

Written Statement in relation to Policy NE2, Biodiversity and geodiversity

- Inspector's Q95

The Buckinghamshire and Milton Keynes Natural Environment

Partnership (the "NEP") has already made representations in respect of the draft VALP. In addition to these, we wish to provide further, new information in response to the nature of representations commenting on the soundness of Policy NE2 insofar as they relate to the Inspector's Q95, and in support of the relevant Regulation 19 VALP Policy wording.

Nature of the comments to which the NEP wishes to make a statement

The comments and concerns provided by representations related to the Inspector's Q95 regarding Policy NE2 are concerned with:

- Proposed VALP policy "going beyond" NPPF requirements. A number of developers have called for "where possible" to be included in requirements for net gain in biodiversity;
- Developer concerns that requiring a net gain in biodiversity on every site could be too restrictive and prevent otherwise sustainable development coming forward.
- Concerns that biodiversity accounting needs to be operated with robust ecological expertise, a properly implemented mitigation hierarchy, and proper account of Local Wildlife Sites. It should also respect irreplaceable habitats in the mitigation hierarchy and seek to avoid them.
- One developer suggests a concern that parts a and b of Policy NE2 are "currently unenforceable" without the SPD to set out the biodiversity calculator.

The NEP's Response

The NEP wishes to counter these concerns and support the soundness of the proposed wording in Policy NE2 in the draft VALP regarding biodiversity net gains, for the following reasons.

1) “Net gain” requirements for biodiversity in the draft Plan are consistent with national policy requirements

There is a clear steer in the following national policy and related guidance for development needing to achieve a net gain in biodiversity. For example:

- NPPF (Paras 7, 8, 9, 17 – 7th bullet – 109, 113, 114, 115, **118**, 119, 152, 157 – last bullet – and 187)
- NPPF planning guidance (NEP’s underlining) – which quotes the NERC Act 2006:

<http://planningguidance.planningportal.gov.uk/blog/guidance/natural-environment/biodiversity-ecosystems-and-green-infrastructure/>

“Is there a statutory basis for planning to seek to minimise impacts on biodiversity and provide net gains in biodiversity where possible?”

Yes.

Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by Government in its Biodiversity 2020 strategy...

The National Planning Policy Framework is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution.”

- Natural Environment White Paper 2011 ([The Natural Choice: securing the value of nature](#) – see for example “A Vision For Nature”, section 2, page 17, Para 2.8 – “...We will move progressively from net biodiversity loss to net gain...”)
- [Biodiversity 2020: A Strategy for England’s wildlife and ecosystem services](#). (See the Foreword by the Defra then-SoS: “This strategy will guide our conservation efforts in England over the next decade, including setting our ambition to halt overall loss of England’s biodiversity by 2020. In the longer term, our ambition is to move progressively from a position of net biodiversity loss to net gain”).

In addition, new national Policy Developments, since the draft VALP was submitted, re-iterate and strengthen the requirements for net biodiversity gain. For example:

- The Government’s 25 Year Environment Plan (January 2018) A Green Future: Our 25 Year Plan to Improve the Environment - includes the commitment to explore making environmental net gain mandatory; “with an immediate ambition to mainstream the use of existing biodiversity net gain approaches...” (Page 33).

- Draft NPPF text (March 2018) – is stronger in relation to the aim of biodiversity net gain for development. For example Para 168 – “*Planning policies and decisions should contribute to and enhance the natural and local environment by:...d) minimising impacts and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;...*”.

This text no longer includes the previous “*where possible*” wording; and the phrase “*planning policies and decisions*” replaces “*planning system*” – suggesting net gain should be as much about individual application determinations as about the entire local plan.

- 2) Requiring a net gain in biodiversity on every development – the NEP believes this is *not* too restrictive and would *not* prevent Sustainable Development coming forward. The proposed wording in the VALP is not unusual.

Examples of local authorities requiring a net gain in biodiversity within their *existing* Local Plans include the following – some of which include supporting SPDs where indicated to support those policies.

- Milton Keynes Council – Adopted Local Plan Policy

“All new development exceeding 5 dwellings (in the case of residential development) or incorporating gross floorspace in excess of 1000 sq m (in the case of other development) will be required to incorporate proposals to enhance biodiversity...which are appropriate to and, where possible compensate for, impacts on the immediate area and the site characteristics... Where enhancement is not possible on the site, appropriate enhancement will be sought on other land”
(Adopted Local Plan Policy - Natural Environment Section, Policy NE3, Biodiversity and Geological Enhancement – see <https://www.milton-keynes.gov.uk/planning-and-building/planning-policy/adopted-local-plan-pdf>)

And

“In order to maximise biodiversity we will: ... 3) ensure that damage to the biodiversity and geological resource of the Borough will be avoided wherever possible. Where unavoidable it will be minimised through mitigation or if mitigation is not possible, by compensation, by provision of replacement habitat of higher quality to achieve a net gain in biodiversity,...”

