INTERIM BIODIVERSITY NET GAIN GUIDANCE FOR DEVELOPERS AND ECOLOGICAL CONSULTANTS IN WEST OXFORDSHIRE

1. INTRODUCTION

This interim guidance should be followed by planning applicants and their ecological consultants who are working on development projects within West Oxfordshire in order to ensure that biodiversity net gain (BNG) is measured and delivered. This interim guidance has been prepared to ensure that evidence submitted to support planning applications is consistent. It is based on a similar document by South Oxfordshire and the Vale of the White Horse District Councils. This document does not provide guidance on how to use the biodiversity metric. The metric calculations and associated evidence must be prepared by a professional or suitably qualified/experienced ecologist.

Biodiversity Metric 2.0 has been updated and replaced by Biodiversity Metric 3.0, which was published on the 7th July 2021. Biodiversity Metric 3.0 introduces a number of improvements and corrects some issues associated with the previous version; it is this version of the metric that will underpin the Environment Bill's provisions for mandatory biodiversity net gain in England (subject to any necessary adjustments for its application to major infrastructure projects). A summary of the differences between metric 2.0 and metric 3.0 is available for download on the Biodiversity Metric 3.0 page.

Projects currently using biodiversity metric 2.0 are advised to continue to do so unless requested otherwise by their client or consenting body as the biodiversity unit values generated by metric 2.0 and metric 3.0 may differ for their scheme or landholding. **All new projects or those that have not yet carried out any biodiversity net gain calculations should use Metric 3.0.**

Further advice and support is also available from the Thames Valley Environmental Records Centre (TVERC), which offers a chargeable service to provide metric calculations on behalf of prospective developers and planning applicants. The use of the metric and the provision of BNG are additional to the legal obligations and planning policies to properly assess and mitigate/compensate impacts on protected/priority species as part of development management. It is also separate from other considerations such as open space standards and green infrastructure, although it may be inherently linked.

2. BACKGROUND

In West Oxfordshire, Policy EH3 of the Local Plan requires all major and minor developments to demonstrate BNG where possible. The policy requires all major applications to demonstrate BNG in a quantifiable way through the use of a biodiversity impact assessment calculator and minor applications at the council's discretion.

Underpinning this policy is the National Planning Policy Framework (NPPF), whereby:

- Paragraph 174(d) requires planning decisions to provide net gains in biodiversity;
- Paragraph 179(b) requires plans to identify and pursue opportunities for securing measurable net gains for biodiversity; and
- Paragraph 180(a) states that if significant biodiversity losses cannot be avoided, mitigated or compensated then permission should be refused.

The BNG process embeds the mitigation hierarchy. All methods of avoidance and on-site mitigation must be fully explored and proven to the Council that they cannot be satisfactorily achieved on site before any off-site compensation will be considered. It must also be recognised that not all habitats can be re-created, such as ancient woodland, which are considered to be irreplaceable. Development proposals must clearly demonstrate that an overall BNG will be achieved. The level of net gain should be at least 10% in line with the proposal in the Environment Bill.

3. EVIDENCE REQUIREMENTS

For all major (and the majority of minor) applications, a BNG Strategy (e.g. as part of must be submitted Preliminary Ecological Appraisal or Ecological Impact Assessment) must be submitted to provide full details of the assessment process, the assumptions and professional judgements made and the following specific evidence:

a) ***Habitat Baseline Plan***: produced using the information from the Preliminary Ecological Appraisal or Ecological Impact Assessment; clearly showing the areas covered by each of the existing habitat types and the area in hectares (ha) of each habitat type (or for each habitat parcel, as some habitats may be scattered throughout the site). A label for each habitat parcel should be added for more complex sites. A separate plan for linear habitats may also need to be provided.

b) ***Proposed Habitats Plan***: taken from the site layout plan, illustrative masterplan, green infrastructure plan or landscape plans (if they are available); clearly showing habitat types being retained, enhanced and created, and the area of each habitat type (ha); it must be colour-coded so that each habitat type is easily identifiable. Other proposed biodiversity enhancements (including for priority species) and protected species mitigation areas should also be shown on this plan.

c) ***Biodiversity Metric***: the information in the metric should be directly related to the Habitat Baseline Plan and the Proposed Habitats Plan. The completed Excel spreadsheet must be submitted (not a reproduced copy). Detailed justifications for the choice of habitat types, distinctiveness and condition should be added to the comments column or provided separately in the report. All assumptions made in the calculations should be clearly identifiable. Different habitat parcels should be individually referenced and identifiable on the relevant drawing so that these can be cross-referenced with the metric. A minimum level of 10% BNG overall will be expected.

d) ***A detailed justification*** *of how the Biodiversity Net Gain Good Practice Principles for Development* (CIEEM, CIRIA, IEMA, 2016) and associated *Practical Guide* (2019) have been considered and applied (available to download at https://cieem.net/i-am/current-projects/biodiversity-net-gain/).

e) Project Implementation and Construction: information about how the design concept will be delivered on the ground, including drawings, for example detailed landscape planting schedules, management proposals and/or a construction handover checklist or timetable. This is particularly relevant where the developer is implementing BNG delivery on- and/or off-site by themselves (e.g. on their own land).

f) ***Management and Monitoring:*** information about the required aftercare maintenance and long-term habitat management of created and enhanced features, how management will be implemented for a minimum period of 30 years and what monitoring will be implemented during and after construction to ensure that all on and/or off-site BNG is delivered to the required condition.

