GREENER UK

Wildlife and Countryside LINK

Environment Bill: briefing for Commons Committee

November 2020

Part 6 (Clauses 90 to 101 & Schedule 14)

Currently, environmental considerations are too often considered a constraint in the planning system. A fundamental shift is required to enable the planning system to play a fuller part in nature's recovery, protecting our finest wildlife sites and connecting them into a coherent network. The planning reforms proposed in Part 6 of the Environment Bill contain welcome tools to help nature, including the imposition of biodiversity gain as a condition of planning permission and the creation of Local Nature Recovery Strategies. However, amendments are required to enable the full potential of these measures to be realised and to ensure they effectively align together to deliver a national Nature Recovery Network.

A strategically planned Nature Recovery Network will provide space for wild species to flourish, restoring England's nature after decades of erosion and providing many benefits for people. Covid-19 has emphasised the importance of access to nature and green spaces for people's health and wellbeing. A Nature Recovery Network will help support a social and economic green recovery, as well as restoring nature.

Several helpful amendments have been proposed for Part 6, which would ensure that it becomes more than the sum of its parts, and lays the foundations for an effective Nature Recovery Network.

We set out below which amendments we support and why we believe these are necessary.

General points applicable throughout Part 6

Requirements in the Nature Chapter such as biodiversity gain and Local Nature Recovery Strategies should be brought forward quickly and without delay. We are concerned that the extra steps required for establishing biodiversity gain and a timetable for achieving them is not set out in the bill, nor is there a date to begin preparation of Local Nature Recovery Strategies. The implementation of these provisions could therefore be stalled indefinitely. We welcome the government's commitment to ensure biodiversity gain will be up and running no later than two years after Royal Assent, as set out in the government's response to the consultation on net gain – however, this is not included within the bill, and **we encourage the government to make an explicit commitment during the Committee debate on when it intends to commence this important work.**

As well as being swift, implementation must also include sufficient resourcing for the public bodies tasked with delivering the new measures on the ground. The delivery of the intended outcomes from the bill is dependent on properly resourcing public bodies. The definition of public bodies used through the bill should be consistent and should always include all planning authorities and planning functions.

It is also important to highlight that multiple regulations and supporting guidance and information will be needed to underpin the biodiversity provisions in the bill. Given the level of detail that will be required, and the potential implications for practice on the ground, it is essential that regulations are subject to the affirmative parliamentary process and

public consultation to provide the greatest level of scrutiny and expert input. This is especially important for regulations relating to biodiversity gain and Local Nature Recovery Strategies, where there will be a lot crucial detail to get right in order for the measures have their intended effect. For example, Part 1 of Schedule 15 provides regulations, rather than guidance, through insertions to the Town and Country Planning Act 1990 that set out procedures for approving a biodiversity gain plan. Such regulations will have a considerable impact on the ground and as such require detailed scrutiny.

Finally, there must be provision to ensure the requirements in the nature chapter are clearly linked to the target setting framework in the first part of the bill. For example, Local Nature Recovery Strategies should be required to be developed with regard to the need to contribute to delivery of the environmental targets. Without this, there will be no means to measure how well the nature provisions are contributing to nature's recovery. The requirements should also be cognisant of the Environmental Land Management scheme and related measures introduced by the Agriculture Act, to ensure that environmental benefits arising from them contribute fully to the delivery of Environment Bill objectives.

Clause 91 – Biodiversity gain site register (amendment 10)

Clause 91 allows the Secretary of State to make provision for a register of sites where the developer is committed to habitat biodiversity enhancement, as a condition of planning permission (clause 90 of the bill makes provision for biodiversity net gain to be a condition of planning permission in England, a change then fleshed out in detail in Schedule14).

Biodiversity net gain is a major new policy intended to drive nature's recovery. However, as currently drafted, it suffers from having no strategic oversight to coordinate and ensure delivery. The amendments below are the minimum required to fix these and other omissions within the policy.

