

Contact: Caroline George

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Sarah Scott

Senior Policy Advisor, Biodiversity Net Gain, Defra

By email

5 April 2022

Dear Sarah,

Re: Biodiversity Net Gain Regulations and Implementation

We welcome the opportunity to input into the ongoing development of this flagship Environment Act policy and major revisions to the planning policy framework. We also welcome the consultation's overarching objectives to ensure that implementation delivers positive outcomes for nature and creates better places for local communities, which are strongly aligned to our strategic goals as London Environment Directors' Network (LEDNet).

Based on our perspective as environment directors, placemakers, and greenspace managers, we wished to offer a collective response, which focuses on some overarching implications for people, nature and environment in London.

Although we have submitted a response via Defra's Citizen Space form (attached), we also wanted to submit this covering letter to you personally, on behalf of London's environment directors, as the Chair and the Greenspace Strategic Lead for LEDNet. This letter highlights some key high-level points which did not fit neatly into the consultation questions, but which we particularly wished to draw to your responses.

Delivering quality outcomes for London's environment, wildlife and people

It is critical that BNG supports genuinely high-quality outcomes for nature, environment, places and people across England.

We support and echo detailed responses being given by colleagues from biodiversity colleagues across local government and the third sector, on the need for BNG to support high-quality, well-planned habitats across the country.

We would also like to highlight some specific considerations in a London context:

- **Quality standards, biodiversity data and nature recovery planning.**

We note with concern the recent University of Kent report which predicts, based on a study of BNG early adopter areas, that 27% of on-site habitat creation through BNG will be low quality grassland or scrubland with little wildlife value. These risks must be mitigated through robust quality standards, supported by up-to-date data and coherent ecological planning.

This is particularly critical in the context of a biodiversity credit market, and robust safeguards must be put in place to ensure credits represent real, quality habitat managed by organisations with proper conservation expertise.

Furthermore, in order to ensure BNG supports the creation of bigger, better and more joined-up habitats, and avoid a fragmented approach, we would like to see clearer read across between BNG and policy frameworks around local nature recovery networks and species recovery.

- **Site size, scope and exemptions.**

In London (and many other urban and suburban environments), key habitat networks are provided by mosaics of private gardens, linear 'fringe' habitats, public green spaces, and

green/blue infrastructure. In such settings, there is a particular risk that (re)development of numerous small sites, householder properties or self-builds could result in hectares of habitat loss overall, resulting in 'death by a thousand cuts' and seeing nature edged out of large areas of (sub)urban life.

In this context, it is particularly important that BNG has low de minimis thresholds and is applied consistently to all development types, with exemptions only where there is clear justification.

- **Urban greenspace and connecting people to nature.**

In London and other cities, habitat creation has the potential to offer many other critical co-benefits for people, environment and climate resilience.

However, we note the University of Kent study's finding that early-adopter areas have seen a 34% reduction in overall greenspace coverage in new developments, as developers claim to offer better quality habitat in smaller areas. Aside from the biodiversity merits of such claims, allowing this approach to planning green infrastructure would have severe implications for social and health inequalities, climate adaptation, flood resilience and people's connection to nature, in London and elsewhere. It is critical that such risks are mitigated through a joined-up policy framework, particularly through clear read-across to the new NE GI Framework.

Furthermore, off-site delivery mechanisms and the creation of a BNG credits market could pose risks that nature is displaced out of urban environments, creating habitat deserts and disconnecting people from nature. We welcome proposals to avoid this through ensuring off-site delivery remains close to the development site. We call for safeguards and tools to support developers and planners in maintaining this principle in the context of developed urban areas with high land values such as London.

Empowering local government to deliver

Local authorities will be key partners in implementing BNG – not only as planning authorities, but also as housing providers, landowners, green space managers, place-based leaders and conveners of other local partners. In London, these roles are primarily fulfilled by the boroughs represented by members of the London Environment Directors' Network.

We therefore wanted to highlight some specific considerations that need addressing to support local delivery of the policy.

