

# **Biodiversity Supplementary Planning Document Consultation Statement**

**September 2024**

## **1.0 Introduction**

1.1 This Consultation Statement has been prepared in accordance with Regulations 12 and 13 of the Town & Country Planning (Local Planning) (England) Regulations 2012 and the council's Statement of Community Involvement.

## **2.0 What was consulted upon?**

2.1 The Biodiversity Supplementary Planning Document (SPD) was subject to a six-week period of consultation between 3 June and 14 July 2024.

## **3.0 Why is the SPD needed?**

3.1 The Biodiversity SPD is a key action in Durham County Council's Ecological Emergency Action Plan. It provides detailed guidance to improve biodiversity delivery within new developments. It sets out:

- County Durham's ecological importance and the existing policy framework;
- guidance on the government's mandatory requirement for development (unless exempt) to achieve a minimum 10% Biodiversity Net Gain (BNG);
- what we expect to be included and addressed within planning applications;
- the information that needs to be submitted at each stage of the planning process; and
- how to build biodiversity into development.

## **4.0 Area of coverage**

4.1 The SPD covers the whole of County Durham.

## **5.0 First Stage of consultation**

### *Steps the council took to publicise the draft SPD*

5.1 The council publicised the draft SPD by:

- a) emailing consultees on the planning policy consultation database;
- b) publicising via the council's online consultation portal;

- c) making hard copies available in Durham County Hall and Customer Access Points;
- d) making the SPD available on the council's website;
- e) online events;
- f) using the council's corporate notifications and social media outlets; and
- g) press release.

### Outputs from online events

5.2 Two online events were held during the first stage of consultation. These took place on Monday 1 July between 1pm and 2pm and Tuesday 2 July between 5.30pm and 6.30pm. In total 13 attendees joined the online events which took the format of a presentation followed by a questions and answers session. Key points raised included:

- a) How it will be determined if open mosaic habitats have significant biodiversity or geological interest.
- b) If requiring a draft Biodiversity Gain Plan as a validation requirement will be challenging for some developments.
- c) What the relationship is between the Local Nature Recovery Strategy and SPD.
- d) How neighbourhood plans can support biodiversity.
- e) If the SPD provides guidance for landowners seeking a legal agreement to sell biodiversity units on their land.

### Formal responses to the consultation

5.3 Fifty-one representations were received to the formal consultation from nine organisations and individuals. These are set out in full with the council's response in Appendix A. Representations were made by:

- City of Durham Trust
- Coal Authority
- Dere Street Homes
- DPP
- HBF
- Historic England
- Ian Wilkinson
- Natural England
- Taylor Wimpey

5.4 In summary responses included the following key comments:

- a) There was general support for the aim of the SPD, with the exception of HBF who felt the council should instead highlight national guidance on their website.

- b) HBF and Taylor Wimpey objected to the SPD encouraging applicants to exceed the minimum statutory requirement of 10% BNG where possible.
- c) Historic England commented there may be opportunities to deliver off-site BNG in locations that could be mutually beneficial for both biodiversity and the historic environment, and locations which would cause harm to the significance of a designated heritage asset should be avoided.
- d) The City of Durham Trust requested a document roadmap at the beginning of the SPD and a link to the Ecological Emergency Action Plan.
- e) Dere Street Homes sought wording to clarify when BNG credits need to be purchased.
- f) The City of Durham Trust supported the requirement for a draft Biodiversity Gain Plan at application stage and queried if the final Plan would be subject to public consultation. Dere Street Homes supported requiring a draft Plan at application stage for major applications but considered this too onerous for minor applications.
- g) DPP sought further detail on the required chamber size to allow access for different species and questioned the effectiveness of bee bricks.
- h) DPP sought the inclusion of yellow rattle and other hemi-parasitic plants in seed mix specifications and further recommendations for species used in hedging and shrubbery.
- i) Dere Street sought clarification on how many bird boxes are required for major developments and if there is flexibility.
- j) Clarification was sought on when a s39 agreement would be needed.
- k) The City of Durham Trust queried if land owners could be required to eradicate invasive species on their land.
- l) The City of Durham Trust felt a strong steer should be given to delivering BNG on site and in the local area. Deer Street Homes sought clarification whether a site more local to a development would take priority or a site identified within the Local Nature Recovery Strategy (LNRS) but further away.
- m) Clarification was sought on BNG 'additionality' i.e. habitat improvements will only be counted towards BNG if they genuinely enhance biodiversity and are not simply fulfilling another obligation under a different scheme.
- n) Further information on the purchasing of statutory credits or credits from a third party was sought.

### Changes to the SPD

5.5 Following consideration of the feedback received a number of changes were made to the SPD. Key changes include:

- a) a document roadmap has been added and link to the Ecological Emergency Action Plan;
- b) the relationship between the SPD and LNRS is further explained;
- c) minimum dimensions added for gaps to allow hedgehog access;

- d) recommendations added on number of roosting/nesting features to be incorporated into new developments;
- e) reference to s39 legal agreements removed;
- f) clarification added that that the council's preference is that where biodiversity units need to be delivered off-site that local off-site options that support the delivery of the LNRS are explored in the first instance;
- g) further information on BNG and small sites, additionality, irreplaceable habitats and stacking added;
- h) a sub-section on Nutrient Neutrality has been added; and
- i) minor corrections and points of clarification.