Also

Para 15.8 ***“We will seek gains for biodiversity... as part of new development to support and extend the networks of natural habitats.”***

(Core Strategy (adopted July 2013) – Policy CS19 Part 15 The Historic and Natural Environment)
[file:///E:/Users/nicol/Downloads/FINAL Core Strategy Adopted July 2013 low res%20\(1\).pdf](file:///E:/Users/nicol/Downloads/FINAL%20Core%20Strategy%20Adopted%20July%202013%20low%20res%20(1).pdf)

- Vale of White Horse District Council, Oxfordshire - Local Plan (Adopted Dec 2016)

“Development that will conserve, restore and enhance biodiversity in the district will be

permitted. *Opportunities for biodiversity gain, including the connection of sites, large-scale habitat restoration, enhancement and habitat re-creation will be actively sought, with a primary focus on delivery in the Conservation Target Areas. A net loss of biodiversity will be avoided.* “
([Core Policy 46, pg 143 Local Plan 2031 Part 1](#), adopted December 2016)

- [Lichfield District Council, Staffordshire](#) - Local Plan (adopted Feb 2015)

“...Development will only be permitted where it...delivers a net gain for biodiversity...”

(Policy NR3, Biodiversity, Protected Species and their Habitats – pg 82, [Lichfield District Local Plan 2008-2029](#), adopted February 2015). **A Biodiversity SPD supports this policy (2016).**

- [Ribble Valley Borough Council, Lancashire](#) – Core Strategy (adopted Dec 2014)

*“The Council will seek wherever possible to conserve and enhance the area’s biodiversity and geodiversity and to avoid the fragmentation and isolation of natural habitats and help develop green corridors... Negative impacts on biodiversity through development proposals should be avoided. Development proposals that adversely affect a site of recognised environmental or ecological importance will only be permitted where a developer can demonstrate that the negative effects of a proposed development can be mitigated, or as a last resort, compensated for. It will be the developer’s responsibility to identify and agree an acceptable scheme, accompanied by appropriate survey information, before an application is determined. **There should, as a principle be a net enhancement of biodiversity.** “*

(Key Statement EN4: Biodiversity and Geodiversity, pg 50, [Adopted Core Strategy 2008-2028 A Local Plan for Rubble Valley](#)) Adopted December 2014”).

- [North Warwickshire Borough Council, Warwickshire](#) – Local Plan (adopted 2014)

“Development should help ensure that there is a net gain of biodiversity.... *Where this cannot be achieved, and where the development is justified [ref mitigation hierarchy] the Local Authority will seek compensation and will consider the use of biodiversity offsetting as a means to prevent biodiversity loss. In doing so, offsets will be sought towards enhancements of the wider ecological network....”*

(Local Plan adopted 2014 (NW15, Nature Conservation from the [Core Strategy Forming part of the Local Plan for North Warwickshire, adopted October 2014](#))).

Some developers are incorporating biodiversity net gain into their corporate objectives for new development, are working towards achieving net gains for biodiversity in line with the direction of travel of national policy, and/or or are seeing the benefits of doing so. Developers are also themselves are starting to request a mandatory scheme for net biodiversity gain

For example:

- [Barratt Developments Plc](#) – see [“Taking Action – Net gain for biodiversity article”](#) – and the article [here](#), which highlights learning from the Barratt partnership with RSPB and the Kingsbrook development in Aylesbury – *“As part of the RSPB partnership, we took what we*

learnt from Kingsbrook to inform the development of a 'Growing with Nature' guide, designed to embed a biodiverse approach to all developments, planting high value plant species that support more wildlife, and working to link with local landscapes". As highlighted in the Government's 25 Year Environment Plan (see case study on page 147), "...Barratt expects the value and saleability of its homes to be improved by the quality of greenspace and there is evidence that local businesses can also be boosted by a green setting..."

- **Berkeley Group** – all new developments to create a net biodiversity gain (See links to relevant corporate pages on [Creating net biodiversity gain](#)) – commitment adopted May 2017)
 - **Redrow Homes** – [see article here December 2017](#)
 - **CIRIA (Construction Industry Research and Information Association** - the infrastructure [industry is calling for net gain](#)¹
- 3) The Policy is enforceable – AVDC is a Partner Organisation of the NEP, which has already secured expertise and has in place a specified plan and programme of action to finalise the details of the biodiversity accounting scheme – including to develop the SPD and the biodiversity metric suitable for Buckinghamshire and Milton Keynes in the interim. AVDC will also be working with the NEP to work up the SPD to set out the detailed workings of biodiversity accounting.
- **The mechanism for achieving biodiversity net gain in Buckinghamshire and Milton Keynes is already being developed** in conjunction with experienced ecologists from Buckinghamshire and Milton Keynes. The methodology will require following the mitigation hierarchy, including avoiding irreplaceable habitats.
 - The NEP has appointed Warwickshire County Council (WCC) to assist it in preparing the biodiversity accounting scheme ready for operation across Buckinghamshire and Milton Keynes in a year's time. WCC already operates a successful biodiversity accounting system for Warwickshire.
 - The work includes providing a model SPD to detail how the scheme will operate, and a locally-derived metric based on the Defra metric.
 - **A metric for use already exists.** Defra released a metric in 2012 for use in its biodiversity offsetting pilot schemes and this can be used now if required, until a locally-derived alternative is finalised.

¹ See summary - Balfour Beatty article calling for net biodiversity gain:

<https://www.balfourbeatty.com/how-we-work/public-policy/a-better-balance-a-roadmap-to-biodiversity-net-gain/>

- **The metric to be used in Buckinghamshire and Milton Keynes will be closely based on the Defra metric** and Warwickshire metric (also closely based on the Defra metric) that already exist and are in operation, tweaked to reflect conditions in Buckinghamshire and MK.
- The SPD will set out the detailed workings of the scheme including the criteria for choice of host sites in the event of offsite mitigation.