supported by guidance on interpretation?

Yes

(e) The provision of guidance on what constitutes irreplaceable habitat to support the formation of bespoke compensation agreements?

Yes

Q12. Do you agree with our proposed approach that applications for outline planning permission or permissions which have the effect of permitting development in phases should be subject to a condition which requires approval of a biodiversity gain plan prior to commencement of each phase?

Whilst it is agreed that approval should be sought prior to the commencement of each phase, the plans submitted should not be overly burdensome on developers or the planning authority and so perhaps a simplified version could be considered beyond the initial plan.

There also needs to be greater consideration of developments that are not “phased” within one planning permission; for example, if a drop-in consent is granted on an already authorised site or a retrospective application is made to rectify a discrepancy on a phase of a permission that has already been built. At which stage would the baseline be judged in such circumstances? Would it be proportionate to ask the developers making such applications to prepare an additional BNG plan?

Q13. Do you agree with the proposals for how phased development, variation application and minerals permissions would be treated?

It is agreed in principal that s73 applications should only require approval of a new biodiversity net gain plan if the application will amend the biodiversity value and any required s73 plans should apply the same baseline as the previous development.

Mineral permissions are complex as to when and how the baseline will be treated. Often such permissions in the aftercare period would mirror the BNG requirement, so careful management is required to ensure there is not double allocation.

Q.14 Do you agree that a small sites metric might help to reduce any time and cost burdens introduced by the biodiversity gain condition?

Without sight of the proposed metric, it is difficult to say that it would definitely be beneficial and reduce time and costs burdens sufficiently. Even with a different metric, a 10% uplift may not be viable on smaller sites or affordable for smaller developers, and they may not be able to afford to purchase biodiversity credits if needed.

Q.15 Do you think a slightly extended transition period for small sites beyond the general 2-year period would be appropriate and helpful?

At least an additional 24 month extension should be provided as construction costs are rising and, if a 10% uplift is required, smaller developers will need at least two years to plan for this work financially.

Q.16 Are there any additional process simplifications (beyond a small sites metric and a slightly extended transition period) that you feel would be helpful in reducing the burden for developers of small sites?

It may be that developers of small sites need to be provided with more flexibility as it would be better to achieve some biodiversity creation rather than projects becoming unaffordable. For example, if smaller developers could make cumulative contributions to local conservation projects. This could also help alleviate concerns smaller developers may have about long term maintenance.

Q.17 Are any targeted exemptions (other than that for irreplaceable habitat), reduced biodiversity net gain objectives, or other modified requirements necessary for the application of the biodiversity net gain requirement to NSIPs?

Flexibility should be permitted to ensure NSIPs can still deliver other essential outcomes. It is considered that a reduced net gain requirement would be preferential to an exemption and to making such developments unviable.

Q.18 Do you agree that the above approach is appropriate for setting out the biodiversity net gain requirement for NSIPs?

Yes

Q.19 Do you consider that November 2025 is an appropriate date from which NSIPs accepted for examination will be subject to the biodiversity net gain requirement?

Broadly yes, although some phased developments with phases due to commence after November 2025 could provide opportunities for biodiversity net gain, even if a 10% increase would be unachievable. Developers and planning authorities should be encouraged to re-examine such applications and consider what proportionate action could be taken.

Q.20 Do you agree that a project's acceptance for examination is a suitable threshold upon which to set transition arrangements?

Yes

Q.21 Would you be supportive of an approach which facilitates delivery of biodiversity net gain using existing landholdings by requiring a lighter-touch registration process, whilst maintaining transparency?

Whilst we are supportive in principle, NSIPs have a huge potential for increasing biodiversity. It is important that providers are transparent in how biodiversity gains are being delivered and held to the same standards as other developers. Whilst there is an argument for reducing red tape so as to encourage developers to enhance biodiversity on their existing landholdings, the approach should be consistent across the board.

