

Buckinghamshire Council,
Planning Policy,
Biodiversity Accounting SPD Consultation,
King George V House,
Amersham,
Buckinghamshire.
HP6 5AW

By email only

19 March 2021

Dear Sir / Madam,

**Buckinghamshire Biodiversity Accounting SPD – March 2021
Chiltern Society Comments**

The Chiltern Society is a charitable body with 7000 members. We campaign for the conservation and enhancement of the Chilterns National Character Area, which includes the Chilterns Area of Outstanding Natural Beauty (AONB) and part of the London Green Belt. Our role in the planning system is co-ordinated through a network of voluntary planning field officers and co-ordinators.

The Society is also actively involved in biodiversity in the Chilterns, owning and managing its own sites and working on projects to conserve and enhance biodiversity. We have recently published our own Manifesto for Chilterns Wildlife to support the implementation of the Chilterns AONB Management Plan. <https://chilternsociety.org.uk/chiltern-manifesto/>

Whilst we support, in principle, the idea that developers should contribute to biodiversity and that there should be a net gain from development, we do have some reservations about the concept as a whole. We question whether it is ever possible to truly re-create biodiversity value elsewhere, whether it is morally justified that developers can essentially buy their way out of damaging actions, whether the use of formulas and calculations may in itself lead to a tick-box and mechanistic approach which may actually lead to worse or less appropriate outcomes than a more flexible system carried out in the right spirit.

As Biodiversity Net Gain is being inserted into the Environment Bill it seems likely that it will be applied across the country and a 10% net gain will be required. We see no reason, however, why Buckinghamshire should not go for a higher percentage, say 20%, because it contains large parts of the Chilterns, including the AONB, and is one of the pilot projects for the establishment of Nature Recovery Networks. Indeed a gain of 20% was recommended in the Natural Environment Partnership report on which the SPD is based. A county with high development pressure and close to London would be an ideal place to trial a higher percentage of net gain. Also, there is scope to actively manage the Green Belt for biodiversity, creating a valuable green asset as well as keeping land free of development.

The Council must make the system and formula as robust and effective as possible. The SPD must make it very clear that net gain must be provided on site unless there are exceptional circumstances for an off-site contribution. Otherwise, the Council may be in the situation where developers simply buy their way out of biodiversity responsibilities.

As there is a question mark over whether off-site compensation can ever be as good (because of its difficulty, time lag, and less ultimate assurance of success), the hierarchy of on-site first should be weighted / emphasised to the maximum extent possible. This should involve:

- a) placing an explicit onus on applicants to “prove” that on-site improvements are not possible;
- b) ensuring the multipliers in the formula for difficulty and the temporal factor of habitat creation are sufficiently high to both reflect reality and risk – this will require specialist knowledge to be able to suggest actual figures; AND ideally a bit bigger still so as to act as a further disincentive to off-site measures.

It is possible that a truly knowledgeable and committed applicant / ecologist could devise an imaginative and genuinely beneficial scheme for improving biodiversity, but which might not fit into the formulaic accounting framework, perhaps there should be scope within the policy for the LPA to have discretion to use other criteria. Care would need to be taken that this would not introduce risks of abuse, and it might not be allowable under national policy.

If off-site contributions are agreed with an applicant, the Society could identify which of its sites lie within the strategic and semi-strategic areas, which have already been mapped by the BMKNEP, and where any off-site measures are to be preferentially directed – and then put itself forward to the NEP as a willing landowner with oven-ready projects waiting.

At para 4.2, there is a (very) long list of exemptions from the requirements of the SPD “currently advocated by the Government”, which Bucks intend to follow. We don’t know if Bucks could seek to apply a different (narrower) set of exemptions, but for now, we will assume not.

The report suggests than one of the exceptions where net gain may not be required is if there are viability concerns about a development. This exemption is not acceptable as it may enable developers to avoid providing for net gain in a similar way that some try to avoid S106 payments. It must be clear that biodiversity is an integral part of all developments and must be allowed for in all viability assessments. Exemptions are most likely to be sought in relation to brownfield sites. Some of these sites could contain valuable biodiversity features and the process should not allow these to be lost without incorporating net gain. If the applicant can demonstrate that there is no space on an urban redevelopment site then offsetting contributions could be used to create compensatory habitats nearby.