## Appendix A – Formal consultation responses stage 1

Respondent	Section/ Paragraph	Comment	DCC Response
The Coal Authority	General	I can confirm that the Planning team at the Coal Authority have no specific comments to make.	Noted.
Natural England	General	Whilst we welcome this opportunity to give our views, the topic of the Supplementary Planning Document does not appear to relate to our interests to any significant extent. We therefore do not wish to comment. Should the plan be amended in a way which significantly affects its impact on the natural environment, then, please consult Natural England again.	Noted.
The City of Durham Trust	General	Though outside the scope of this document, to achieve the Council's commitment to supporting nature recovery other aspects affecting biodiversity are important to consider. Farming is the main driver of biodiversity loss. The Council should promote and support the use of environmentally friendly and sustainable farming practices whilst enabling economically-viable local food production. Biodiversity improvement in the urban environment should also be considered via the promotion of the wilding of grassed areas and hedges, with cutting at the bare minimum for pedestrian access and traffic safety. We note e.g. the call for species-rich road verges on p.35. Use of herbicides and pesticides should be stopped. Ways to improve the biodiversity of existing developments and landscapes, and increasing protection for habitats and species should be promoted. There may be scope for these suggestions within the review of policies in the Local Plan.	Thank you. The Biodiversity SPD is one action in a wider strategy as set out in the council's Ecological Emergency Action Plan (EEAP). The EEAP sets out a range of actions the council is taking with its partners to address the ecological emergency including through our land management practices, engagement, education and behaviour change, as well as policies and strategies. Full details can be found at: <a href="https://www.durham.gov.uk/article/28811/Action-plan-to-tackle-ecological-emergency#:~:text=The%20EEAP%20also%20aims%20to,Climate%20Change%20Emergency%20Response%20Plans.">https://www.durham.gov.uk/article/28811/Action-plan-to-tackle-ecological-emergency#:~:text=The%20EEAP%20also%20aims%20to,Climate%20Change%20Emergency%20Response%20Plans.</a> Through the review of the County Durham Plan the council will further consider how policies can support and align with the delivery of the Local Nature Recovery Strategy and EEAP.

Respondent	Section/ Paragraph	Comment	DCC Response
Ian Wilkinson	General	<p>Without going into great detail it is pointless producing such a document if it is going to be ignored by your planning department. We around Burnhope village are experiencing planning applications left right and centre which will decimate the biodiversity on a massive scale. This was done once before during opencast destroying everything in its path. In recent weeks this had grown due to more applications relating to solar farms. It is simple. Covering acres and acres of land with glass panels and banks of lithium batteries meters away from nature reserves and thinking adding hedges which may mature after 15 years to hide them is not acceptable. One battery fire and years of recovery will be gone. Question...Would it be better if they were not there? YES end of discussion. Even better leave the farm land if they don't want to farm it (wont be producing food either way) and nature will reclaim it without any fuss at all. The land around Chapmans Well Nature reserve has everything a natural habitat needs to thrive it has everything we are supposed to be protecting and now! Plans are ready to destroy it. It will affect every living organism in the region including us humans. All it takes to give it the ok is to pick out the ifs and buts inserted into policies so that it can go ahead. Lovely policies with a few nice pictures of the animals under threat has no meaning. It can't be used to protect them because the ifs and buts are highlighted during planning decisions and used effectively. As you can tell I am 100% nature. Is Durham County Council? I would say not. As with anything its all about the MONEY!</p>	<p>On adoption the Biodiversity SPD will be a material consideration in determining planning applications. The purpose of the SPD is to improve biodiversity delivery within new built development. In terms of solar farms, there is now a mandatory requirement for the majority of developments (including commercial solar farms) to achieve a minimum 10% net gain in biodiversity. This is calculated using the government's statutory metric which measures the pre and post development value of the site. In addition a Preliminary Ecological Appraisal Report is required which establishes baseline conditions and evaluates the importance of any ecological features present (or those that could be present) within the specified site. Where relevant protected/priority species and habitat surveys are then required and are to be carried out by a suitably qualified ecologist. The SPD provides more detail on these and other requirements.</p>

Respondent	Section/ Paragraph	Comment	DCC Response
The City of Durham Trust	General	Thank you very much indeed for the opportunity to comment on the above 1st draft document. The City of Durham Trust strongly supports the County Council's initiative in producing a range of SPDs to assist with interpretation and application of particular County Durham Plan policies. We share the desire to secure consistent and focussed planning applications and submissions that address the requirements laid down in policies and to remove the difficulties that have been experienced by Members, officers, applicants and consultees in some cases. The Trust particularly appreciates that SPDs should be used positively by developers to submit applications that are in line with the guidance they contain and therefore should be capable of approval.	Support for the production of SPDs noted.
The City of Durham Trust	General	The Trust welcomes the Council's commitment to supporting nature recovery and applauds the aims of this SPD: "It provides developers with a clear step by step guide for working with all species and habitats which are likely to be impacted upon by their proposed development. The SPD also details the council's requirements for applicants to build nature and biodiversity into their developments, ensuring that a measurable net gain in biodiversity can be achieved ..."	Support noted.
The City of Durham Trust	General	This SPD pulls together all the relevant legislation and policies both nationally and locally, and provides very detailed guidance. It is easy to get lost amongst this very necessary detail. Could some roadmap to the document be provided at the beginning of the SPD?	Agreed. A roadmap has been added at the start of the document.