4. OUTLINE APPLICATIONS

Outline applications often do not have a fixed layout, but usually include some form of parameters plan or illustrative masterplan, which can be used as a basis for the proposed habitats plan. At the outline stage we are trying to determine if, in principle, the application has the capacity to comply with the Local Plan Policy EH3 or if there are issues that need to be addressed. Landscape plans for outline applications are often not developed in any detail until the reserved matters stage however, the project team (e.g. applicant, agent, ecological consultant and landscape architect) will need to work together to determine what areas may be available for biodiversity enhancements and agree a basic package of enhancements, which could realistically be delivered within the site framework. It is also important that other land uses within the development are considered at this stage (e.g. the requirement for allotments, pitches, play areas etc.), which will have implications for land use budgets. The provision of biodiversity features within the built environment (e.g. green roofs, living walls) should also be fully considered.

At outline stage, it may be necessary to make some assumptions in order to fulfil the requirements of the metric. For example, the metric could be based on a worst case scenario (e.g. assume all on-site habitats are in good condition or the built development areas could be categorised as "*Urban – Suburban/ mosaic of developed/ natural surfaces*") in order to ensure that subsequent reserved matters applications can also apply the metric once the details of the scheme are available. Where a development is taking place over a series of phases, it may be possible for later phases to set the baseline at a higher level of habitat condition to discount the need for the multipliers if the habitat has already been created and has met the target condition.

5. BIODIVERSITY METRIC INFORMATION

All data submitted with a major planning application shall be in accordance with the **'Biodiversity Net Gain Data Standards for West Oxfordshire' dated November 2019 prepared by TVERC**, as published in conjunction with this guidance document. This includes the submission of GIS vector data (e.g. shape files) and specific information regarding habitat condition data to ensure that the metric calculations can be reproduced and independently assessed by the local planning authority.

5.1 Existing Habitats

The metric should relate directly to the information presented in the Preliminary Ecological Appraisal or Ecological Impact Assessment and on the Biodiversity Impact Plan. The same habitat descriptions and areas must be used. The Defra biodiversity metric 3.0 uses the UKHabs Classification System and therefore habitat data must be classified according to this system. Phase 1 habitats can be translated into the new system using online resources. Notes should be added to the comments column of the metric for each entry to explain the choice of habitat where necessary. If the quality or status of the habitat is in anyway unclear (e.g. due to time of year of surveys or the need for further phase 2 surveys) then the precautionary principle should be applied and notes added to the relevant entry.

5.2 Proposed Habitats

The key issue here is to be realistic about what habitats it might be possible to create and maintain on the site once the development is complete. It is vital that decisions about habitat creation within a development site are based on the following issues:

- *Former land use* – i.e. arable land is likely to be high in Nitrogen, Phosphorus and Potassium (with consequent high levels of soil fertility) and it will take a longer time to create a habitat and for it to reach its target condition;
- *Long-term maintenance* – it may be difficult and/or expensive to maintain certain types of habitat and this often leads to the failure of landscaping schemes in the longer term;

- *Viability* – for example, the cost and operational logistics of maintaining small areas of complicated habitats may be higher/more difficult; and
- *Location* - for example, it may be unrealistic to include small areas of isolated wildflower grassland within an urban or sub-urban environment when they are subject to significant levels of disturbance and nutrient enrichment from dog fouling.

5.3 Recommendations for Habitat Creation On-site

In most situations only relatively simple low-maintenance habitats should be targeted within the development site in order to ensure that the proposed habitats are delivered and managed properly to achieve the intended biodiversity value in the long-term. There are several simple and robust habitat types that are relatively easy to create and maintain in the longer term, which will still deliver good biodiversity value with relatively low maintenance requirements. The choice of habitat types will depend on the soils, drainage and aspect on the site, and will still need to be informed by professional judgement.

5.3.1 Types of Habitats

Examples of habitat types likely to be deliverable on most development sites include:

- Deciduous plantation woodland;
- Ponds (depending on geology and drainage);
- Scrub;
- Hedgerows;
- Medium distinctiveness grasslands can be established and managed on some sites, but this is very dependent on the availability of appropriate management skills, the size of the area (and degree of isolation) and the likely levels of disturbance. Using a simple species mix, including robust species such as oxeye daisy, back knapweed, sorrel and yarrow is most likely to result in success (e.g. tussocky grassland with low-maintenance requirements and flowering lawns containing plants that respond well to regular cutting);
- Scattered native trees; and
- Orchards.

