

## Matter 3: Policy P6/P7: Biodiversity in New Developments

### 1 Whether Policy P6/P7: Biodiversity in New Developments is positively prepared, justified, effective and consistent with both national policy and the LPSS.

1.1 The NPPF at paragraph 35 defines the meaning of “positively prepared”, “justified”, “effective” and “consistent with national policy”. It states:

“Local plans and spatial development strategies are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. Plans are ‘sound’ if they are:

a) Positively prepared – providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;

b) Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;

c) Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and

d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.

#### Positively prepared

1.2 The LPDMP forms a subsidiary plan to the LPSS. The LPSS provides a positive strategy to meet housing need and was found sound at examination on that basis. The proposed policies in the LPDMP have been subject to tests of viability and feasibility<sup>1</sup> and the cumulative policies, including Policy P6/P7, do not present a risk to delivery of objectively assessed needs and will support the achievement of sustainable development. As a result, the strategy remains positively prepared when assessed against NPPF paragraph 35(a).

1.3 The NPPF provides further detail on the meaning of positive preparation as it relates to Policy P6/P7 as follows (our underlining).

- Paragraph 15: The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for

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<sup>1</sup> The Local Plan: Development Management Policies & Stage 1 Community Infrastructure Levy (CIL) Viability Assessment with subsequent Viability Addendum Note, supplemented by the detailed Biodiversity Net Gain reports (see section ‘The implications of a 20% increase on development viability’)

addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.

- Paragraph 16(b): [Plans should] be prepared positively, in a way that is aspirational but deliverable.

- 1.4 Biodiversity recovery is an environmental priority, both nationally and locally (see Natural Environment Topic Paper paragraphs 2.4, 2.8 and 2.36-2.41, and LPSS Policy ID4). Policy P6/P7 aims to ensure development contributes to biodiversity recovery by setting out a series of positive actions that align with the activities frequently undertaken throughout the course of development. It is aspirational and presents a positive vision for biodiversity rich developments that support a thriving natural environment with associated social (e.g. health and recreation) and economic (natural capital) benefits, but in a way that is deliverable as demonstrated by the supporting studies. Thus, the policy accords with NPPF paragraphs 15 and 16.
- 1.5 The NPPF further addresses the meaning of positive preparation in the following paragraphs (paraphrased, our underlining).
- Paragraph 26: positive preparation requires effective and on-going joint working between strategic policy-making authorities and relevant bodies. Joint working should help to determine where additional infrastructure is necessary.
  - Paragraph 93: planning policies should plan positively for the provision and use of shared spaces, community facilities (including open space) and other local services to enhance the sustainability of communities and residential environments.
  - Paragraph 145: local planning authorities should plan positively to enhance the beneficial use of Green Belts, such as looking for opportunities to retain and enhance biodiversity.
- 1.6 The LPSS (as amended) was found sound by the Inspector on the basis that it had undertaken appropriate joint working with strategic authorities and relevant bodies (Inspector's examination report paragraph 20<sup>2</sup>). Paragraph 1 of the report makes it clear that the soundness test includes consideration of positive preparation, which in turn includes the requirements of paragraph 26. The LPSS therefore complies with NPPF paragraph 26 and policy P6/P7 of the LPDMP does not undermine that.
- 1.7 The development of Policy P6/P7 accords with NPPF paragraph 26. The Environment Agency (EA) responded to the Regulation 19 consultation stating that it agreed with the policy<sup>3</sup>. Natural England (NE), during the Regulation 18 preferred options consultation, responded stating that it welcomed the inclusion of policies P6: Biodiversity in New Developments and P7: Biodiversity Net Gain<sup>4</sup> (these policies were combined into policy P6/P7 in the Regulation 19 plan). NE did not respond to the Regulation 19 consultation (and did not object to the new policy). The Surrey Nature Partnership (SyNP, the government mandated Local Nature Partnership) also supported

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<sup>2</sup> See Report on the Examination of the Guildford Borough Local Plan: strategy and sites available at <https://www.guildford.gov.uk/localplan/examination>

<sup>3</sup> See LPDMP Consultation and Duty to Cooperate Statement page 153.

<sup>4</sup> See LPDMP consultation statement Appendix 7: LPDMP Regulation 18 Consultation Statement 2022 page 151.

P6 and P7 at Regulation 18, albeit proposing minor corrections<sup>5</sup> (which were made). Surrey LPAs are members of the SyNP, and SyNP officers were directly engaged throughout the policy drafting process to ensure Policy P6/P7 specifically delivers the objectives set by the SyNP for Surrey and is aligned with the emerging county approach to habitat restoration. As a result, Policy P6/P7 is consistent with NPPF paragraph 26 as it has been developed through joint working with strategic policy-making authorities and relevant bodies.