Respondent	Section/ Paragraph	Comment	DCC Response
HBF	General	I trust that the Council will find these comments useful as it continues to progress its Local Plan. I would be happy to discuss these issues in greater detail or assist in facilitating discussions with the wider house building industry. The HBF would like to be kept informed of all forthcoming consultations upon the Local Plan and associated documents. Please use the contact details provided below for future correspondence.	Noted.



Respondent	Section/ Paragraph	Comment	DCC Response
Taylor Wimpey	General	<p>TW is an environmentally conscious developer with a clear pathway to achieve net zero. The Taylor Wimpey Net Zero Transition Plan<sup>1</sup> outlines the company's roadmap to decarbonise operations, supply chain and new homes, reducing absolute emissions by at least 90%. TW's commitment to net zero builds on existing strong climate change progress, for example reducing emissions intensity (scope 1 and 2) by 51% since 2013. TW has set an ambitious target to reach net zero in operations by 2035 and across value chain by 2045 – ahead of the UK's national net zero target. TW also published a long-term Environmental Strategy<sup>2</sup> in 2021 which sets out how TW will seek to protect the environment for future generations, partner with suppliers to reduce the impact of the new homes and communities built and enable residents to live a sustainable lifestyle. TW has identified a series of priority wildlife enhancements which are embedded as part of a series of ambitious targets. TW's ambitious nature-based targets can be summarised as follows:</p> <ul style="list-style-type: none"> <li>• Increase natural habitats on new sites and include priority wildlife enhancements.</li> <li>• Include wildlife enhancements on all suitable new sites: <ul style="list-style-type: none"> <li>o Hedgehog highways from 2021.</li> <li>o Bug hotels (at least 20% of homes) from 2021.</li> <li>o Bat boxes (at least 5% of homes) from 2022.</li> <li>o Bird boxes (at least 80% of homes) from 2023.</li> <li>o Wildlife ponds from 2024.</li> <li>o Reptile and amphibian hibernation sites from 2025.</li> </ul> </li> <li>• All new sites to have planting that provides food for local</li> </ul>	Context in which comments made noted.

Respondent	Section/ Paragraph	Comment	DCC Response
		<p>species throughout the seasons.</p> <ul style="list-style-type: none"> <li>• Help customers engage with nature and create 20,000 more nature friendly gardens by 2025.</li> <li>• 200 beehives on our sites by 2025.</li> </ul> <p>The Net Zero Transition Plan and Environmental Strategy together demonstrate TW's strong environmental and climate change commitment. As such, TW is invested in supporting the Council produce a policy framework which protects and enhances the environment.</p>	

Respondent	Section/ Paragraph	Comment	DCC Response
Taylor Wimpey	General	The draft Biodiversity SPD seeks to expand upon policies within the CDP. However, it is TW's view that the draft SPD currently goes beyond Policy 41 (Biodiversity and Geodiversity) and related legislation. The draft SPD provides developers with a clear step-by-step guide for working with all species and habitats likely to be impacted by any proposed development. The draft SPD covers topics such as biodiversity net gain, the nature recovery network, impact assessments, mitigation, and measures of avoidance. It aims to improve biodiversity delivery within new developments and aligns with government requirements for most developments to achieve a minimum 10% net gain in biodiversity.	The council does not consider the SPD goes beyond policy in CDP Policy 41 and related legislation for the reasons set out in detailed comments below.
DPP	Paragraph 1.2	Including a link to the Ecological Emergency Action Plan would be beneficial here.	A link has been added to the Ecological Emergency Action Plan.
The City of Durham Trust	Paragraph 1.4	This should emphasise that this SPD applies to all types of built development; from large solar farms to small housing sites, from industrial and commercial to domestic developments. Exemptions from BNG only cover a small number of specialised categories	Paragraph 1.4 states 'The purpose of the SPD is to improve biodiversity delivery within new built development.' However, further emphasis has been added to paragraph 1.6 'Once adopted it will be a material consideration in determining planning applications <u>for all types of built development, as relevant.</u> ' Exemptions to BNG are explained in section 6 of the SPD.
DPP	Section 2.0	No Comments – policies listed.	Noted.

Respondent	Section/ Paragraph	Comment	DCC Response
Historic England	Para 2.14	<p>Area based habitats can contain many features of historic significance, and historic buildings, structures and landscapes can all be important biodiverse habitats. Proposals to manage and improve biodiversity can have both positive and negative implications for the significance of heritage assets depending on the nature of the measures proposed and the characteristics of the heritage asset involved. As such, we would encourage the Council to take a holistic approach to the determination and delivery of biodiversity proposals including net gain processes.</p> <p>Paragraph 189 of the National Planning Policy Framework recognises that heritage assets are an “irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations”. This includes both designated and non-designated heritage assets. Proposals for managing and improving biodiversity, including net gain processes, should therefore ensure that heritage assets are appropriately conserved, and where opportunities present themselves, enhanced.</p> <p>Para 2.14 of the draft SPD suggests the issue is only relevant to listed buildings, whereas a much wider understanding is needed of the impact on the historic environment of managing and improving biodiversity . Where sites come forward which include, or are within the setting of, any designated heritage asset, due</p>	<p>Noted. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the statutory development plan for the area, unless other material considerations indicate otherwise. Whilst the focus of this SPD is biodiversity, the County Durham Plan includes policies on heritage including CDP Policy 44 (Historic Environment). For the avoidance of doubt an amendment has been made to paragraph 2.14 to state 'Chapter 5 Section 5.2 (Protected Species and Development) and Chapter 7 explains what the council will need to consider <u>in relation to biodiversity</u> when determining Listed Building Consent.'</p>