Amendment 10 seeks to tighten the government's responsibility to provide this register, requiring the Secretary of State to make provision for a register of biodiversity gain sites, as opposed to the current wording of "may make provision for".

A register of sites is essential to secure and record meaningful and lasting net gain, as opposed to commitments that exist only on paper. Checks on progress in delivering, and crucially then maintaining, enhanced habitat sites can only be made if those sites, and the enhancement plans that led to planning permission, are known and kept on record. This would enable close monitoring and enforcement where necessary.

Clause 92 – Biodiversity credits (amendments 136 and 11)

Clause 92 allows developers to purchase credits from the Secretary of State to satisfy biodiversity obligations imposed as a condition of planning permission. Revenues raised through the purchases are then to be used to create and improve nature sites. It is vital that funds raised from the biodiversity credits system are used to deliver meaningful biodiversity net gains in a timely way and that these are maintained in perpetuity. We are concerned that biodiversity credits will undermine the biodiversity gain system as a whole, as there is nothing in the bill to ensure that investment will either deliver long term action, or be linked local priorities.

We support **amendment 136**, which would address this risk in part by placing two new requirements on the Secretary of State, or any other person charged with using biodiversity credit funds. The first would require that all habitat work carried out using

biodiversity credits would have to achieve an actual enhancement in biodiversity, as measured by the biodiversity metric. This should reflect or exceed the number of units those biodiversity credits represent. The second would require the enhancement to be maintained in perpetuity. These two requirements would hold nature sites created or enhanced by biodiversity credit funds to high and lasting standards.

Covid-19 has emphasised the importance of local habitats and natural green spaces to people's health and wellbeing. The funds from biodiversity credits must be used to contribute to local habitat creation projects as well as strategic ecological networks. They must also be additional to existing requirements or improvements that would happen locally anyway.

The contribution of biodiversity credits to local habitat creation projects and strategic ecological networks, and the added value they have provided, should be clearly set out in annual reports on biodiversity credits. To ensure transparency, habitats created through biodiversity credits should also be held on the register of biodiversity gain sites. The government should also clarify how it intends to guard against long term pooling of revenue instead of funds being used for urgently required biodiversity work. We also recommend that the government looks to invest in habitat creation and enhancement prior to the formal start of biodiversity gain and then reimburses the work through credits – this will ensure that habitat enhancement is in place in advance of development and help with early investment and recovery post-Covid-19.

Amendment 11 seeks to tighten the government's responsibility to operate biodiversity credits, by requiring the Secretary of State to set up a biodiversity credits system (changing the current wording of "may make arrangements" to "must"). These arrangements must also be progressed by the affirmative procedure, increasing parliamentary scrutiny, and be subject to public consultation. A consultation, in which biodiversity experts can input, is likely to improve the effectiveness of the credits scheme and deliver better outcomes for nature.

Clause 93 – General duty to conserve and enhance biodiversity (amendments 140, 138, 139 and 137)

Clause 93 strengthens the current duty on public authorities to conserve biodiversity.

Whilst this is welcome, the clause as currently drafted has two key weaknesses:

- It narrows the application of the current duty, which applies in all day-to-day public authority decision making. The current draft would apply to actions taken in line with specific policies and objectives developed pursuant to section 93(3). This misses a key opportunity to improve the effectiveness of biodiversity work carried out by public authorities – namely requiring them to factor in the need to conserve and enhance biodiversity in all decision making, including statutorily required planning and spending decisions. Biodiversity work is in continual danger of being marginalised, given the persistent pressures and demands on public authorities. **Embedding biodiversity into all public authority decision making will ensure that opportunities to conserve and enhance biodiversity through core activities are not missed.**
- It fails to address the weakness of the duty to "have regard" to the need to enhance biodiversity. The House of Lords Committee on the Natural Environment and Rural Communities Act identified the "have regard" obligation as the main reason that the duty was ineffective, but the government has not addressed this failing.

