

BNG CONSULTATION - IMPROVING THE IMPLEMENTATION OF BIODIVERSITY NET GAIN FOR MINOR, MEDIUM AND BROWNFIELD DEVELOPMENT

1. What is your name?

City of Durham Trust

2. What is your email address?

trust@durhamcity.org

3. What is your organisation?

The Trust is a registered charity, established in 1942, and its primary objective is to preserve, conserve and enhance for the benefit of the public the natural and built environment of the City of Durham and its surroundings.

4. Would you like your response to be confidential?

No

5. Question: Which of the following statements do you most support:

No changes should be made to exemptions

6. 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?

Yes

Please elaborate on your answer here

'Custom-built' could mean up to 9 dwellings, a substantial number, and a possible loophole for damaging development. We also understand that definitions of 'Self-build and Custom housebuilding' under the 2015 Act have been very open to interpretation and arguably subject to abuse. The general stance of the Trust is that BNG policy for small sites should be simplified and made clearer, but certainly not weakened. The policy is very young and people are still in the process of adapting to it. There is a danger that teething troubles with it are being seized prematurely as a cause for not bothering with it in many cases. As BNG becomes more embedded it should be integrated more smoothly into the earliest stages of the design and development stages of development proposal, rather than approached as a sometimes-awkward add-on. Since small sites form the overwhelming majority of developments sites at issue, substantial changes to the SSM risk weakening the still emerging markets in BNG units and affecting the viability of BNG overall.

7. Do you agree with the proposal for a 0.1 hectare threshold?

Yes

Please elaborate on your answer here

Useful reduction from existing threshold of 0.5 hectares (as the number of developments with an exemption has been increased by accepting the new exemption in answer to Q6). The Trust supports the well-argued stance of the Wildlife Trusts that “the research shows that by removing the very smallest sites (under 0.1 ha) from the scheme altogether, but ending the loopholes for larger sites, a ‘win-win’ could be achieved for nature and development.”

8. Do you agree the area de minimis threshold should be extended?

No

9. If you answered yes to the previous question, which of the following thresholds do you think is the most appropriate?

10. Please use this space to elaborate on your answer to the previous question

Please elaborate on your answer here

There are strong arguments that the current minimum size threshold is too large and can be a loophole. Developers can carefully place the footprint of their proposals to the side of or around a habitat, damaging it but still falling outside BNG policy. We need to increase our natural resources, not make more development exempt from conserving and enhancing the natural environment. These examples show why it is crucial that our natural resources need to be dramatically enhanced. Natural England blog post 29 Sept 2023 'State of Nature' states that "It lays bare the stark fact that nature is still seriously declining across the UK, a country that is already one of the most nature-depleted in the world." <https://naturalengland.blog.gov.uk/2023/09/29/state-of-nature/> Climate change is negatively affecting wildlife. The government's commitment to Net Zero entails a commitment to mitigate and redress this damage to our wildlife. The UK's Environment Act, enacted in 2021, aims to set ambitious environmental targets, including halting the decline of species by 2030. Additionally, natural resources can help to mitigate the effects of climate change. The Planning and Infrastructure Bill: Impact Assessment https://assets.publishing.service.gov.uk/media/6819bf013c3bba3526f03b99/Overarching_IA_-_Planning_and_Infrastructure_Bill.pdf shows that there is very little evidence that protections for nature are a blocker to development. It just states 'p.13 Environmental regulations that require site by site mitigation' that there may be problems and blockage but does not back this up with any cited evidence. Nature is important to people's health and well being. Developments with well designed natural infrastructure, ensuring much prized green spaces among developments, should be the norm and is what people want and need.

11. Do you think the BNG requirement should be removed for minor development (for example including up to 9 residential homes)

No

12. Please provide evidence for your response to the previous question here
Please provide evidence here

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13. 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

14. Please elaborate on your answer to the previous question
Please elaborate here

There are strong arguments that the current minimum size threshold for SSM is already too large and can be a loophole. Developers can carefully place the footprint of their proposals to the side of or around a habitat, damaging it but still falling outside BNG guidelines. Extending the thresholds for other developments would widen this loophole and allow more environmental damage.

15. Do you agree that parks, gardens and playing fields development, as defined above, should be partially exempt from BNG?

Some but not all

16. Please elaborate on your answer to the previous question
Please elaborate on your answer here

It depends on the improvement intended. If an existing structure / facility is just updated/improved on the existing footprint then an exemption would be acceptable. However, extending the footprint of built structures, turning grassed playing fields to astroturf, increasing the amount of, or level of, lighting, adding in extra car parking would have a detrimental effect on the natural environment and in these cases BNG should be applied.

17. Do you agree that development whose sole or primary objective is to conserve or enhance biodiversity should be exempt from BNG?

Don't know

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

Don't know

19. Please provide evidence to your answer where possible, including examples of developments that you think would be exempted.

20. Do you agree that temporary planning permission should be exempt from BNG?

Yes

21. Please provide evidence where possible, including examples of developments that you think would be exempted.

Please provide evidence here

Acceptable as long as conditions requiring the habitat to be restored to its original condition are applied and enforced. Where the habitat to be affected is environmentally significant / irreplaceable than such temporary planning permission should not be given / or BNG requirements should be applied.

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

Yes

23. Please give reasons

Please add text

Acceptable as long as conditions requiring the habitat to be restored to its original condition are applied and enforced.

24. Do you think the SSM should be used for medium development?

No

Please elaborate on your answer here

There is a risk that the medium development sites can have more complex analysis requirements.

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

No

Please elaborate on your answer here

No. There is risk that special analysis required in relation to protected species will be missed.

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

No

Please elaborate on your answer here

No. There is risk that special analysis required in relation to protected species will be missed.

27. 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 use of the SSM?

Don't know

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

No

Please elaborate on your answer here

No, there should be responsibility on all to ensure a gain in biodiversity.

29. If you answered 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)?

Don't know

30. 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?

Don't know

31. 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?

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

No

Please elaborate on your answer here

With respect to shrub habitats, there is substantial difference between e.g. Hazel scrub and Bramble scrub. There would be a risk that the wrong species are planted in the wrong places, e.g. in hedgerows, leading to loss of these newly planted habitats.

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

Yes

Please elaborate on your answer here

No need to change the habitat types just preface them with a clearer summary description for non ecologists.

34. 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?

Yes

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

Yes

36. 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

37. Should a different watercourse condition survey be employed for minor development using the watercourse metric?

Don't know

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

Yes

39. 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?

Yes

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

Please add text here

An additional simplified output summary for the benefit of members of the public

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

No

No – these rely on appropriate maintenance but are often in different ownerships with different approaches to care, too variable to rely upon.

42. Do you agree the biodiversity gain hierarchy should be updated for minor development?

No

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

Don't know

44. 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.

No

Please elaborate on your answer here (with evidence where possible)

Site based enhancement is always preferable and small off site enhancements more risky and not applied to the local area. However, making off-site enhancement equal to on-site ones could be usefully applied in awkward cases where only a tiny amount of damage remains to be addressed but there is no further option on-site for such enhancement. In such cases, the off-site enhancement could be a direct contribution to measures within the LNRS.

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

Don't know

46. 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?

Yes

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

Yes

48. Should we allow alternative habitat delivery for the loss of Open Mosaic Habitat?

Yes

Please elaborate on your answer here

Probably yes given difficulty of creating new open mosaic habitats – essentially new regenerated brownfield sites.

49. 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?

Please state suggestions and considerations

Could be a mix of the other habitat types to engender diversity.

50. 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 BNG requirement?