- 1.8 The Biodiversity Opportunity Area (BOA) approach and other strategies<sup>6</sup> referenced by Policy P6/P7 identify where additional green infrastructure, in the form of new or improved habitats, is needed, which also accords with the definition of positive preparation in NPPF paragraph 26.
- 1.9 The requirements in Policy P6/P7 will apply to new open spaces and other shared spaces. The design requirements will ensure these spaces retain and enhance on-site biodiversity, and the requirements to maximise biodiversity gain and achieve a 20% overall gain will result in much more environmentally rich open spaces in new developments than would be provided without the policy. This achieves the objective of enhancing environmental sustainability of new communities and residential developments. The environmental improvements will improve social sustainability by increasing access to nature locally and improving the attractiveness of local spaces, and economic sustainability more widely through the enhancement of natural capital. The policy is therefore positively prepared as defined by NPPF paragraph 93.
- 1.10 Policy P6/P7 applies to development within and outside the Green Belt. As a result, development within the Green Belt will be required to deliver enhancements to biodiversity in Green Belt areas. Additionally, the habitat banks that provide offsite biodiversity credits for schemes that cannot achieve an onsite gain are very likely to be located in the Green Belt and the enhancement to Green Belt land through the creation of habitat banks is likely to be significant. The policy is therefore positively prepared as defined by NPPF paragraph 145.
- 1.11 As a result of the above, the policy is positively prepared against all the criteria and provisions set by the NPPF.

### Justified

- 1.12 Under NPPF paragraph 35(b), justified plans contain an appropriate strategy that takes into account the reasonable alternatives and are based on proportionate evidence.
- 1.13 Policy P6/P7 was subject to an 'issues and options' consultation which considered reasonable alternatives (two for P6 and three for P7). The Natural Environment Topic Paper section three sets out how different policy options were considered. In particular, paragraphs 3.41-3.43 set out why the option of "no policy" was rejected and paragraph 3.50 why the option of setting the biodiversity net gain (BNG) standard at 10% was rejected. The reasons for selecting a 20% BNG are discussed further below.

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<sup>5</sup> See LPDMP consultation statement Appendix 7: LPDMP Regulation 18 Consultation Statement 2022 pages 156 and 174.

<sup>6</sup> Paragraph 3 of Policy P6/P7 and supporting text at paragraphs 4.24 and 4.25.

- 1.14 A Sustainability Appraisal (SA) considers and evaluates the reasonable policy options. It determined that Policy P6/P7 takes forward the most sustainable and appropriate options and that it will produce “significant positive effects” on the biodiversity baseline (paragraph 9.3.11). This policy contributes to the overall sustainability of the LPDMP. The policy aligns with the SA objective to “conserve and enhance biodiversity, geodiversity and the natural environment” (SA Table 3.1) and also more indirectly contributes to other SA objectives covering climate change mitigation and air quality (SA paragraph 9.5.3) and also health, flood risk, water quality and water resources (SA Table 3.1). The LPSS includes the objective of enhancing the environment, which the policy aligns with (LPSS page 20).
- 1.15 A proportionate evidence base has been produced which has informed the development of the policy. The Local Plan: Development Management Policies & Stage 1 Community Infrastructure Levy (CIL) Viability Assessment (‘viability study’) demonstrates that the policy is deliverable and viable. The viability study is supplemented by three reports that were produced for the Council by Stantec to specifically examine the achievability of a 20% BNG<sup>7</sup>. The three reports are discussed in the section ‘The implications of a 20% increase on development viability’.
- 1.16 A justification for the specific biodiversity measures targeted through the policy (e.g. tree canopies and the use of UK sourced, native species) is provided in the Natural Environment Topic Paper at paragraphs 3.8 to 3.25 and in the reasoned justification beneath the policy. The paragraphs list the relevant studies, strategies and other sources which underpin the policy. The Environment Act 2021 (schedule 14)<sup>8</sup> makes biodiversity recovery a legal obligation for most types of development and sets a framework for delivering it, which provides justification for the approach taken.
- 1.17 The specific issue of whether the requirement for a 20% BNG is justified is considered in section 2.
- 1.18 Policy P6/P7 is justified when considered against NPPF paragraph 35(b).

#### Effective and consistent with both national policy and the LPSS

- 1.19 NPPF paragraph 35(c) defines effective plans as being deliverable over the plan period, based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground.
- 1.20 As set out earlier, the policy has been assessed as deliverable and has been based on effective joint working on cross boundary strategic matters through the SyNP (and its member authorities) as well as through consultation with NE and the EA. There was no disagreement between these

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<sup>7</sup> The ‘Tyting Farm Biodiversity Net Gain – Baseline Report’ and ‘Tyting Farm Biodiversity Net Gain Plan’ together establish the likely cost of offsite biodiversity credits when provided on Tyting Farm SANG. The ‘Biodiversity Net Gain Evidence Base for Policy Development: Biodiversity Net Gain Calculations for Approved Developments’ study explores the impact of increasing BNG from 10% to 20% on the need for credits.