We support **Amendment 138**, which seeks to prevent biodiversity opportunities from being missed by requiring public authorities to exercise their functions consistently with the aim of furthering the general biodiversity objective (as opposed to the current bill requirement to give consideration of how to fulfil this aim "from time to time"). This strengthened wording would prevent biodiversity being siloed and render it a critical factor to be considered in all public authority decisions, including statutorily required planning and spending decisions which can have significant impacts on nature and biodiversity.

Amendment 139 (to be taken with 138) seeks to clarify the meaning of public authority in this context, applying the same definition as used in clause 28(3) of the Environment Bill. This amendment makes it clear that the term "public authority" applies to local authorities or organisations carrying out "any function of a public nature''. This makes sure that bodies with key statutory undertakings of a public nature, such as water companies or rail providers, are also covered by and responsible for complying with the enhanced biodiversity duty. Such entities may have a different legal status or corporate structure to local governments or authorities but still provide key public functions and will be crucial for national efforts to conserve and enhance nature.

Amendment 137 aims to strengthen the duty to use Local Nature Recovery Strategies and further embed biodiversity in all public authority decision making. Local Nature Recovery Strategies have the potential to be an extremely effective tool for targeting investment in nature, but as drafted this potential will not be realised because of the very weak duty to apply the strategies in decision making. This is an essential amendment to ensure that Local Nature Recovery Strategies actively influence the important day to day decisions that affect nature.

At the moment, the duty to actually use Local Nature Recovery Strategies is very weak – it is a duty to "have regard" to the strategies in complying with the duty to "have regard" to the need to enhance nature. This risks creating obligations to develop Local Nature Recovery Strategies, expending precious local resources, only to see this effort wasted by failing to give the strategies any influence on real decision making.

The amendment would require all public authorities to act in accordance with any relevant Local Nature Recovery Strategy (required by clause 95 of the bill to cover all of England, see more details below) in the exercise of their duties, including statutorily required planning and spending decisions. Local Nature Recovery Strategies are intended to coordinate the actions of multiple stakeholders including directing the locality-wide use of biodiversity gains from the planning system, Environmental Land Management systems and other sources, helping to build and maintain ecologically coherent networks of nature recovery sites. **Placing Local Nature Recovery Strategies at the heart of all public authority strategic planning and decision making will help them to fulfil this central, strategic purpose.**

It would be helpful if the clause could be further strengthened to require authorities to make decisions to achieve biodiversity objectives, rather than simply furthering them. This would help tie decisions more explicitly to the delivery of measurable targets.

Amendment 140 would clarify the general biodiversity objective incumbent on public authorities as part of the biodiversity duty, by adding a specific requirement to work to conserve and enhance UK priority species and habitats. This focus on priority species and habitats is welcome, as long as it does not preclude other species from being conserved and other habitats from being conserved and enhanced.

Clause 94 – Biodiversity reports (amendments 142, 186, 141, 12, 13)

Clause 94 requires the production of Biodiversity Reports, to record how public authorities have sought to conserve and enhance biodiversity. The reports should contribute to the improvement of information on protected sites, priority habitats and priority species, and as such are welcome. The clause would benefit from amendment, to extend the range of public authorities required to provide reports, to provide more direction on report content and to expand the list of topics public authorities should report on. This will provide better join up with other aspects of the nature chapter and ensure these new provisions are reported on. Reporting allows authorities to be held to account on decisions affecting nature, and allows best practice in those decisions to be shared.

We support **amendment 142** and **amendment 186**. The amendments are to be taken together and would extend the number of authorities required to produce biodiversity reports. **Amendment 142** would require all public authorities and persons or bodies exercising functions of a public nature to publish biodiversity reports (the requirement currently only applies to local authorities in England other than a parish council, local planning authorities in England and designated authorities). **Amendment 186** would add Natural England and the Environment Agency to the list of designated authorities required to publish biodiversity reports.