There must also be separate policies in place requiring maximisation of biodiversity and achievement of BNG in all developments, using different assessment systems. This should also involve an SPD, or detailed guidance, so that things like swift bricks, pollinator-friendly planting etc become standard practice.

Para 5.7 indicates that a 10% net gain requirement is to be applied, being “a proxy figure for what is expected to be required by the Environment Act 2021”. We don’t know the relationship between local policy and the Environment Act and whether local policy will be able to diverge, but we would like to press for a 20% net gain requirement, which is what BMKNEP say would be consistent with the Biodiversity Action Plan. (Source: the BMKNEP draft version of the SPD page 18, linked to from 8.7.)

It is essential that the SPD clarifies the metric to be used in making the assessments. We recommend that guidance is taken from the Natural Environment Partnership and their model SPD. It would be good if this could be developed based on the Defra methodology but also taking on board local circumstances and priorities. There need to be clear methods for assessing habitats and hedgerows that are applied across the board to avoid developers choosing the methodology that gives them the least commitments. The NEP is developing a methodology for this.

The NEP is also developing a costs calculator for determining off-site contributions and we would like this to be adopted by the SPD.

Step 1 of calculating the biodiversity impact of a proposal involves assessing the existing value (a combination of area, habitat type and condition). We would like to suggest that the assessment should be of the existing or recent value, and be the highest figure within a, say, three year window, judged using any evidence available and on the balance of probabilities; this is in order to guard against deliberate or incidental loss of value occurring in the run-up to the submitted assessment, due to either neglect or damaging interventions. This particularly affects condition - leave a species rich grassland ungrazed or uncut for a season or two and its condition will degenerate – but could also involve a change of habitat type.

We are aware, following a recent Great Missenden two house application on edge of the AONB, one issue from this has been measuring and recording the base from which gain is judged ie in that case the site had been cleared first so, if that had been the base, then there would be a gain from that base, but how can the original base be quantified and identified in retrospect. Somehow the Council need to ensure that developers cannot evade any of the responsibility this way. One way of addressing this would be to widen the requirement for consent to cut down trees etc or a requirement to create a record of the previous base with photos etc before trees are to be cut down.

Para 5.8 Stage 4 & 7.2 – Where net gain cannot be provided on-site, the Chiltern Society would wish to be involved in the choice of potential receptor sites for off-site biodiversity gain. Either Society owned sites or sites immediately adjacent could be selected to gain maximum biodiversity benefit. The Society is currently planning a biodiversity enhancement project in parishes around Wendover and Tring, and this is the type of project that could benefit from pooled net gain payments.

In many cases there could be an on-site loss of biodiversity and then a time lag before the compensatory habitats have been created and become established. There needs to be some way of addressing this to avoid a loss of biodiversity in the interim. Once a species has ceased to occupy an area it will be much more difficult to bring it back.

Another key consideration is making provision for long term management of sites. Without this, sites are unlikely to achieve their maximum biodiversity value. It is likely that the 10% gain will be based on a site creating maximum conservation value. For large developments (say 10 or more houses) the applicant should be required to submit a long term Management Plan as part of their application. This should be in a form that is easily understandable by people who may wish to comment on the planning application. Its implementation must be required by condition and enforced.

Paras 6.2 and 6.5 – The SPD needs to specifically recognise potential river impacts in relation to the Chilterns chalk streams. Increases in water abstraction for development may have detrimental impacts on irreplaceable habitats and should be factored into the biodiversity assessment process.

We are also concerned that because this process is dependent on expert assessments, spreadsheets and formulas, it will be inaccessible to, and lack transparency for, the general public; which, in turn, may result in a lack of confidence and cynicism. There needs, therefore, to be plain-language explanatory material provided to explain the process. As well as generic information from the Council about the process, we suggest that applicants should also be required to provide a plain-language explanation of their approach, and not just rely on the completed spreadsheet.

The Council must also have sufficient skilled resource to properly scrutinise applicants' employment of the formula. This requires ecological expertise, not just planning skills.

I hope you will be able to incorporate these suggested amendments into the next draft of the Biodiversity Accounting SPD.

Your sincerely

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