<sup>8</sup> Available at <https://www.legislation.gov.uk/ukpga/2021/30/schedule/14/enacted>

strategic bodies and the Council over the policy, as evidenced by the representations received on the Regulation 19 plan.

- 1.21 Biodiversity recovery is a strategic, cross boundary matter due to the scale at which habitats function. This is reflected in various nature recovery plans for river catchments, BOAs, National Character Areas and the emerging county-wide Local Nature Recovery Strategy, all of which operate at a landscape scale. The policy aligns with the SyNP's approach to biodiversity recovery for Surrey and is agreed by NE and the EA and is, therefore, based on effective joint working across boundaries in accordance with paragraph 35c.
- 1.22 Paragraph 35(d) states plans must be consistent with the NPPF in order to be sound. As set out above and in the Natural Environment Topic Paper (2.5-2.18 and throughout), Policy P6/P7 is consistent with the NPPF.
- 1.23 The directly relevant LPSS policy is ID4: Green and Blue Infrastructure. ID4 sets out a strategic requirement for new development to aim to achieve a BNG where appropriate and implements the strategic Surrey BOA approach as a framework. Policy P6/P7 is consistent with Policy ID4 as it provides detailed policy on what "biodiversity net gain" means and how it should be delivered with reference to the BOAs.
- 1.24 Policy P6/P7 includes stronger wording on BNG than policy ID4 which uses the phrase "aim to achieve... where appropriate". However, this reflects the strengthening of wording in the NPPF since ID4 was adopted (see paragraph 3.9 of the Natural Environment topic paper for details) and the enactment of the Environment Act 2021 which will make the achievement of BNG by new developments a matter of law. Nevertheless, the policy remains consistent with the aim and approach set out in ID4.
- 1.25 The policy includes clauses covering best practice in biodiversity enhancement at a level of detail that is appropriate for Development Management policies (as opposed to strategic policies) in order to supplement Policy ID4 and deliver its strategic aims.

## **2 20% increase in biodiversity**

### Is the requirement for a 20% increase in biodiversity justified in the case of Guildford?

- 2.1 The justification for setting a local standard that is higher than the national standard is set out in the Natural Environment Topic Paper in section 3 and summarised below.
- 2.2 The need for biodiversity improvements is greater at the local level than nationally as Surrey has experienced a greater degree of biodiversity decline and the recovery of its environment is critical to ongoing economic, social and environmental sustainability.

- 2.3 The UK is one of the most biodiversity depleted countries<sup>9</sup>. Its severe biodiversity decline is recognised nationally where the policy focus has now shifted from protection to restoration and enhancement.<sup>10</sup> Surrey has historically suffered a high degree of habitat loss/fragmentation and routine wildlife persecution, compounded by more modern and ongoing impacts associated with intensification of agriculture and eutrophication of soils and water. As a result, the decline in local biodiversity is more pronounced than the national decline. The Surrey Nature Partnership's (SyNP) report, *The State of Surrey's Nature*<sup>11</sup>, followed closely the publication of the national *State of Nature 2016*<sup>12</sup> report which enabled direct comparisons between the county and national declines. The SyNP report concluded the likely local extinction of an estimated 11.5% (or around 1 in 9) species native to the county since 1985, with a further 4.4% threatened with local extinction. In contrast the national extinction rate in 2016 was concluded at 2% extinct and 13% threatened. The county rate of species loss is therefore around six times greater than nationally. In setting out the recommendation for a minimum 20% BNG across Surrey, SyNP notes "Even without a coastline the Surrey administrative area is recognised as ecologically capable of supporting a relatively diverse flora and fauna (i.e. its biodiversity). It may be predicted therefore that our rate of species loss in response to pressures applying universally will be higher than average."<sup>13</sup>
- 2.4 Despite the severe declines, Surrey remains a comparatively biodiverse county and Guildford is one of its most biodiverse districts, being home to areas of internationally and nationally restricted habitats<sup>14</sup> and a large number of sites designated nationally and locally for their nature conservation importance. This natural richness is an asset that provides many direct benefits for human health and wellbeing, and for the local economy through leisure, tourism<sup>15</sup> and agriculture/forestry, and more broadly from the ecosystem services that support all economic activities and sustain life. As an example, Surrey's woodlands are estimated to provide £90m value annually through environmental goods (e.g. timber) and services (including air quality and health/leisure benefits).<sup>16</sup>
- 2.5 As well as reflecting the greater local need and urgency, a 20% BNG is consistent with the NPPF paragraph 179(b) requirement for plans to "identify and pursue opportunities for securing measurable net gains for biodiversity" and paragraph 35(b) requirement for plans to contain an

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<sup>9</sup> The UK retains only around 53% of its biodiversity (average across the UK), putting it in the bottom 10% of countries. See '[Natural History Museum reveals the world has crashed through the 'safe limit for humanity' for biodiversity loss | Natural History Museum \(nhm.ac.uk\)](https://www.nhm.ac.uk/news/natural-history-museum-reveals-the-world-has-crashed-through-the-safe-limit-for-humanity-for-biodiversity-loss)'

<sup>10</sup> Examples of the shift from protection to restoration include the enactment of the Environment Act 2021, programmes such as Environmental Land Management schemes and national strategies such as A Green Future: Our 25 Year Plan to Improve the Environment (Defra, 2018).