We welcome **amendment 141**, which would ensure that all biodiversity reports include an analysis of how actions taken have contributed to delivery of priorities identified in Local Nature Recovery Strategies. Biodiversity work needs central coordination and Local Nature Recovery Strategies are designed to do just that. Tying them in to all biodiversity reports will help them achieve their core purpose of directing local nature recovery activity. Local Nature Recovery Strategies are not currently included in the list of topics biodiversity reports should contain, and **amendment 141** would correct this critical omission.

Amendment 12 would ensure that all biodiversity reports include quantitative data on biodiversity, by mandating the Secretary of State to require all reports to contain a quantitative aspect. As drafted, the bill states only that the Secretary of State may make provision for this.

Clause 96 – Preparation of Local Nature Recovery Strategies (amendment 13)

Clause 96 sets out a process by which Local Nature Recovery Strategies could be prepared, published, reviewed and republished.

Amendment 13 would require the Secretary of State to provide clear procedures to authorities, to be followed when preparing, producing, reviewing and republishing Local Nature Recovery Strategies. As drafted the bill states only that the Secretary of State "may" provide such procedures (changed to "must" by the amendment). These procedures must also be progressed by the affirmative procedure, increasing parliamentary scrutiny, and be subject to public consultation. The full positive impact of Local Nature Recovery Strategies will only be realised if authorities are given effective procedures to follow. Allowing third parties, including experts in the nature sector, to input into those procedures through public consultation will ensure their effectiveness – and in due course improve the strategies that will be built from them.

This clause could be further strengthened by requiring all individual Local Nature Recovery Strategies to be consulted on, ensuring local and community input into proposals.

Clause 97 – Content of local nature recovery strategies (amendments 143, 144 and 145)

Clause 97 defines the required content of Local Nature Recovery Strategies. As drafted, the required content is limited, and not sufficient to meet their intended purpose.

Local Nature Recovery Strategies should be the drivers for nature's recovery. They should be the green counterpart to local plans and, just as local plans transform the areas they cover with new homes, Local Nature Recovery Strategies should transform their areas with new connected spaces for nature. Just as local plans are drawn up to meet housing needs, so too should local strategies meet the needs of nature.

If this transformative function is to be fulfilled, Local Nature Recovery Strategies need to be the primary means by which ambitious national environmental commitments, priorities and investments are targeted to deliver maximum public and ecological benefit – from tree planting to nature-based flood defences. In combination with clear national priorities and ecological advice, local knowledge, and expertise, channelled into delivery planning through local strategies, can help make the delivery of these targets a success.

Local Nature Recovery Strategies need to be comprehensive, bringing all environmental gains in an area into a cohesive plan. They should coordinate all local biodiversity net gains arising from planning and environmental land management schemes in a way that makes ecological sense, to ensure that every individual gain forms part of a greater whole –with each part making a greater contribution to nature's recovery as a result.

Strategies also need to interact with each other, just as local plans do. By linking them together, the strategies can form the building blocks of a national Nature Recovery Network - a joined-up system of nature-rich places, as envisioned in the 25 Year Plan for the Environment. Such a network will provide plants and animals with the space to live, move, feed and breed - a redoubt for England's nature to recover in and to expand from, whilst giving people and communities increased opportunities to engage with wild spaces.

Ambitious, comprehensive and connected strategies can be the catalyst for nature's recovery. The proposed content of the strategies, as defined in clause 97, is currently neither ambitious, connected nor comprehensive.

We support the three amendments tabled that address the current omissions preventing the full potential of Local Nature Recovery Strategies from being realised. These will help ensure the strategies deliver outcomes that are as tangible for nature as housing outcomes are from local plans.

Amendment 143 would ensure that all Local Nature Recovery Strategies include a statement of how they are expected to contribute to the delivery of relevant environmental targets. This would ensure that each Local Nature Recovery Strategy delivers local and national objectives, as intended.