Q.22 Do you consider that this broad 'biodiversity gain plan' approach would work in relation to NSIPs

Yes

Q.23 Should there be a distinction made for NSIPs between on-site habitats (which are subject to the biodiversity net gain percentage) and those habitats within the development boundary which are included solely for environmental mitigation (which could be treated as off-site enhancement areas without their own gain objective)?

No current response.

Q.24 Is there any NSIP-specific information that the Examining Authority, or the relevant Secretary of State, would need to see in a biodiversity gain plan to determine the adequacy of an applicant's plans to deliver net gain (beyond that sought in the draft biodiversity gain plan template)?

No current response.

Q.25 Do you think 30 years is an appropriate minimum duration for securing off-site biodiversity gains allocated to NSIPs?

Due to the impact of NSIPs, maintenance of biodiversity gains should be encouraged for the lifespan of the infrastructure. However, as above, we see no reason to apply a different standard and believe there should be consistency across the board.

Q.26 Are further powers or other measures needed to enable, or manage the impacts of, compulsory acquisition for net gain?

NSIP providers should be incentivised to deliver gains within their existing boundary or through the purchase of market off-site biodiversity gains and should not rely on compulsory acquisition, which may only displace the problem. BNG does not fit neatly into the current system for compulsory purchase. It is likely to become highly controversial if land is subject to compulsory purchase for BNG improvements at a reduced level of compensation to that acquired for the project itself, or indeed, against the wishes of the landowner.

Q.27 Is any guidance or other support required to ensure that schemes which straddle onshore and offshore regimes are able to deliver biodiversity net gain effectively?

Yes, although it is recognised that providing such guidance may take time and therefore the on-shore element should be prioritised and introduced within the currently proposed timescales.

Q.28

(a) Do you agree with the proposed content for the biodiversity gain information and biodiversity gain plan?

Yes

(b) Do you agree with the proposed procedure for the submission and approval of biodiversity gain information and the biodiversity gain plan?

A dispute resolution mechanism should be introduced for this stage. There could be disputes at this stage on various points, including the stated biodiversity value or the effectiveness of the enhancement works, and therefore a dispute resolution system should be provided to prevent applicants from becoming immovable.

Q.29 We will continue to work with external stakeholder and industry on the form and content of the template. Do you agree with the proposed information to be included in a biodiversity gain plan as shown in the draft template?

Yes

Q.30 Do you agree that further guidance is needed to support decision-making about what constitutes appropriate off-site biodiversity gains for a given development?

It is agreed that further guidance should be provided. In particular, clearer guidance is needed on what “locally to the development site” means and how delivery outside of the local area will factor in to the number of credits required for any given site. Gains in urban locations should be realised where possible, but developers will need more clarity so that they can plan for upcoming developments on smaller sites.

Q.31 How should the UK Government encourage or enable developers and landowners to secure biodiversity gain sites for longer than the minimum 30-year period?

There are a wide range of incentives which could be deployed, including tax incentives or the availability of stewardship or environmental subsidy payments to landowners. We have no view on which of these are likely to be the most effective.

We are, however, concerned that there may not be an effective method of securing biodiversity sites in the longer term in the event that the government decides to abolish s.106 Agreements, as envisaged in both the Planning for the Future White Paper and more recent announcements about the government’s planning reform agenda.

At present, BNG requires s.106 Agreements to be entered into to secure both the delivery of on-site and off-site habitat enhancements and their long term maintenance and management. If s.106 Agreements are abolished, there will no longer be a mechanism in place that would allow BNG to be secured as part of the planning system. Care needs to be taken to ensure that the government’s proposed planning reforms do not undermine the deliverability of BNG and/or that BNG requirements do not undermine the deliverability of the government’s planning reform agenda.

Q.32 Do you agree with our proposals for who can supply biodiversity units and the circumstances in which they may do so?

More detail is required on how local planning authorities will be regulated when selling units to ensure they do not treat their own units preferentially, and on how creating biodiversity units on agricultural land may impact Agricultural Property Relief and Business Property Relief.

Q.33 Do you agree that developers which are able to exceed the biodiversity gain objective for a given development should be allowed to use or sell the excess biodiversity units as off-site gains for another development, provided there is genuine additionality?