- **Enforcement, monitoring and powers.**

More detail and clarity will be required to support meaningful enforcement of BNG, including independent monitoring and evaluation, and rectification of any infractions or failure to deliver on habitat creation and management plans. We are very concerned by proposals to rely on self-reporting from landowners and developers, and believe that there should be robust, proportionate monitoring and evaluation of both on and off-site delivery by independent ecologists.

This will be best done at a local level to ensure on-the-ground enforcement and alignment with local nature recovery strategies. The government should therefore equip local authorities with the relevant powers and tools to monitor and enforce BNG (with the option to delegate aspects of this role to another competent body e.g. a third sector partner or ecological consultant).

This will require a change in powers, as at present Government only recommends enforcement by LPAs if there is 'serious harm to local public amenity' which does not apply to BNG measures. This effectively makes onsite BNG delivery unenforceable, which must be addressed through legislation.

- **Resourcing implementation and ongoing delivery.**

Meaningful delivery of BNG must be supported by proper resourcing and funding for local authorities – both for initial implementation and establishment of systems to support delivery, and for the ongoing costs of delivery and enforcement as new burdens. Without this, the quality of implementation will suffer and opportunities for nature recovery will be lost.

We welcome Defra's provision of some funding to help local authorities start moving towards

implementation, but the £4 million allocated for this nationally is not remotely sufficient. The Impact Assessment published with the Environment Bill identified that implementing net gain is going to cost local authorities £9.5 million per year on an ongoing basis, and there is much to do to prepare for implementation. While we support current timescales and moving to implementation as soon as is practically possible, it is essential that local authorities are supported with proper funding and resources to ensure we are ready for implementation from next year and to support ongoing delivery.

- **Skills development and investment.**

As well as direct funding, this will require investment in relevant skills development nationwide. Only one in three local authorities now have access to in-house ecologists, and those that do are finding it increasingly challenging to recruit given salary budgets, skills shortages and the state of the labour market.

Delivery of BNG and other Environment Act requirements will require a coordinated, strategic programme of skills planning and investment to ensure local authorities and other relevant bodies have access to the right skills and expertise.

- **A clear, robust and coherent policy framework.**

More broadly, it is essential that local authorities and developers alike are supported by sufficient, and sufficiently timely, clarity on the policy framework and requirements. This will be required if developers and landowners are to factor BNG into economic approaches and land prices from the start, avoiding BNG impacting on site viability and therefore other considerations (such as accessible greenspace or affordable housing). Robust, joined-up and clear policies will be essential to support local authorities in delivering on all these vital priorities, without seeing unacceptable trade-offs.

As Environment Directors, we wish to particularly emphasise that these needs do not apply only to our planning colleagues, but also to other local authority functions which will have a key role in delivering nature recovery – particularly the environment, green space and biodiversity services overseen by our members. Locally, we will be working across service boundaries to take a joined-up strategic approach, but we will also need to be supported in doing so by a coherent policy framework with clear read-across between the different demands on local government, and a strategic, long-term approach to investing in relevant skills nationwide.

Future policy review and iteration

It is vital that we get this right for nature and environment in London and nationwide; however, the new system is unlikely to be perfect from the start and a degree of iteration, learning and partnership development will need to take place.

We therefore welcome the government's proposals for monitoring and review of the overall policy framework, and of key points such as management and maintenance requirements, credit pricing and gain thresholds.

As local authorities who will be key partners in delivering BNG, we wish to continue to play our part in this iterative policy development and sector learning. We would like more details on how future policy review and iteration will include perspectives and collaboration from local government, alongside our other key partners in the environment and planning sector.

As Environment Directors from the London boroughs, we would welcome a conversation with Defra about how we can continue to support iterative development and ensure BNG supports nature recovery in the capital, or to discuss any other aspect of our response.

Best wishes,

Victoria Lawson
Chair of LEDNet

Chris Whyte
LEDNet Strategic Lead for Green Spaces