Amendment 144 would ensure that all Local Nature Recovery Strategies include a description of how biodiversity net gains (delivered through the new planning condition) and land management changes (including those from the new Environmental Land Management systems) in that area will be directed by the strategy to further local biodiversity goals, ensuring that every strategy is comprehensive.

Amendment 145 would ensure that local habitat maps included in Local Nature Recovery Strategies set out an ecologically coherent network of sites. Ecological coherence requires sites to relate to each other, and to form part of a wider, integrated network for nature's recovery. Local habitats must not stagnate in isolation but should instead effectively relate to each other to play their full part in building up a network of nature recovery sites across the locality, and in turn the country.

These amendments would ensure that the content of Local Nature Recovery Strategies would render them fit to fulfil their intended purpose – as the local drivers of nature's recovery.

Clause 98 – Information to be provided by the Secretary of State (amendment 146)

Clause 98 introduces a new duty on the Secretary of State to make available certain information, including the production of a national habitat map for England, to assist responsible authorities to draw up effective Local Nature Recovery Strategies. To be most effective in helping to inform the preparation of Local Nature Recovery Strategies, the national habitat map should be available prior to Local Nature Recovery Strategy preparation. It will not be sufficient to simply present national conservation sites on this map – critical information such as the condition of existing sites and opportunities for recovery must also be provided to help direct action on improving and restoring existing national conservation sites.

The government's proposal is a start for providing this information, but good planning for the natural environment requires more than the identification of isolated patches of nature on a map; it requires a strategy for enhancing and linking sites throughout urban and rural areas to facilitate nature's recovery. A requirement for national strategic coordination is missing from the clause – there is no provision for the government to undertake work to identify habitat opportunities, nor any national system of review for Local Nature Recovery Strategies to check that each one makes a meaningful contribution to the delivery of a coherent national Nature Recovery Network.

We support **amendment 146**, which would address these omissions by requiring the Secretary of State to:

- Produce a strategy to inform the development of a Nature Recovery Network
- Set out a process for review and approval of Local Nature Recovery Strategies by Natural England to confirm that each one would contribute adequately to the delivery of a national Nature Recovery Network and relevant environmental targets.

These requirements would give the Secretary of State responsibility for knitting Local Nature Recovery Strategies together, so they function as a coherent national network and deliver their full potential for nature.

Clause 99 – Interpretation (amendments 147 and 148)

Clause 99 defines use of the terms "local authority" and "national conservation site" as used in clauses 95 to 98.

Amendment 147 seeks to extend the definitions to also cover clauses 93 and 94.

Amendment 148 would add a new definition of public authority for these clauses, covering

- A Minister of the Crown, a government department and public body (including a local authority)
- A person carrying out any function of a public nature that is not a devolved function, a parliamentary function or a function of any of the following persons—

(i) the OEP;
(ii) a court or tribunal;
(iii) either House of Parliament;
(iv) a devolved legislature;
(v) the Scottish Ministers, the Welsh Ministers, a Northern Ireland department or a Minister within the meaning of the Northern Ireland Act 1998.

This amendment, as with **amendment 139**, must make clear that the term public authority applies to planning authorities and to all planning functions.

Schedule 14 – Biodiversity gain as condition of planning permission (amendments 169, 168, 75, 22, 170, 171 and 172).

Schedule 14 implements clause 90 of the bill. It applies a new general condition to all planning permissions granted in England (subject to exemptions) requiring a biodiversity gain plan to be submitted and approved by the planning authority before development can lawfully commence. The biodiversity gain plan is required to contain an assessment of the value of natural habitats before development and after development – and ensure that at least a 10% net gain is achieved between the earlier and later values.

The new general condition has the potential to be an effective tool to boost biodiversity across the country.