Respondent	Section/ Paragraph	Comment	DCC Response
		<p>consideration needs to be given to the likely effect of plans for habitat creation or enhancement on the assets significance and be tailored accordingly. In order to do this it is vital that, where appropriate, proposals for managing and improving biodiversity are informed by a proportionate assessment of the historic and cultural significance of sites. For development proposals affecting designated heritage assets this information should already be required in support of the planning application.</p>	
Taylor Wimpey	Paragraph 2.18	<p>TW has previously submitted representations regarding the Local Nature Recovery Strategy (LNRS). In paragraph 2.18 of the draft Biodiversity SPD, there is a reference to the LNRS, which outlines opportunities and priorities for enhancing biodiversity. It also supports broader objectives such as climate change mitigation and adaptation, as well as strategic planning for housing and infrastructure. Given</p>	<p>Additional wording has been added to clarify areas mapped within the LNRS will generate more biodiversity units that can be sold to developers as part of Biodiversity Net Gain when compared to areas that have not been identified by the LNRS. Paragraph 2.1 also provides further information on the provisions of the Environment Act.</p>

Respondent	Section/ Paragraph	Comment	DCC Response
		the interconnected topics covered in each document, TW believes it would be beneficial to provide guidance on how these documents will complement each other.	
DPP	Section 3.0	No comments	Noted.

Respondent	Section/ Paragraph	Comment	DCC Response
Taylor Wimpey	Paragraph 3.2	<p>TW object to the Council’s wording used in paragraph 3.2. On this basis, further consideration is necessary in respect to this wording, which states the following: “Developments should seek to minimise fragmentation and degradation of existing habitats, incorporate beneficial biodiverse features, and must deliver a minimum 10% net gain for biodiversity as measured by the statutory biodiversity metric. The council encourages applicants to exceed this where possible.” TW suggest that the paragraph is amended as follows: “Developments should seek to minimise fragmentation and degradation of existing habitats, incorporate beneficial biodiverse features, and must deliver a minimum 10% net gain for biodiversity as measured by the statutory biodiversity metric. <del>The council encourages applicants to exceed this where possible.</del>” TW fully aligns and agrees with the policies aimed at minimising adverse impacts on existing habitats and integrating biodiversity features into development designs to achieve the minimum 10% net gain requirement. However, TW seeks clarification from the Council regarding the extent to which applicants are expected to surpass this minimum requirement. Understanding this will help TW assess the potential implications this may have for their proposals during the planning process. The Council should acknowledge the complexity of delivering BNG, which can vary significantly depending on site characteristics. It should avoid encouraging applicants to exceed requirements to an unattainable level and TW are concerned that the draft SPD may introduce a precedent in regard to this and thus this may become an unintended</p>	<p>Disagree. The SPD does not introduce a policy requirement. The Environment Act’s wording also states that a minimum 10% gain should be achieved (Schedule 7). The SPD 'encourages' applicants to exceed the mandatory minimum 10% biodiversity net gain 'where possible.' This does not conflict with wording in CDP Policy 41 which states new development proposals should provide net gains for biodiversity. In the context of the ecological emergency which Durham County Council has declared, it is considered appropriate to encourage applicants to consider opportunities to maximise gains for biodiversity wherever possible. In our experience some proposals, such as solar farms, can and do exceed the 10%, and where this is the case associated benefits are taken account of in applying the planning balance.</p>

Respondent	Section/ Paragraph	Comment	DCC Response
		<p>'expectation' as part of the planning application determination process. Policy 41 of the CDP states new development proposals should provide net gains for biodiversity by establishing coherent ecological networks. TW agree that net gains should be achieved however as currently worded the draft SPD does not align with this policy and introduced an additional policy requirement. TW strongly suggest that the final sentence of paragraph 3.2 is deleted in order to avoid introducing additional policy tests outside of the statutory development plan preparation process and to avoid the introduction of ambiguity and unintended additional policy burdens.</p>	
Taylor Wimpey	Paragraph 3.27	<p>Paragraph 3.27 stipulates that an applicant must submit a countersigned impact assessment during the planning application stage. However, TW notes that neither the CDP nor the Council's validation checklist mentions the requirement for a countersigned impact assessment. Consequently, TW</p>	<p>This is correct. This is all detailed in the guidance from Government on District Level Licensing for local planning authorities: <a href="https://www.gov.uk/guidance/great-crested-newts-district-level-licensing-for-local-planning-authorities">https://www.gov.uk/guidance/great-crested-newts-district-level-licensing-for-local-planning-authorities</a>.</p>