<sup>11</sup> Available at <https://surreynaturepartnership.org.uk/our-work/>

<sup>12</sup> Available at [https://www.researchgate.net/publication/309760486\\_State\\_of\\_Nature\\_2016\\_England](https://www.researchgate.net/publication/309760486_State_of_Nature_2016_England)

<sup>13</sup> Recommendation for adoption of 20% minimum biodiversity net gain across Surrey's planning sector: a Surrey Nature Partnership Position Statement (2020) available at <https://surreynaturepartnership.org.uk/our-work/> .

<sup>14</sup> For example, lowland heath (a globally rare habitat of which 20% is in the UK) and chalk and neutral grassland.

<sup>15</sup> The total value of tourism activity in Guildford in 2019 is estimated to have been around £340.9 million supporting 7.6% of jobs (The Economic Impact of Tourism on Guildford Borough 2019, Tourism South East, unpublished – available on request)

<sup>16</sup> Valuing Surrey Summary (SyNP, 2015).

appropriate strategy that takes into account the reasonable alternatives and is based on proportionate evidence in order to be considered justified. The plan-making process considered the reasonable alternatives of having no standard or a 10% standard and rejected both as neither would comply with paragraph 179(b): ‘no standard’ would self-evidently not secure a measurable net gain while a standard of 10% would result in uncertainty over whether a net gain would be achieved rather than simply no net loss: as Defra’s ‘Biodiversity net gain and local nature recovery strategies impact assessment’<sup>17</sup> (page 81, para. 1) finds, setting the level at 10% nationally represents “the most achievable level of net gain that the department could confidently expect to deliver genuine net gain, or at least no net loss” (our emphasis) – i.e. it is the minimum level at which a genuine recovery could be achieved nationally (but not necessarily locally, and without certainty that that mere “no net loss” will be achieved). The Natural Environment Topic Paper at paragraphs 3.49 and 3.50 discusses this in more detail.

2.6 Additionally, a 20% standard is consistent with NPPF paragraph 16, which defines positive preparation as being aspirational but deliverable. The supporting evidence<sup>18</sup> demonstrates that setting the standard at 20% is deliverable – being both achievable and viable. As set out above, the Defra impact assessment describes 10% BNG as the “most achievable” national standard (notwithstanding the doubt over its effectiveness). However, 10% cannot be considered aspirational when a higher standard is deliverable. The 20% standard represents the ‘aspirational but deliverable’ option so is the option that most closely aligns with NPPF paragraph 16’s definition of positive preparation.

2.7 A 20% standard would not conflict with national policy or legislation as:

- The Environment Act sets 10% as the minimum standard nationally and does not set a maximum;
- The NPPF requires plans to secure measurable net gains for biodiversity but does not set an upper limit on BNG;
- Defra’s Consultation on Biodiversity Net Gain Regulations and Implementation states “It remains the UK Government’s intention to continue to allow higher percentage targets to be set by planning authorities at a local or site level” (page 54, para. 1)<sup>19</sup>, subject to meeting specific criteria, which the local plan process has met (see the Natural Environment Topic Paper 3.48 for more information). Defra also states (page 15, final paragraph) that the national 10% minimum standard “should not be viewed as a cap on the aspirations of developers that want to voluntarily go further or do so in the course of designing proposals to meet other local planning policies”. Therefore, 10% is not a cap on BNG and schemes can exceed this either when a local authority sets a higher standard in policy and/or when a developer chooses to go further.
- The consultation document (page 20, para. 2) also states “Any exemption from mandatory biodiversity net gain would not prevent planning authorities requiring biodiversity gains to be

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<sup>17</sup> Available at <https://www.gov.uk/government/consultations/biodiversity-net-gain-updating-planning-requirements>

<sup>18</sup> The viability study and addendum and three studies examining the achievability of a 20% BNG – see section ‘The implications of a 20% increase on development viability’.

<sup>19</sup> Available at [Consultation on Biodiversity Net Gain Regulations and Implementation - Defra - Citizen Space](#)

delivered by exempted developments in line with local or nationally set planning policy.” While not related to the amount of BNG sought, this further reiterates that the national mandatory BNG regime is a backstop and is not meant to limit local planning policy.

### The implications of a 20% increase on development viability

- 2.8 This section examines the proposed 20% BNG requirement. It covers the context for seeking a 20% BNG, the feasibility of achieving it and the viability implications.