However, a number of issues in the current bill text could hold back this potential, including:

- The length of time for which the 10% net gain is maintained – too short a period of maintenance could see the gain swiftly lost, preventing it from making a meaningful contribution to environmental targets or from contributing to a long lasting nature recovery network.
- Exemptions from the biodiversity gain condition – too many project exemptions could sharply reduce the number of habitats actually enhanced, and allow other habitats to be destroyed altogether though development carried out under the exemptions. Major and large scale infrastructure projects must be in the scope of mandatory biodiversity gain (**NC32** to be debated later in Committee would address this).
- The relationship between the new system and irreplaceable habitats – we are concerned biodiversity gain could lead to perverse outcomes such as irreplaceable habitats being damaged or destroyed. By their nature these habitats cannot be recreated and therefore neither a replacement nor a gain can ever be achieved. Biodiversity gain must not undermine protections for irreplaceable habitats.
- There is no mechanism to guarantee what is prescribed in the biodiversity gain plan is actually delivered on the ground.

The following amendments would help address these issues:

Amendment 168 and **amendment 75**, to be taken together, would require habitats secured under biodiversity gain to be maintained in perpetuity, rather than the 30 years

currently specified in the bill. **Amendment 168** would also add that the habitat secured under biodiversity gain should be secured in its target condition.

These amendments are vital. The bill as currently written would allow gain sites to be degraded or destroyed after 30 years, destroying ecological gains and carbon storage benefits – and any prospect of these gains and benefits making a long term impact. If delivery of biodiversity gain is to contribute to the 25 Year Environment Plan commitment to a 'Nature Recovery Network', and to provide carbon sequestration which could support the net zero target, these areas must be secured and maintained for the long term. This will ensure that they can be enjoyed by future generations, secure nature's recovery for the long term, and play a role in assisting nature to adapt to climate change.

There must also be a binding mechanism to ensure that habitat target condition (for example, a woodland reaching maturity) is reached in a timely way. Time to target condition must be specified in the biodiversity gain plan and included in the planning condition or equivalent to ensure this can be enforced.

Amendment 170 would remove the exemption from biodiversity gain as a condition of planning permission that currently applies to development orders. We similarly support **amendment 171**, which removes the ability of the Secretary of State to lay regulations to exempt other forms of development from the biodiversity gain condition.

These amendments are important because most development needs to be part of a biodiversity gain system to maximise the benefits of biodiversity gain, provide developer certainty and create a level playing field. It would also maintain public confidence in the system and ensure consistency in application.

Exemptions and loopholes should be limited, particularly for large scale housing and infrastructure development, if biodiversity gains are to be delivered on the scale currently envisaged. Similarly, brownfield sites can have significant biodiversity interest even where there is no formal biodiversity designation, such as open mosaic habitats. We are concerned that the proposed targeted exemption for brownfield sites will undermine the delivery of biodiversity gain as a whole as a substantial amount of brownfield land is brought forward for housing development. Furthermore, it could also result in loss of or damage to brownfield land of high environmental value, which is often not known about until the planning process is well underway. **The government should clarify how brownfield land of high environmental value will be protected and enhanced and what steps it will take to ensure any brownfield site exemption does not undermine delivery of biodiversity gain as a whole.**

The potential for further blanket exemptions under the current text is concerning

Exemptions for development orders could have a broad application in practice, particularly if this is extended to the full range of development orders including Local or Neighbourhood Development Orders or development orders brought forward by development corporations. This could lead to major developments such as new towns as well as wider proposals such as Freeports being exempt from biodiversity gain. This would create a significant loophole in proposals and be a missed opportunity to deliver biodiversity gain at scale. **Clarification on the development orders exemption and its intended scope would be very welcome.**

These exemptions are exacerbated by proposals in the Planning White Paper, which include extended use of Development Orders for large scale development, as well as wider permission in principle. This could lift more development out of the system of net gain.