Respondent	Section/ Paragraph	Comment	DCC Response
		requests additional clarification regarding this assessment through this draft SPD process.	
The City of Durham Trust	Paragraph 3.35	Paragraph 3.35. On invasive alien plant species. Parts of central Durham are being completely overrun with balsam, spreading exponentially, knotweed is growing on the central riverbank and on the waterside foundations of the new business school. This policy could strengthen into a duty for land-owners to actually eradicate invasive species on their property, not just not to let it spread or “cause to grow” (an ambiguous phrase). Things will only get more destructive and be more expensive to deal with later.	This terminology reflects the provisions of Schedule 9 of the Wildlife & Countryside Act 1981 (as amended). Whilst it is an offence under the Act to grow or cultivate invasive species there is no legal requirement for property owners to eradicate invasive species on their property.
Dere Street Homes	Flow chart proceeding paragraph 4.0	The flow chart notes that at Stage 4: if gains cannot be met or fully met than the developer should “provide an offset, or purchase credits”. Stage 4 is pre-submission of a planning application. Whilst it may be appropriate for the applicant to identify the need to purchase credits pre-submission, it appears to go beyond national guidance and be unreasonable to require that the credits are purchased, pre-submission. If this is not the intended consequence of the flow chart, we request that the wording is updated to clarify this e.g. “Developer to confirm the need to provide an offset or purchase credits”.	Wording amended for clarity to 'Establish if scheme will need to provide an offset or purchase credits.' This information is needed so the local planning authority can establish whether the biodiversity gain condition is capable of being discharged successfully through the imposition of conditions and agreement of section 106 planning obligations to secure significant onsite biodiversity gains and registered offsite biodiversity gains. Evidence is not required at this stage that biodiversity units or statutory credits have been purchased. But this will be required prior to commencement.

Respondent	Section/ Paragraph	Comment	DCC Response
Dere Street Homes	Flow chart proceeding paragraph 4.0	Flow chart, provision of a draft Biodiversity Gain Plan with major applications appears reasonable. It is considered for minor applications this approach may be unreasonable.	In accordance with BNG Planning Practice Guidance, the council needs sufficient information at application stage to establish whether the biodiversity gain condition is capable of being discharged successfully. This includes consideration of the following matters: whether the balance expected between onsite gains, off-site gains and the use of statutory biodiversity credits for the development is appropriate, taking account of the Biodiversity Gain Hierarchy; whether the type and location of any significant onsite habitat enhancements proposed for onsite gains are appropriate, taking into account other policies to support biodiversity (including local nature recovery strategies) and other wider objectives (for example policies for design, open space and recreation, and retention of trees); and any planning conditions which need to be imposed to secure any significant onsite habitat enhancements, including any conditions requiring the maintenance of the enhancement for at least 30 years after the completion of the development. This could not be established from national validation requirements, and as such additional information is needed. The draft Biodiversity Gain Plan is to incorporate a statement explaining how BNG is to be achieved, with the level of detail proportionate with the scale and the complexity of the development.
DPP	Paragraph 4.21	Only 6 types given when states 'Properly designed buffers can perform multiple functions. These can be broken down into seven types:'	Corrected to 6.

<b>Respondent</b>	<b>Section/ Paragraph</b>	<b>Comment</b>	<b>DCC Response</b>
DPP	Paragraph 4.24	Clear guidance on rivers and ancient woodland is appreciated. It may be worth considering incentives for providing larger riparian riverside buffers where possible.	The council can encourage a wider buffer, however the width of the buffer is typically determined by the type/s of impact as a result of a development We would however highlight that the application of the BNG Metric is likely to result in wider buffers.
Dere Street Homes	Paragraph 4.38	In what circumstances would we now be required to enter into a S39? Our understanding was this was used in the past in Durham to ensure 30 year management of open space for BNG, but this presumably has been superseded by S106/Conservation Covenant.	This section is not specific to BNG. Whilst the current approach to BNG is for significant onsite, and/or offsite BNG to be secured by s106 agreement or conservation covenant, local planning authorities can use s39 to secure management agreements with owners and occupiers of land under the Wildlife and Countryside Act 1981. However, wording has been changed to state legal agreement, with s106 agreement as an example.
Taylor Wimpey	Paragraph 4.38	Finally, TW requests that the Council provides additional information to paragraph 4.38 which states the following: "If planning permission is granted, this will be subject to condition(s) and/or a planning obligation such as a Section 106, Unilateral Undertaking or even Section 39 agreement, which secure all necessary ecological requirements including any mitigation, compensation and BNG requirements." TW suggests that additional information is needed to clarify how each mechanism would secure BNG and against what planning application circumstance this would be most applicable. For example, can BNG be achieved through conditions on every application, and at which point would a S106 agreement be required. Furthermore, further clarity is required in terms of what a S39 agreement is and in what	This section is not specific to BNG. Whilst the current approach to BNG is for significant onsite, and/or offsite BNG to be secured by s106 agreement or conservation covenant, local planning authorities can use s39 to secure management agreements with owners and occupiers of land under the Wildlife and Countryside Act 1981. However, wording has been changed to state legal agreement, with s106 agreement as an example.

Respondent	Section/ Paragraph	Comment	DCC Response
		circumstances this mechanism will be used as an alternative to a S106 legal agreement for example.	
The City of Durham Trust	Paragraph 4.41	Paragraph 4.41."Compliance and condition monitoring reports are provided to the council as required." What is the requirement? This should be stated. How will the Council check these reports? This should be stated. The resource implications for the Council to assess Biodiversity Gain Plans for most developments, and then to check the reports over a 30 year period for the habitat involved, will be huge.	Section 6 provides further information on BNG and sets out the number of monitoring assessments will depend on the habitat type and extent, but a typical schedule for medium sized habitat creation project might result in reports required in years 2, 5, 10, 20 and 30. This will have resource implications for the council. However, applicants will be required to appoint a suitably qualified professional to prepare and submit monitoring reports and the council can secure a monitoring fee to cover their costs in assessing reports.
Historic England	Paragraph 5.2	Sites identified to deliver off-site biodiversity gains should avoid locations where they would cause harm to the significance of a designated heritage asset. There may however also be opportunities for some off-site gains to be delivered in locations that could mutually benefit both biodiversity and the historic environment, where measures would better reveal or enhance the significance of a heritage asset or be of benefit to an assets ongoing conservation and management.	Text has been added to the introduction to the biodiversity design guide to set out biodiversity enhancements can make a positive contribution to landscape character and help better reveal the significance of heritage assets.

