

## **Biodiversity net gain**

### **Department for Environment, Food and Rural Affairs**

### **RPC rating: fit for purpose**

The impact assessment (IA) is now fit for purpose as a result of the Department's response to the RPC's initial review. As first submitted, the IA was not fit for purpose.

#### **Description of proposal**

The primary objective of the proposal is to secure a measurable improvement in habitat for biodiversity while streamlining development processes. 'Net gain' is defined as an overall increase in habitat area or quality following a new development. The aim is that net gain should: deliver habitat creation, meeting the government's ambition to leave the environment in a better state than it was inherited; be simple, streamlined, and easy to understand; not prevent, delay or reduce housebuilding; provide certainty for developers; and be of clear benefit to local communities.

The Department has considered two policy options in the IA. The preferred option is a mandatory tariff with a biodiversity metric. The metric assesses a habitat's value to wildlife and allows retained, enhanced and created habitat to be taken into account when assessing development plans. A tariff is then applied to any shortfall against the net gain target.

The second option is the 'do nothing' option, in which the existing voluntary approaches continue in line with upcoming revisions to the National Planning Policy Framework.

#### **Impacts of proposal**

The proposals would affect developers as well as central and local government. Cost benefit analysis calculations are included in an annex to the IA.

##### Costs to developers

The central estimate for monetised costs is £63.8 million per year for housing development only; if the central scenario assumptions are extrapolated to include commercial and industrial developments then the central estimate is £128.1 million.

Familiarisation costs have not been monetised so the Department will seek to gather evidence on that through consultation.

### Benefits to developers

The benefits to developers have not been monetised at this stage due to lack of evidence, but the benefits are expected to include certainty and a level playing field with other developers, resulting from a standardised approach.

### Government costs and benefits

Government costs and benefits have not been monetised due to a lack of evidence at this stage. Costs are likely to include familiarisation costs, training, monitoring, and enforcement. Local planning authorities may benefit from a level playing field.

### Wider benefits

The primary benefit is expected to be local and national habitat delivery, and the accompanying natural capital benefits. These include benefits for: provisioning, such as energy and agricultural production; regulating, such as carbon sequestration waste water cleaning; and recreation and cultural services, such as scientific and educational interactions, and settings for outdoor recreation and physical activity. The proposals are expected to slow the rate of habitat and biodiversity loss. These benefits have not yet been monetised due to the difficulty of capturing the benefits at an aggregate level. The IA would benefit from providing the unit cost of what the proposals are trying to save, and then conducting a break-even analysis to give an idea of the magnitude of benefits required.

## **Quality of submission**

As initially submitted for RPC scrutiny, the IA was not considered fit for purpose. In particular, the appraisal of options and appraisal of the implications of the policy were insufficient. Following the RPC's initial review, the department submitted a revised IA that responded to the points as follows:

### *Appraisal of options.*

The Department has expanded significantly on its appraisal of options (e.g. section 4.1). The IA now contains an explanation of each longlisted option and, using multi criteria decision analysis, it is explained why options were dismissed in favour of the recommended option. The IA would benefit from providing the details of the scorings

for each option in the multi-criteria analysis, the justification of those scorings, and an explanation of what total score was deemed to be acceptable. The impact assessment appears to undermine the assertion that it used weighted multi criteria decision analysis to select options for appraisal, as it goes on to say options were removed based on whether or not they met certain criteria. As this analysis is not explicit, the public will not be able challenge or support the evidence and assumptions that have gone into it.

*Limited scope of appraisal of implications of the policy.*

The original IA focussed only on residential development. The revised IA still bases the equivalent annual net direct cost to business on residential development, but now includes figures (section 6.4) on commercial and industrial development in the body of the IA. The IA explains that the figures for commercial and industrial are a best estimate due to the lack of evidence available for commercial and industrial; the Department will attempt to gather that evidence during the consultation. In addition, the IA now includes a summary of key evidence gaps; one of those evidence gaps is identified as “Existing biodiversity net gain delivery for commercial and industrial developments”. The IA states that the Department will seek “Consultation responses to identify any further reports, data and wider evidence.”

The RPC’s initial review identified a number of other areas for improvements. The Department has now sought to address all of these points in the revised IA. In particular:

*Inadequate explanation of rationale, and the net gain figure.*

The IA now includes a full, expanded explanation of why a measurable net gain is necessary (sections 3 and 5.1.1).

*Small and Micro Business Assessment (SaMBA).*

The revised IA has shifted the focus of the SaMBA away from small and micro projects, towards small and micro businesses. It now states that 31,665 micro businesses and 970 small businesses are expected to be affected in England. Combined, these small and micro businesses account for 99.9% of the developers in England. In addition, the IA now has an explanation for why small and micro businesses cannot be exempted from the proposal, though the IA would benefit from a consideration of whether any options for mitigation would be appropriate. The IA

would benefit further from explicit mention in the SaMBA that the Department's current analysis is based on residential developments only. The SaMBA is now sufficient for the consultation stage but will need to be more detailed at the final stage. In particular, the current lack of data for commercial and industrial developers should be corrected through consultation.

#### *Monitoring and evaluation.*

The monitoring and evaluation section of the IA has been amended to be clearer for potential consultees.

In addition to the points for improvement raised in the RPC's initial review, there are a number of other points where the IA could be improved. There are a series of assumptions throughout the IA that must be tested through consultation. The discussion of the policy design should be tested, and a more detailed explanation given to: consistency of requirements across developers; flexibility in how requirements are achieved; and section 5.1.5, 'designed to work with market dynamics'. The Department should consider fully through consultation the impact of the existing planning consent requirements. The IA would benefit from a thorough consideration of how these proposals might impact the government's aim of building 300,000 new homes per annum. Finally, the clarity of the IA in general could be improved. For example, the recommended option is described as both 'option 1' and 'option 2'.

### Departmental assessment

Classification	Qualifying regulatory provision (IN)
Equivalent annual net direct cost to business (EANDCB)	£60.5 million
Business net present value	-£520.4 million
Overall net present value	-£520.4 million

### RPC assessment

Classification	Qualifying regulatory provision (IN)
Small and micro business assessment	Sufficient
RPC rating (of initial submission)	Not fit for purpose

Regulatory Policy Committee