#### **Context**

- 2.9 National Policy already encourages the achievement of measurable net gains for biodiversity (NPPF, paragraphs 174(d) and 179(b)). Furthermore, a 10% BNG will be required, regardless of the Local Plan, through the incoming national BNG regime under the Environment Act 2021.
- 2.10 It is important to note that the policy represents only a modest uplift on the amount of biodiversity provision that would be required. Increasing the BNG level from 10% to 20% is not a doubling of works: a 10% gain means 110% of the pre-development baseline value is provided, and a 20% gain means 120% of the pre-development baseline value is provided. Previously, there has been no target relating to retaining biodiversity. The new national requirement is not only to retain all existing biodiversity value but to increase it by a minimum of 10%. The policy proposes to add a further 10% to this target which equates to an increase on the national standard of around 9% (120% is around 9% higher than 110%). A doubling of the new national requirement would require setting the standard at 220%.
- 2.11 Defra’s Biodiversity Net Gain Impact Assessment (page 80, paragraph 3) notes:

*“The majority of the costs associated with net gain are incurred to correct for the initial loss of biodiversity through development (i.e. achieving only ‘no net loss’). When compensation for development’s impacts is incorporated, a 10% net gain could be seen as a requirement to deliver approximately 110% of the total lost biodiversity (approximately because the 10% is applied to the full biodiversity value of the development site, rather than only those lost or in the structures’ footprint). A 10% gain therefore represents a relatively small proportion of overall habitat creation/enhancement requirements.”*

and

*“The analysis undertaken in this IA indicates that the level of requirement makes relatively modest difference to the costs of mitigating and compensating for impacts... when assessed against the more significant costs of achieving no net loss and wider development policy objectives.”*

#### **Feasibility**

- 2.12 The 20% BNG requirement is deliverable and viable as evidenced by the viability study. The viability study is supplemented by three further studies that were commissioned following the Regulation 19 consultation to explore and address objectors’ comments around the feasibility and viability of achieving the 20% BNG. The studies are:



- Tyting Farm Biodiversity Net Gain – Baseline Report ('Tyting Baseline Study'),
- Tyting Farm Biodiversity Net Gain Plan ('Tyting Net Gain Plan'), and
- Biodiversity Net Gain Evidence Base for Policy Development: Biodiversity Net Gain Calculations for Approved Developments ('BNG Sites Study').

2.13 These studies have been submitted into the examination alongside this statement.

2.14 The BNG Sites Study examines three diverse sites - one brownfield site, one large greenfield site and one smaller greenfield site - that have already been granted planning permission to see the biodiversity metric<sup>20</sup> outcome for those sites (as per the submitted designs) and whether any, and how many, offsite credits would have been needed to meet a 20% BNG requirement.

2.15 The biodiversity metric assesses area habitats and different types of linear habitat<sup>21</sup> separately. Under the national BNG approach, schemes must provide a BNG for area habitats and must also provide a separate BNG for linear habitats if they are present within the site (or, for rivers, if affected by proximity to the site). The different types of habitat cannot be summed or traded against each other.

2.16 The BNG Sites Study indicates that sites with a low biodiversity baseline (like many brownfield sites with low biodiversity value) are likely to be able to achieve generous BNG levels onsite. Greenfield sites are more variable with small greenfield sites that begin with a high baseline habitat value and have limited onsite habitat opportunities due to size likely to find it harder to provide a net gain onsite, and might have to provide offsite biodiversity works or purchase biodiversity credits.

2.17 By way of summary:

- Just Tyres (brownfield) achieved a habitat BNG of 4,326% onsite (no linear habitat BNG required).
- Keen's Lane (large greenfield) resulted in a 1% loss of habitat biodiversity value onsite with gains in hedgerows and rivers of 108% and 20% respectively.
- Clockbarn Nursery (smaller greenfield) resulted in a 48% loss of habitat biodiversity value onsite with a gain in hedgerows of 45%.

2.18 The study took a conservative approach and did not consider redesigning the study sites, which were brought forward under a planning regime with no BNG policy. Moreover, Clockbarn nursery is considered a worst-case scenario given the high starting baseline and considerable size constraints. Sites such as these are likely to have to use some amount of offsite biodiversity works or credits to achieve the policy standard. Crucially, however, this remains the case regardless of whether BNG is set at 10% or 20%.

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<sup>20</sup> The biodiversity metric is the national methodology for calculating BNG. See <https://naturalengland.blog.gov.uk/2022/08/05/biodiversity-metric-milestone-defra-consultation-on-the-biodiversity-metric/> for more information.

<sup>21</sup> For example, hedgerows, lines of trees, rivers and streams.

