



Dacorum Environmental Forum
Full Meeting via Zoom Thursday 16/9/2021

MINUTES

Attendance

Name	Organisation
Gruff Edwards	Chair DEF
Steve Wilson	Vice Chair DEF
Cllr Ron Tindall	DBC and HCC
Cllr Nigel Taylor	DBC and HCC
Mike Ridley	DEF and Friends of Halsey Field
Chris Ridley	DEF and Friends of Halsey Field
Sherief Hassan	Hemel Resident
Martin Hicks	Hertfordshire Ecology
Matt Dodds	Herts and Middlesex Wildlife Trust
Steve Lings	Consultant Naturalist

Meeting started at 7:30pm

1. Apologies etc.

Paul de Hoest Berkhamsted Town Council
Katie Tyssen DEF
William Wyatt-Lowe former DBC and HCC

Minutes of the Last Meeting and Matters arising

These minutes, together with updates on Halsey Field, LA3 Master Plan and Hemel Garden Communities/New Local Plan had been sent out with the agenda E-mail. No further comments on or matters arising from the minutes had been received.

2. Biodiversity Net Gain

By way of introducing the topic, **GE** quoted from the summary document about it produced by Herts. Ecology (a department of Herts County Council) that **MH** had sent him and that he had sent out to the DEF E-mailing list prior to the meeting, saying that the Government's 25 Year Environment Plan (2018) had set out its ambition to leave the environment in a better state than when it came to power. One aim was to embed an "Environmental Net Gain Principle" for development, including housing and infrastructure. This would increase wildlife habitats by means of requiring all developments to contribute directly to improving or increasing habitats. The planning policy in NPPF (National Planning Policy Framework) already enabled Local Planning Authorities to set Local Plan policies to seek to achieve

these objectives. The current Environment Bill would make Biodiversity Net Gain a mandatory requirement.

SW chaired the topic from this point on. He invited **MH** to enlarge on the topic.

MH confirmed that hitherto it had not been mandatory for Local Authorities to incorporate Biodiversity Net Gain (abbreviated in the following to BNG) into their Local Plans, although HE advice had encouraged its application in local plans and several applications following NPPF guidance. Under the current Environment Bill, the Government were proposing that development should achieve a minimum of 10% net gain in "Habitat Biodiversity Units" (*in the Guidance document either "Habitat" or "Biodiversity" is generally omitted. These Minutes adopt the form "Biodiversity Units"*), and were providing a "Metric" both to calculate the existing value of a proposed development site in these units and the net value after development to demonstrate how the 10% gain could be achieved. The currently proposed Metric had evolved over the last decade from one produced by DEFRA in 2012, via Natural England's Version 2 (July 2019) to the current Version 3 (July 2021). Warwickshire were ahead of the game with their own metric, and the Environment Bank - *whose website describes it as a "business specialising in biodiversity accounting, use of Metrics, offset brokerage and establishing habitat banks to generate conservation credits."* - has yet another. Another term used in this connection was "Biological Offsetting".

The Metric does not apply to species although potentially it could, but to habitats measured by area or in the case of linear sites such as hedgerows and rivers by length, with the Biodiversity Unit score being determined by the habitat's distinctiveness, condition and extent. For instance ancient woodland would be allocated a much higher score than the same area of arable field. The metric is also applied in the context of a "Mitigation Hierarchy" which means giving preference to retaining the most important priority habitats *in situ* and avoiding habitat damage before looking to mitigate or compensate habitats. When compensating for habitat loss, compensatory habitats must always 'trade up'. This means better habitats must replace those lost. Where habitats are low scoring e.g. arable, like-for-like habitat creation is not required as long as you trade up. Where habitats are of higher value like-for-like habitat within the same broad category is required, i.e. grassland for grassland, scrub for scrub. When habitat creation is proposed, three "Risk Factors" must be applied, including the length of time it will take to create, which influence the number of Biodiversity Units.