<b>Respondent</b>	<b>Section/ Paragraph</b>	<b>Comment</b>	<b>DCC Response</b>
DPP	Table preceding paragraph 5.5	Landscaping Table – page 29 “New housing estates should maintain open access for hedgehogs by incorporating regular appropriate gaps in fences and boundary features”. - could this be amended to say “13x13cm gaps”	Suggested minimum size gap has been added to text.
DPP	Table preceding paragraph 5.5	Additionally in the interest of hedgehogs and newts is there opportunity to implement traffic calming measures where these species are identified.	There is research which suggests that these measures can be beneficial, but this would have to be applied on a case by case basis.
DPP	Table preceding paragraph 5.6	For the buildings page it would be helpful to have a table that specifies the entry hole size and chamber size required for different species.	Boxes are designed to meet required standards. We would also rely on the consultant ecologist appointed to specify this if non-standard provision is included.
DPP	Table preceding paragraph 5.7	Regarding Bee bricks, can we check the effectiveness of these products? (See article: Caveat Emptor: Do Products Sold to Help Bees and Pollinating Insects Actually Work? (tandfonline.com)). Additionally, suggest more guidance is given on location, quantity, orientation if using these products. Also recommend specific natural habitat features (dead wood with holes, holes in hard ground) be made where possible.	Link has been added to further information at: <a href="https://www.buglife.org.uk/get-involved/gardening-for-bugs/building-for-bees/">https://www.buglife.org.uk/get-involved/gardening-for-bugs/building-for-bees/</a>
DPP	Table preceding paragraph 5.8	Regarding seed mixes, we highlight the need for incorporating yellow rattle and other hemi-parasitic plants to weaken grass and ensure wildflower seed mix is not wasted and overtaken by grass.	Noted, however not always successful if included in a seed mix which is broadcast onto bare soil, this is more relevant if oversowing to enhance an existing sward.
DPP	Table preceding paragraph 5.9	It would be helpful if the council provide details of where priority species are present to aid planting schemes. Example - In development sites which are adjacent to yellowhammer habitat or other farmland birds, could the council recommend including plants which produce	Development applications are dealt with on a case by case basis, with ecological advice given tailored to the location, understanding of presence of local species, and likely impacts. It is not considered that the SPD is a relevant document to provide this level of detailed advice.

<b>Respondent</b>	<b>Section/ Paragraph</b>	<b>Comment</b>	<b>DCC Response</b>
		suitable seeds or nesting habitat for yellowhammer and other farmland birds?	
DPP	Table preceding paragraph 5.10	There are recommendations for seeds but no recommendations for species used in hedging or shrubbery, suggest adding an additional list.	The appendix includes a link to guidance on hedgerow mix which is available at: <a href="https://durhamlandscape.info/wp-content/uploads/2021/10/Hedgerowspeciesmix.pdf">https://durhamlandscape.info/wp-content/uploads/2021/10/Hedgerowspeciesmix.pdf</a> . Other planting is dealt with on a case by case basis depending on the site and local conditions.
Dere Street Homes	Table preceding paragraph 5.5	It is noted that SUDS should benefit biodiversity by including permanent standing water. We suggested a similar strategy for a planning application, which was submitted before February 2024 and were asked to change our SUDS to a dry basin. We assume the approach of all departments within the Council will be consistent with any adopted Biodiversity SPD?	On adoption the Biodiversity SPD will be a material consideration in determining planning applications. The specifics of why a dry basin was requested in this instance is not known.
Dere Street Homes	Table preceding paragraph 5.5	It is not clear how many bird boxes are required for major developments or whether there is flexibility for major developments to determine an appropriate number of bird boxes?	Clarification has been added to the SPD.
Dere Street Homes	Table preceding paragraph 5.5	Are applicant's going to be required to provide a lighting plan at outline, full planning application stage in order for an application to be validated? This would seem unnecessary, particularly for an outline application and it would be appropriate for this to be conditioned.	In accordance with the validation checklist a lighting assessment is required for applications for developments which would involve the provision of significant external lighting (e.g. floodlights or security lighting) that may have an adverse impact on residential amenity, the character of the open countryside or a heritage asset. In terms of ecological impacts, we don't require a lighting plan/spill plan at validation stage but is likely to be required prior to determination if it is considered that there is a risk of impact

Respondent	Section/ Paragraph	Comment	DCC Response
			by the proposals on protected species/foraging/commuting routes. Clarification has been added to wording.
Dere Street Homes	Table preceding paragraph 6.3	States “Mitigation and compensation measures for Protected Species may be counted towards a biodiversity net gain calculation but again should not make up all of a development’s biodiversity net gain (this includes off site compensation too).” We are unclear how protected species mitigation would be counted towards the calculation, albeit we consider this a sensible approach? Perhaps this point could be clarified further?	This section is to explain 'additionality' this means that habitat improvements will only be counted towards BNG if they genuinely enhance biodiversity and are not simply fulfilling another obligation under a different scheme, for example compensation measures for protected species. A sentence has been added to this effect to clarify.