- 2.19 In the case of Clockbarn Nursery, increasing the habitat BNG from 10% to 20% would have increased the offsite credits required from 6.336 credits to 7.422, an increase of just over 1 credit. For Keen’s Lane, increasing the BNG from 10% to 20% requires an increase in offsite credits from 1.83 to 3.49, an increase of 1.66 credits. See the table at 4.1.1 in the BNG Sites Study for a comparison of the impacts of two standards. These are modest uplifts in the BNG credits needed and demonstrates the limited impact of increasing the BNG standard from 10 to 20%.
- 2.20 Furthermore, recent development proposals in the borough that have been designed with regard to the incoming BNG regime have been able to achieve a BNG wholly onsite by improving the multifunctional use of open land, which is also an NPPF objective.
- 2.21 The following emerging and permitted schemes propose a BNG greater than 20% wholly through onsite measures. The figures show the proposed BNG for each category. The figures are rounded.

Table 1: Emerging and permitting schemes proposing a gain greater than 20% BNG onsite

Site	Type	Habitat BNG	Hedgerow BNG
North Street (22/P/01336)	Mixed use urban regeneration (c.700 dwellings, c.20,000 sqft commercial)	734%	100% <sup>22</sup>
Jewsons (21/P/02559)	Mixed use urban regeneration (345 student units, 70 dwellings, commercial)	195%	100%
Orchards Farm (22/P/01083)	Greenfield residential (51 dwellings)	152%	No change
Lantern House & Carriage House (22/P/01094)	Mixed use urban regeneration (290 student units, 1850 sqm commercial)	103%	No change
Former Wisley Airfield (22/P/01175)	Greenfield/brownfield new settlement (SANG <sup>23</sup> , 1,730 dwellings, commercial, infrastructure)	52%	25% (plus 11% for rivers)
Weyside Urban Village (20/P/02155)	Greenfield/brownfield urban extension (1550 homes, 1800sqm retail, infrastructure)	43%	37,876%

- 2.22 Other emerging schemes have proposed an onsite gain lower than 20%, demonstrating the limited need for offsite biodiversity credits (figures are rounded).

<sup>22</sup> A 100% gain results from providing a hedgerow where none existed on site previously.

<sup>23</sup> Suitable Alternative Natural Greenspace (SANG) – recreation land provided as mitigation to prevent increased recreational pressure on the Thames Basin Heaths Special Protection Area.

Table 2: Emerging schemes proposing a net gain lower than 20%

Site	Type	Habitat gain	Hedgerow gain
Land at Ash Manor (20/P/01461)	Greenfield residential (69 dwellings)	18%	20%
Streamside (22/P/00977)	Greenfield residential w/ demolition (22 dwellings)	15%	177%
Cathedral Close (21/P/02333)	Greenfield/brownfield residential (124 dwellings)	1%	100%
Land at Foreman Road (22/P/00477)	Greenfield residential (82 dwellings)	0.26%	100%

2.23 The examples in the two tables above reinforce the achievability of a 20% BNG standard either wholly onsite or through a mix of onsite and offsite measures. It should be noted that the use of offsite measures is an approach built into both Policy P6/P7 and the incoming national BNG regime. The following general conclusions can be drawn from these examples and the BNG Sites Study:

- Brownfield sites with a low baseline biodiversity value (e.g. where they are covered predominantly by hardstanding or buildings) are capable of exceeding the standard by very large margins.
- Strategic sites that provide SANG are also unlikely to find the standard too demanding as long as the SANG land is capable of hosting habitat measures that are truly additional to SANG works, as at the Former Wisley Airfield and Weyside Urban Village (a Council development which has identified a strategic SANG (Burpham Court Farm) to support the development).
- Some greenfield sites will be able to provide the full 20% BNG onsite. Others will not be able to provide the full 20% BNG onsite but will be able to provide a significant level of gain lower than 20% onsite.
- Constrained greenfield sites will not be able to provide a BNG onsite.

2.24 These outcomes align with the Defra Impact Assessment which states “evidence from existing biodiversity off-setting schemes suggests that the majority of mitigation will take place onsite. This also supports the assumption made in the consultation IA where we assumed 75% of net gain would be delivered on-site”. The viability study has built these assumptions into its cost calculations.

### **Viability**

2.25 The viability study that supports the plan identified the proposed BNG policy as a key policy area for testing. The Council’s response to Matter 8 sets out a detailed statement explaining why the costs associated with 20% BNG should be considered acceptable. Those details are not repeated in this statement. However, one of the central matters, the cost of offsite biodiversity credits, is addressed here in order to explain the work that has been undertaken in sufficient detail.