This is agreed in principle. Allowing developers to exceed the biodiversity gain objective and use the excess will provide developers of sites of differing sizes to deliver significant on-site gains on the appropriate sites. It will also encourage developers to retain a long term interest in their development sites and allow them to build up mini-habitat banks within their own property portfolios. For some developers, this may enable them to partially off-set the additional costs of delivering BNG on a highly constrained site, by using credits gained by over-delivering elsewhere.

Q.34 Do you agree with the proposed scope of the UK Government’s role in facilitating the market, as set out above?

Yes, although the market should be regulated to ensure planning authorities are not giving preferential treatment to their own units.

Also, it is difficult to currently judge the viability of the market without any knowledge of any units will be valued.

Q.35 Are the proposals outlined here sufficient to enable and encourage habitat banking?

More detail needs to be provided about the Natural Environment Investment Readiness Fund as the current proposal will require significant upfront finance which is unfeasible for many and so may not help supply and demand.

Also, will whether or not a banked site is “local” make a difference in the metric? For national developers, banking may be better encouraged if the locality of the banked units does not drastically reduce their score.

Q.36 Do you agree with our proposal that to be eligible to supply biodiversity units for mandatory biodiversity net gain, habitat must be created or enhanced on or after a specified date, proposed to be 30 January 2020?

Yes

Q.37 Should there be a time limit on how long biodiversity units can be banked before they are allocated to a development? What would you consider an appropriate time limit?

This should be monitored and considered further after the introduction of the biodiversity net gain requirement. If a strict time-limit is introduced and the demand for units is not sufficient, it could be that some valuable habitats are created and then lost due to not being allocated to a development before the end of the time limit.

Q.38 Do you agree that the eligibility criteria for adding sites to the biodiversity gain site register are sufficient?

Yes, although please note our response to question 31.

Q.39 Do you agree that the register operator should determine an application with a maximum of 28 days unless otherwise agreed between both parties?

It is agreed that a short timeframe should be provided to give certainty to the process. However, this is currently unrealistic given the resourcing of planning authorities and therefore much greater capacity will be needed for this timescale to be met.

Q.40 Do you agree that this list of information requirements will be sufficient to demonstrate that a biodiversity gain site is legitimate and meets the eligibility criteria?

If reviewing such applications were to fall to the planning authorities, they would need to be supported in gathering information on sites in their regions. The current system relies on a lot of local knowledge and/or reliance on information provided by the developer about the biodiversity on site prior to commencement of development. At present many local authorities do not have the in-

house expertise required to make these judgements. Additional resourcing and support will be required to enable them to assess biodiversity gain sites accordingly.

Q.41 Do you agree that the UK Government should require a habitat management plan, or outline plan, for habitat enhancement to be included on the register?

Yes, as transparency and visibility should encourage high-quality plans and proper maintenance.

Q.42 Do you agree that the UK Government should allow the register operator to:

(a) Set a fee for registration in line with the principle of cost recovery?

Yes, although the amount charged should be monitored and no more than costs recovery for the initial application as developers will already have additional costs to consider with the introduction of biodiversity net gain requirements. For developments undertaken by charitable bodies, registered providers and educational facilities, a rebate programme may be required.

(b) Impose financial penalties for provision of false or misleading information?

Yes

Q.43 Do you agree with our proposal to allow applicants to appeal a decision by the register operator where the applicant believes that the registration criteria have not been appropriately applied?

Yes, although wider dispute resolution or appeal mechanisms may well be needed in addition.

Q.44 Do you agree with our proposals for additionality with respect to:

(a) Measures delivered within development sites?

Broadly supportive of being able to provide additional biodiversity units on one site and then use them on a separate site, but require further information. Allowing developers to exceed the biodiversity gain objective and use the excess will provide developers of sites of differing sizes to deliver significant on-site gains on the appropriate sites. It will also encourage developers to retain a long term interest in their development sites and allow them to build up mini-habitat banks within their own property portfolios. For some developers, this may enable them to partially off-set the additional costs of delivering BNG on a highly constrained site, by using credits gained by over-delivering elsewhere

(b) Protected species and off-site impacts to protected sites?