5.3.2 Target Condition

The target condition for the habitats to be created or restored should in most cases be moderate. It is very unlikely that grassland habitats, in particular in suburban environments, would reach anything more than moderate condition. **We will *not accept* schemes that target high distinctiveness habitats such as lowland meadows and limestone grasslands unless there is a very sound justification and a strong chance of success in the long term**. This is only likely to be possible where there are existing good quality habitats that can be improved through sympathetic management or where soil conditions are appropriate. Even if the conditions are suitable, these habitats would only be acceptable where appropriate management expertise is demonstrably available to the developers and can be secured in the long term. *Further guidance about habitat target condition is expected to be published soon.*

5.4 Other Biodiversity Enhancements

Other biodiversity enhancements, particularly those for priority or locally important species, which are not taken into account as part of the metric, must also be incorporated into development proposals in order to comply with Policy EH3, including wildlife boxes (e.g. bird, bat, insect), hedgehog highways (i.e. gaps under fences and holes through walls), habitat piles and sensitive lighting strategies.

5.5 What Happens When the Calculations Show a Net Loss or that BNG cannot be achieved on site?

If this is the case, then the following options must be considered:

i. Re-design the proposed scheme to avoid a net loss of biodiversity: The mitigation hierarchy must be adequately demonstrated within the Preliminary Ecological Appraisal or Ecological Impact Assessment. It may be possible to re-design a proposed development to avoid a net loss of biodiversity. Any re-design would need to take account of the guidance provided above.

ii. Provision of compensation on land owned or controlled by the applicant: If the applicant owns or controls land that could be used to provide off-site measures, then this might be sufficient to compensate the losses caused by a development (with a full justification of the mitigation hierarchy and as long as this approach accords with planning policies in the NPPF and Local Plan) and to provide BNG. In this case the receptor site would also need to be subject to ecological surveys and an assessment using the metric to prove that the land can deliver the required number of biodiversity units to achieve a net gain overall. The receptor site would then be legally linked to the application through a planning obligation in a Section 106 (S106) agreement.

iii. Off-site BNG is secured by planning condition: A planning condition can be used to ensure that the developer enters into an agreement with a delivery provider (a third-party organisation who will create and manage habitats) for off-site BNG (e.g. to achieve the expected target of 10%). To discharge this condition the developer would need to provide evidence in the form of a certificate from a BNG delivery provider to demonstrate that they have secured the required level of biodiversity units. This is often the simplest and most effective way of securing the necessary BNG and the preferred method of the Council.

iv. Off-site net gain secured through a S106 agreement: In some circumstances developers prefer to enter into Section 106 agreements to secure the delivery of off-site BNG. This is sometimes used on larger schemes where there are more significant off-site requirements that would need to be delivered in phases over a number of years. In this way the delivery of off-site BNG can be timed to coincide with the impacts on multi-phase schemes. A delivery provider would still need to be confirmed.

5.7 Purpose and Location of Off-Site BNG

The main priority for any off-site BNG must be the conservation, restoration and recreation of priority habitats and ecological networks, particularly as part of the emerging Nature Recovery Network and forthcoming Local Nature Recovery Strategies (subject to any modifications in the Environment Bill), and/or in order to meet the aims and objectives of Conservation Target Areas (CTA) and Nature Improvement Areas (NIA). All off-site BNG projects must be delivered as close to the development site as possible or at least within the District.

6. OFF-SITE BNG DELIVERY PROVIDERS

There are currently two organisations that can deliver off-site BNG in Oxfordshire:

a) ***Trust for Oxfordshire's Environment (TOE):*** a registered charity who can administer funds on behalf of developers required to invest in biodiversity offsets to achieve net gain in Oxfordshire, usually to discharge planning conditions. When a developer deposits offsetting funds with TOE, they confer responsibility to them and the planning condition can be considered as discharged. They have the local knowledge and connections necessary to find suitable receptor sites and projects capable of generating the biodiversity units required by offsetting funds. They also work with local planning authorities to ensure they meet their requirements and the discharge of planning conditions relating to biodiversity net gain.
Visit: https://www.trustforoxfordshire.org.uk/services for more information.

b) ***The Environment Bank:*** a private company set up specifically to deliver biodiversity offsetting throughout the UK. The Environment Bank has a good network of contacts. Visit: https://www.environmentbank.com/developers/ for more information.

7. WHO ELSE CAN HELP?

The Council's Biodiversity Officer and Assistant Biodiversity Officer can offer further advice at pre-application stage to ensure that developments comply with the relevant biodiversity policies and minimise delays during the application process.

TVERC can undertake metric calculations and provide other data services for development projects at a cost and an enquiry should be made to them direct by the applicant.