- 2.26 The viability study applied the cost assumptions set out in Defra’s Impact Assessment<sup>24</sup> (page 32), which assumed an indicative cost for an offsite credit of £11,000. Representations made during the Regulation 19 consultation suggested this cost was too low, referring to Defra’s subsequent market testing study<sup>25</sup> which indicated costs of around £20,000 to £25,000 per credit. The Natural Environment Topic Paper at 3.52 sets out the reason why these higher costs are unlikely in the Guildford context: in short, Defra’s market testing study is focused on the cost needed to entice farmers to replace farmland with BNG habitat, but Guildford borough has large areas of land under BNG compatible uses such as SANG where providing BNG will not require sacrificing existing economic activity.
- 2.27 The Tyting BNG studies provide further evidence that the cost of BNG credits is likely to be around that assumed in the Defra Impact Assessment/viability study.
- 2.28 Following the representations at Regulation 19 stage, the Council sought to understand the costs associated with making BNG credits available on one of its SANG sites – Tyting Farm. In addition to being SANG, this site also lies within an identified BOA which is where BNG habitat improvements should be focused in order to deliver the Surrey strategic approach to biodiversity recovery.
- 2.29 The Tyting Baseline Study looks at the existing biodiversity value of the Council’s emerging SANG at Tyting Farm and the feasibility of habitat enhancement and creation. The Tyting Net Gain Plan then sets out a BNG management plan that would create biodiversity value over and above the requirements of the SANG management plan. Together, the two Tyting studies show how many biodiversity credits can be created on the site and the likely costs that will be entailed.
- 2.30 The proposed BNG works at Tyting would provide 141.3 area habitat credits and 29.04 hedgerow credits.
- 2.31 In order to establish the cost of biodiversity credits at the habitat bank, the Tyting Net Gain Plan first establishes the total cost of the BNG works. Two funding models are then applied to the costs to take account of interest and inflation over a 30 year period (the mandated period for BNG habitats). The “Green Book” model uses values derived from HM Treasury’s Green Book<sup>26</sup> in accordance with established practice. Given the current economic climate, a more conservative model is also applied. The models and costs are provided in Appendix D of the Tyting Net Gain Plan.
- 2.32 The results show that the cost of a biodiversity credit is likely to fall within a range between £7,436 in the Green Book model and £10,860 in the conservative model.
- 2.33 It is accepted that there will be some variation in the costs of providing a habitat bank and in the capacity for biodiversity enhancement over and above the requirements for SANG depending on the baseline conditions of the landholding and its capacity for additional biodiversity

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<sup>24</sup> See viability study, page 53, third bullet.

<sup>25</sup> Available at <https://randd.defra.gov.uk/ProjectDetails?ProjectID=20608>

<sup>26</sup> Available at <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government/the-green-book-2020>

enhancement. However, the Tyting studies demonstrate that the assumptions in the viability study regarding the cost of offsite credits are reasonable and that therefore the cost of offsite credits is suitable in viability terms and will not undermine the deliverability of the Local Plan where developers need to rely on offsite biodiversity credits.

- 2.34 There are around 184 hectares of existing SANG land in Guildford Borough (including Tyting Farm and SANG land not owned by the Council) with 104 additional hectares proposed. In addition, the large strategic sites at the Former Wisley Airfield, Blackwell Farm and Gosden Hill Farm will provide their own bespoke SANGs.
- 2.35 The Council intends to bring forward a habitat bank on Tyting farm and will explore opportunities on other SANGs it controls. The Land Trust, which controls several of the non-council owned SANGs in the borough, is also exploring habitat banks on the SANGs it controls.
- 2.36 Alongside SANGs, Guildford Borough Council and Surrey County Council manage large areas of other types of open space that could also have the potential for biodiversity enhancement to provide further habitat banking options without sacrificing economic activity.
- 2.37 The borough is also home to several large countryside estates and at least one has indicated that it is interested in exploring the possibility of BNG habitat banking.
- 2.38 Two environmental offsetting organisations have contacted the Council to discuss the possibility of dedicated habitat banks in the borough on private land, and it is possible that there will be a further interest from private landowners.
- 2.39 As a result, there is likely to be no shortage of opportunities for BNG credits within the borough. The national BNG approach does not limit developments to obtaining credits within the same borough (though distance has an impact on the value of those credits under the biodiversity metric) so habitat banks in other areas will also be able to supply Guildford developments. Additionally, the government proposes a national habitat banking scheme.

#### Unintended consequences

- 2.40 The Council's view is that there are no significant unintended consequences from the 20% BNG requirement.
- 2.41 Objectors during the Regulation 19 consultation suggested the following significant unintended consequences could result from a 20% BNG standard:<sup>27</sup>
- 2.42 '*Loss of developable area as land is turned over to habitats with a consequent impact on housing delivery.*'
- 2.43 The viability study assumes that on average 15 – 30% of a development site will comprise land that is set aside for supporting uses/infrastructure including roads, landscaping in addition to land that is set aside for Open Space. This supporting/infrastructure and open space land provides

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<sup>27</sup>These points (along with other points of objection) have been addressed directly in the Council's Consultation Statement in 'Appendix 6 - Main Issues (Regulation 19 Consultation)' on pages 152-188.

opportunities for BNG and will allow the uplift on BNG to be 'soaked up' onsite in many cases. The BNG Sites Study and real-world examples provided in this statement support this conclusion. Furthermore, where the entire 20% BNG cannot be accommodated onsite, the developer would have the option of providing offsite measures. Offsite measures are part and parcel of the national BNG approach and any sites that cannot deliver the full gain on site or on offsite land in the applicant's control will be able to obtain biodiversity credits from a habitat bank. As a result, there is no need to reduce the developable area.