Yes

(c) On-site impacts on protected sites and any associated mitigation and compensation?

Yes

(d) Achievement of River Basin Management Plan Objectives?

Yes

(e) The strengthened NERC Act duty on public authorities?

Yes

Q.45 Do you think that A) the non-designated features or areas of statutory protected sites and/or B) local wildlife sites and local nature reserves should be eligible for enhancement through biodiversity net gain?

Yes

Q.46 Do you agree that the enhancement of habitats, including designated features, within statutory protected sites should be allowed in the coastal, intertidal and marine environment as defined above?

No current response

Q.47 Do you agree with our proposed approach to combining payments for biodiversity units with other payments for environmental services from the same parcel of land?

Yes, although further detail is required on how creating biodiversity units on agricultural land may impact Agricultural Property Relief and Business Property Relief.

Q.48 Are these proposals for statutory biodiversity credits sufficient to:

(a) Ensure, when supported by suitable guidance, that they are only used by developers as a last resort?

Without further information on the detail of your proposed approach, we cannot provide an opinion at this stage.

(b) Mitigate the market risk associated with the sale of statutory biodiversity credits by the UK government?

Without further information on the detail of your proposed approach, we cannot provide an opinion at this stage.

Q.49 Do you think there are any alternatives to our preferred approach to credit sales, such as those outlined above, which could be more effective at supporting the market while also providing a last resort option for developers?

Without further information on the detail of your proposed approach, we cannot provide an opinion at this stage.

Q.50 Do the principles for how we will set, and review the credit price cover the relevant considerations?

While it is acknowledged that credits should only be used as a last resort, placing them at an intentionally uncompetitive price may mean that small developers cannot afford to purchase credits if needed (which may be more commonplace for developers of small sites).

There is inevitably going to be a shortfall of units available on the market initially and so credits may need to be more accessible at the beginning of the scheme. An “uncompetitive” price may mean developers have to cut back on other standard development requirements (e.g. affordable housing provision, contributions to education and healthcare).

Q.51 Do you agree with the proposed principles for credit investment?

Without further information on the detail of your proposed approach, we cannot provide an opinion at this stage.

Q.52 Do the above project-level management, monitoring, enforcement, and reporting proposals seem sufficient, achievable, and not overly burdensome on practitioners, developers, or planning authorities?

Delivering BNG within 12 months of starting the development or before first occupation will not be realistic for many developments with a build programme longer than 12 months as they may have to build the development around the additional biodiversity, adding extra unnecessary logistical planning and potentially cost.

Regarding monitoring and enforcement, planning authorities are already under resourced and so it is not envisaged that they will have the capacity to ensure biodiversity gains are actually implemented and sustained. Without proper resourcing, training and clear guidance for planning authorities, it may be that biodiversity net gain is not realised on many sites and the benefits are not achieved. There is little detail currently about monitoring and enforcement over the 30 year period for each site.

Also, what is to happen to sites after the 30 year period for enforcement is over?

Q.53 Do you think earned recognition has potential to help focus enforcement and scrutiny of biodiversity net gain assessments, reporting and monitoring?

Without further information on the detail of your proposed approach, we cannot provide an opinion at this stage.

Q.54 Do the above proposals for policy-level reporting, evaluation and enforcement seem sufficient and achievable?

Local authorities are already overstretched and struggling to keep up with their workload in relation to new developments. Furthermore, at present many local authorities do not have the in-house expertise required for this work. Additional resourcing and support will be required to enable them to assess biodiversity gain sites accordingly.

Q.55 Considering the data requirements set out above and in greater detail in Annex C:

(a) Is there any additional data that you think should be included in the Biodiversity Reports?

Matrix calculator only currently applies to landscape improvements so other potential biodiversity improvements are not covered

(b) Is there any data included here that should not be required as part of the Biodiversity Reports?

No