Respondent	Section/ Paragraph	Comment	DCC Response
HBF	Paragraph 6.0	<p>The HBF recommends that the Council withdraw this SPD, or at least the aspects of this SPD that relate to Biodiversity Net Gain (BNG), and instead focus on providing a frequently asked questions link on their website to the appropriate sources of national guidance, provided by gov.uk and the PPG. The HBF considers that this SPD provides significant potential for confusion and contradiction and provides very little additional information that is actually necessary or needed at a local level in relation to BNG. The PPG is clear that plan-makers should be aware of the statutory framework for biodiversity net gain, but they do not need to include policies which duplicate the detailed provisions of this statutory framework. It goes on to state that it will also be inappropriate for plans or supplementary planning documents to include policies or guidance which are incompatible with this framework.</p> <p>BNG is mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Therefore, developers must deliver a biodiversity net gain of 10%. The Council should be careful with the wording of this requirement as the PPG is clear that plan-makers should not seek a higher percentage than the statutory objective of 10% biodiversity net gain unless justified.</p>	<p>The SPD complements the statutory framework for biodiversity net gain by outlining the BNG process, providing the information required to use the Biodiversity Metric in a County Durham context and detailing what the council requires for an application to be determined. The SPD does not and could not require a higher percentage than the statutory objective of a minimum 10%. The SPD encourages applicants to exceed the 10% where possible, and our experience is that on some forms of application, such as commercial solar farms, applicants are able and willing to exceed the 10%.</p>
DPP	Paragraph 6.0	<p>If would be helpful for contact details be provided in this section for interested parties who have queries to be able to contact correct officers and team.</p>	<p>Contact details of relevant teams have been added to the end of the document.</p>



Respondent	Section/ Paragraph	Comment	DCC Response
DPP	Paragraph 6.0	Request links to be provided for further information on the purchasing of statutory credits or credits from a third party and in addition request details to be added for registering credits to be banked in advance of any new development.	Whilst there are a number of organisations selling third party credits the council is not in a position to verify this data and does not consider it appropriate to promote a specific broker in this SPD. In due the course the council will make available details of units to purchase in the county where it has entered into a legal agreement with a land manager. A link to information on purchasing statutory credits has been added.
The City of Durham Trust	Paragraph 6.1	There could be more clarity about guidance for small developments (and the appropriate biodiversity possible on such sites) compared with guidance for major sites. For example section 6 "contains information to help ecological consultants with Major Site applications understand and meet the council's BNG requirements.". However, BNG is also applicable to small sites.	Section has been revised to clarify it also applies to small sites and where relevant text amended to highlight where a different approach is taken for small sites.
The City of Durham Trust	Paragraph 6.3	Paragraph 6.3 The BNG metric. The Excel document is often very hard to read. The authors of such documents should be expected to offer a fuller prose gloss on the specific scores given, and/or the ecology report should contain more explicit suggestions on the scoring, otherwise a crucial planning document is rather unreadable by the majority of the public. It is important that the public are enabled to assess the developer's BNG proposals at the planning application stage. We support the Council's recommendation that a draft Biodiversity Gain Plan is provided at this stage in the supporting documentation (p.18 and paragraph 6.24). Does the Council have any plans to obtain public input when the full Biodiversity Gain Plan is submitted to the Council after a proposal has been given approval?	Applicants are required to use the statutory biodiversity metric tool which has been developed by DEFRA. It is appreciated these are complex. The council has introduced a local validation requirement for applications to be accompanied by a BNG Strategy and proposed Habitat Plan. This will set out in a more accessible way how net gains are to be achieved. As with other pre-commencement conditions, there is no consultation process on the full Biodiversity Gain Plan before the condition is discharged.

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The City of Durham Trust	Table preceding paragraph 6.4	p. 39 "Additionality – for the benefits from BNG to be additional (+10% extra) it is necessary to have an understanding of the type and extent of habitat mitigation required without the inclusion of BNG. Delivery of these non-BNG outcomes via habitat creation and/or enhancement can be used to contribute up to no net loss of BNG but not beyond. This includes on-site measures delivered to comply with a statutory obligations or policy. Mitigation and compensation measures for Protected Species may be counted towards a biodiversity net gain calculation but again should not make up all of a development's biodiversity net gain (this includes off site compensation too)." Before BNG is calculated should not all the biodiversity damage have to be restored or mitigated? This section is confusing and needs clarification, e.g. in paragraph 6.4.	This section is to explain 'additionality' this means that habitat improvements will only be counted towards BNG if they genuinely enhance biodiversity and are not simply fulfilling another obligation under a different scheme, for example compensation measures for protected species. A sentence has been added to this effect to clarify.
The City of Durham Trust	Paragraph 6.9	Paragraph 6.9. "The Biodiversity Metric is a habitat-based approach, using habitat as a proxy for biodiversity. Species-based features such as bird and bat boxes are not included within the metric, however the provision of such features within developments is still encouraged as additional enhancements and is promoted in this SPD." It is important to stress this. This point should be repeated within the section outlining examples of improving biodiversity (p. 28-37).	On page 32 specific guidance is provided in relation to bat and bird boxes.