2.44 *'Schemes rendered unviable due to the above, an increase in the amount of expensive offsite habitat needed, and a lack of offsite habitat land.'*

2.45 The preceding section ("The implications of a 20% increase on development viability") and the Council's response to Matter 8 set out a clear reasoning as to why a 20% BNG standard is suitable in viability terms for the majority of developments. The Council's view is that in cases where this is not the case, there is already a mechanism for examining viability in the NPPF at paragraph 58. However, if there is still concern that viability may be an issue in some cases, the following section sets out a possible modification to show how this will be addressed.

2.46 *'Biodiversity unreasonably prioritised over all other matters.'*

2.47 The Council's view is that the policy is written such that it allows biodiversity to be balanced against other competing needs (see the next section). However, the proposed modification mentioned above sets out wording that could address this if concern still exists.

If viability is an issue on a site, how does biodiversity feature amongst other priorities?

2.48 The policy does not prioritise biodiversity over other important matters as it requires developments to "to seek maximum biodiversity gain" rather than achieve maximum biodiversity gain.

2.49 The supporting evidence indicates that in most cases there is unlikely to be a viability issue in the context of the contributions expected from development, including the 20% BNG policy. However, if an applicant is able to demonstrate that there is a viability issue due to the particular circumstances of the development, decision makers will need to weigh competing priorities when deciding whether an application should be permitted. This should depend on the specific circumstances of the development. For example, if a site is in a key location to improve habitat connectivity across a BOA, or is uniquely placed to support a high value habitat, biodiversity may be considered a higher priority should the decision-maker be in a position where a trade-off is possible or necessary. This necessarily will need to be established on a case-by-case basis. It would be inappropriate for the plan to prescribe a hierarchy of priorities, which are necessarily case-specific.

### 3 Possible modifications

#### BNG and Previously Developed Land

- 3.1 Policy P6/P7 was drafted during a period when most of the detail of the BNG approach was not yet known. One of these details was whether the BNG requirement would apply to brownfield (previously developed) land, in what circumstances and how (see the Natural Environment Topic Paper 3.61-3.64).
- 3.2 Paragraph 13 of Policy P6/P7 responded to the lack of clarity by setting out that BNG would be required on brownfield sites that contain at least one protected or priority species population or habitat, or an assemblage of species with an otherwise demonstrably high biodiversity value.
- 3.3 The government has since consulted on proposals for BNG regulations and implementation where it stated it would not carry forward the proposed exemption for brownfield land (Consultation on biodiversity net gain regulations and implementation, page 21, para. 1).
- 3.4 The Natural Environment Topic Paper notes at 3.65 “The Council will keep the consultation under review and if the government confirms that the brownfield exemption will not be included in the regulations, the Council will address the need for changes through the examination.”
- 3.5 While the government signalled its intent not to include an exemption for brownfield land in the regulations, it has not yet confirmed its approach by publishing the regulations. As a result, the Council’s view is that it would be premature to remove paragraph 13 at this time. However, the Council would like to make an amendment to cover the instance that no brownfield exemption is carried forward in order to ensure the policy does not conflict with legislation by suggesting non-exempt brownfield land is exempt from BNG. The proposed modification is as follows:

Policy P6/7, paragraph (13)

13) ~~Biodiversity net gain is not a requirement on previously developed land, unless it~~Where previously developed land is exempted from biodiversity net gain under the relevant regulations, a minimum net gain will not be applied unless the site supports at least one protected or priority species population or habitat, or an assemblage of species with an otherwise demonstrably high biodiversity value. Where these are present, a measurable net gain for those features is required.

- 3.6 It should be noted that the evidence set out in this document, the BNG sites study and the viability study show that brownfield land is most likely to be viable for BNG (except in circumstances where long periods of non-disturbance results in the site developing a high ecological baseline value).

#### BNG and competing priorities

- 3.7 As set out above, the Council’s view is that if viability conflicts create a situation where BNG must compete with other needs for priority, the planning system will be able to weight the priorities on a case-by-case basis. However, if the inspector is minded to seek clarity in the plan, it is suggested that the following amendment to paragraph 4.16 could be made:

Policy P6/7 Reasoned Justification, paragraph 4.16

4.16 Maximum biodiversity gain means that opportunities for enhancing and supporting biodiversity have been fully explored and implemented wherever possible. In practice, this means that biodiversity should be considered from the outset of design work. Where an applicant can demonstrate clearly that circumstances particular to the development justify the need for a viability assessment, and that assessment shows that the scale of obligations jeopardise viability, decision makers will prioritise competing needs on a case-by-case basis taking into account the specific local circumstances including the importance attached to biodiversity enhancements in the development's location.