To create a level playing field and compensate for multiple small scale losses of nature, it is important that the application of biodiversity gain is broad – **amendment 170** would remove the potentially very wide exemption for development orders and **amendment 171** would remove the broad power to exempt projects from biodiversity gain. A commitment should be made in the bill to precede any planned future exemptions with public consultation.

Nationally Significant Infrastructure Projects (NSIPs) and other large scale infrastructure projects, such as HS2, are also currently exempted from mandatory biodiversity gain. These projects can cause significant damage to nature but, if appropriately located and planned, designed and built well, they can offer significant opportunities for biodiversity gain. **Provision must be made to include these developments within the scope of mandatory biodiversity gain**, in line with the 25 Year Environment Plan to embed environmental net gain in infrastructure. This could be via a new duty on the Secretary of State to deliver biodiversity gain for major and large scale infrastructure projects. We support **NC32** which will be discussed later in Committee.

The government has commissioned a study into the costs and benefits of bringing NSIPs and other large scale infrastructure projects into the scope of mandatory biodiversity gain. This should be made available during Committee stage to help inform discussions.

Amendment 172 would require the Secretary of State to make regulations modifying or excluding sites where the onsite habitat is "irreplaceable habitat" from net gain. As drafted, the bill states only that the Secretary of State "may" provide make such regulations (changed to "must" by the amendment).

These procedures must also be progressed by the affirmative procedure, increasing parliamentary scrutiny, and require public consultation. Allowing third parties, including experts in the nature sector, to input into those regulations through public consultation would ensure that the new net gain condition does not inadvertently provide a loophole for damage to and destruction of irreplaceable habitats such as ancient woodland.

Any regulations and associated guidance brought forward on irreplaceable habitats should be clear that current legal protections and requirements for irreplaceable habitats are fully retained and take precedence. **The government should also reiterate that adverse impacts from development should be avoided, not just minimised.** The regulations should not introduce perverse incentives for developers to target irreplaceable habitats; if the requirements for irreplaceable habitats are less arduous than for other habitats, a perverse incentive could be created. Any proposals must clearly enhance the protections afforded to these habitats.

Two further amendments would further improve outcomes for nature from Schedule 14

Amendment 169 would ensure that the only way that the 10% net gain figure could be changed is by being increased, after review by the Secretary of State. There must be no mechanism to lower the level of gain as this would seriously undermine the objectives of the system as a whole and likely result in little or no gain being achieved in practice.

The Impact Assessment published alongside the biodiversity net gain consultation in December 2018 noted that 10% is merely, "the lowest level of net gain that the department could confidently expect to deliver net gain, or at least no net loss".

10% net gain is also less ambitious than some current local authority practice, for example, Lichfield District Council which requires 20% net gain on new development.

We welcome the government's statement in its response to the Biodiversity Net Gain Consultation that 10% gain should not be viewed as a cap on the aspirations of developers who want to go further. This was reiterated by Minister Pow during the second reading debate. We strongly recommend that developers and planning authorities deliver more than 10% gain in practice, particularly for large scale developments such as new towns where an ambitious approach will be necessary. **Amendment 169** would further this flexibility, allowing the Secretary of State to review practice after an appropriate period to assess whether evidence demonstrates that an increase to the 10% figure is possible and needed.

Amendment 22 requires the Secretary of State to provide a clear procedure to planning authorities on how to consider biodiversity gain plans, when submitted with planning applications. As drafted the bill states only that the Secretary of State "may" provide such procedures (changed to "must" by the amendment).

These procedures must also be subject to the affirmative procedure, increasing parliamentary scrutiny, and be subject to public consultation. The input of biodiversity and planning professionals through public consultation would improve the procedures and would thereby in due course improve planning outcomes affected by them.

Improved procedures could ensure that all planning authority biodiversity gain plans are sufficiently detailed, subject to public consultation and made available in draft form so as to inform planning applications.

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On behalf of Greener UK and Wildlife & Countryside Link

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