<b>Respondent</b>	<b>Section/ Paragraph</b>	<b>Comment</b>	<b>DCC Response</b>
The City of Durham Trust	Paragraph 6.17	Paragraph 6.17. "BNG is designed to encourage habitat protection, enhancement and creation onsite and in the local area where possible," and paragraph 6.20. "The Biodiversity gain hierarchy and the council's preference is for on-site habitat enhancement and creation when adverse impacts cannot be avoided or mitigated for." This is not just a preference; it should be a very strong steer (i.e. everything possible).	Text amended to clarify that local off-site options that support the delivery of the LNRS are explored in the first instance. If there are no viable local options, then off-site delivery of BNG should ideally support the delivery of the LNRS elsewhere in the county. It is also highlighted the Statutory Biodiversity Metric is weighted to incentivise delivery of off-site BNG in proximity to the site and on land identified as being of 'strategic significance' in the LNRS and associated mapping.
The City of Durham Trust	Paragraph 6.18	Paragraph 6.18. Landscape proposals that are subsequently used in the calculation of Biodiversity Net Gain must be appropriate to their context, robust and verifiable. Measures such as hedgerow creation and enriched grass areas should be capable of being practically achieved, this is particularly relevant for smaller sites and those in urban settings.	The council is required to assess at application stage whether the type and location of any significant onsite habitat enhancements proposed for onsite gains are appropriate, taking into account other policies to support biodiversity and other wider objectives. The council has introduced a requirement for a draft Biodiversity Gain Plan and draft HMMP at application stage which will enable this to be assessed. Landscape impacts will continue to be assessed under CDP Policy 39 (Landscape) and the Landscape Team consulted as relevant.
The City of Durham Trust	Paragraph 6.21	Paragraph 6.21 "In such cases when on-site habitat enhancement and creation cannot deliver a 10% net gain then an off-site option can be used. The council's preference is that local off-site options are explored in the first instance. If there are no viable local options, then the off-site delivery for BNG measures should ideally be delivered in County Durham." Once again a strong steer is needed for local off-site options. And it is unacceptable for these to be outside County Durham (except if it is a habitat straddling the border).	In line with the requirements of the Environment Act to minimise the adverse effect of the development on the biodiversity of the onsite habitat, onsite and local offsite BNG units must be the first option explored. The Defra metric includes a spatial risk multiplier which encourages the further that any offsite gain is from the development site, the more biodiversity units the developer is required to create in order to deliver enough net gain. There may be circumstances, where it has robustly been demonstrated onsite and local offsite is not possible, where units may need

Respondent	Section/ Paragraph	Comment	DCC Response
			to be delivered outside of the County boundary and the SPD reflects this.
Dere Street Homes	Paragraph 6.21	<p>It states “The council’s preference is that local off-site options are explored in the first instance. If there are no viable local options, then the off-site delivery for BNG measures should ideally be delivered in County Durham.” The term ‘local’ doesn’t appear to be defined. If a suitable offset can be provided in County Durham, but there are offsite credits closer to the site, but which are more expensive, will the Council require that the more expensive, closer credits are purchased? This appears unfair. At paragraph 6.23 it states, “the priority for offset site compensation in County Durham is the delivery habitat enhancement/creation in areas identified within the Local Nature Recovery Strategy and associated mapping”. The two paragraphs appear to contradict each other, which would take priority a site more ‘local’ to the development site or a site within the Local Nature Recovery Strategy but further away from the development site?</p>	<p>In line with the requirements of the Environment Act to minimise the adverse effect of the development on the biodiversity of the onsite habitat, onsite and local offsite BNG units must be the first option explored. There may be circumstances, where it has robustly been demonstrated onsite and local offsite is not possible, where units may need to be delivered elsewhere and the SPD allows for this. The Defra metric includes a spatial risk multiplier which means the further that any offsite gain is from the development site, the more biodiversity units the developer is required to create in order to deliver enough net gain. As such, the metric creates a financial incentive to deliver offsite gains in proximity to the application site. In relation to the LNRS for clarity wording in paragraph 6.23 has been amended to <u>'While BNG should primarily be delivered on the site of the new development, this may not always be possible. In such cases, it can be delivered at an off-site location and the priority for offset site compensation in County Durham is the delivery habitat enhancement/creation in areas identified within the Local Nature Recovery Strategy and associated mapping.'</u></p>

Respondent	Section/ Paragraph	Comment	DCC Response
Taylor Wimpey	Paragraph 6.26	Furthermore, TW wishes to suggest that greater clarity is provided in the draft SPD in terms of the Council's expectations for Monitoring and Management plans. It is TW's experience that different approaches to BMMP's are required depending on the varying types of planning applications. For example, is an outline BMMP acceptable for an outline planning application versus a requirement for a full BMMP for a full planning application? TW believe the draft SPD should be updated to provide much needed clarity and guidance on this aspect.	A link has been added to the government's HMMP Template and guide, highlighting this provides a guide on the information to provide and sections are to be completed as relevant to the project. In the case of large scale outline applications which are to come forward in phases Planning Practice Guidance states an Overall Biodiversity Gain Plan is to confirm that there is a clear upfront framework for how the biodiversity gain objective of at least a 10% gain is expected to be met across the entire development. Accordingly, we envisage the draft HMMP should help demonstrate the objective could be met with sections completed as relevant.
The City of Durham Trust	Paragraph 6.31	Paragraph 6.31 The ability to revise a management plan during the decades of its operation seems important, given the possible effects of climate change. Presumably all the information gleaned in the long-term management of BNG sites feeds back into a central overview on the effects of a warming climate. Generally, this points to the need for the Council to take advantage of the biodiversity details in the BNG plans and monitoring reports to inform their own biodiversity strategies and policies.	Yes the data from the Habitat Management and Monitoring Plans, and any revisions, will be an important source of data which the council and partners will be able to utilise.