When the developer is unable to offer physical compensation on-site or off-site at an agreed receptor site, they are allowed to buy "Credits" for Biodiversity Units. Consultations and disagreements as to the appropriate cost of a Unit have characterised the history of the Metric. (*These minutes do not illustrate the physical meaning of one Unit, but ...*) the original Government consultation proposed £9,000-£15,000 per Unit and this position was subsequently maintained by Government for the time being, whilst this figure has yet to be officially confirmed or updated, it may potentially be wrong. HE have been advising £12k, consistent a mid-way sum of these figures. Ideally Credits should be matched with habitat creation schemes as near as possible to the development site, but if that is impossible they could be used in order to support national schemes, which could for instance leave Hertfordshire uncompensated. This should be avoided, but finding suitable sites for compensation projects is a challenge. There needs to be a legal agreement with the landowner as well as obtaining funds via the planning system using Section 106 or similar. The Bill proposes that the agreement should last 30 years, too short in the opinion of many, who argue that Net Gain should be ensured in perpetuity in order to be sustainable. Whilst this is true, 30 years may prove too much of a commitment for most farmers. There will be separate arrangements for minor developments, although it is not anticipated BNG will apply to householder applications.

Implementing and establishing the Bill's proposals fully will take about two years and will involve a lot of work at a time when the country is experiencing unprecedented planning pressures. There is some danger that the planning process will grind to a halt if suitable solutions to BNG delivery cannot easily be found. The Environment Bank (*see above*) have for some years been accumulating land for use as "Receptor Sites" for compensation schemes. All such schemes depend on co-operation between interested parties including landholders. Another part of the Environment Bill is the proposal of Local Nature Recovery

Strategies and Networks, a new system of spatial strategies for nature which has been designed to work closely alongside other measures in the Bill including BNG.

BNG will not become law until the Town and Country Planning Act is amended. A realistic assessment of BNG should take into account provision for ongoing management of the relevant sites, for instance seasonal grass cutting and removal. BNG is innovative and contains unprecedented features such as valuing land previously considered as potentially of low value e.g. arable fields, and planning agreements on land outside the red or blue lines associated with the application site or applicant's landowning interests. Therefore "getting one's head round it" presents a challenge to the planning profession. Nevertheless some Local Authorities such as Warwickshire have been using it since 2012 as intended by NPPF. Natural England make it clear that the results from the Metric can also be considered alongside professional judgement where appropriate.

SW thanked **MH** for his outline and prognosis, and asked the two other specialists/professionals present for their comments.

MD said that the BNG proposals had been criticised by some as providing a "Licence to Trash" obtained by developers handing money to Local Authorities. He was not of this view. He had worked for Local Authorities as an ecologist for many years and said that it had always been true that cases of "Licences to Trash" occurred under the existing planning system. On the contrary, he saw BNG as the most exciting development in his professional life. Now there would be a legal obligation to prove net gain, and any failure to follow due process in this could be challenged legally. Until now any assessment of the biodiversity value of development sites had been in effect a "negotiated truth" that had largely been imposed on Local Authorities by the developers, an ecologically illiterate farce. Now there would be a mechanism for assessing ecological value. It was necessary to make the inclusion of BNG in Local Plans mandatory as two thirds of Local Authorities do not at present insist on it as the National Planning Policy Framework requires them to do. The effect when it is enacted will be to steer development away from more ecologically valuable sites to less valuable ones because it will be relatively much more expensive to develop good habitat than poor habitat. BNG was a massive step forward and a way of funnelling some of the huge amounts of money involved in development into the relatively tiny funds available for nature conservation, as has been achieved in Warwickshire. Some feared that BNG will delay the planning process, but this fear was misplaced because the assessment process would now be clearly defined. Planning inspectors would be charged with the responsibility of establishing that the required processes had been carried out and with "calling out" instances where it had not.

SL said that the recent Lords debate on the Environment Bill and BNG in particular had raised many questions. Bodies including DEFRA were still in negotiation over the price of Biodiversity Units, which would not be set until summer 2022. The Lords were in favour of periods longer than 30 years for agreements about compensatory schemes, as were most ecological agencies. The length of period would be decided in October 2022. He described thirty years as "the blink of an eye" in terms of ecology. He had tried out Natural England's Metric and had encountered a number of deficiencies. "The devil was in the detail" and it was unfit for purpose in its present state. Research carried out in 2020/21 which reviewed 50 development sites concluded that the developments had resulted in a 30% reduction in Biodiversity Units, whereas the current version of the Metric had predicted net gains. The Metric operated by applying a score to each of three "Quality Elements" - "Distinctiveness": e.g. modified grassland has a "Low" distinctiveness score, lowland meadows "Very High", "Condition": a score based on the biodiversity value of the habitat relative to others of the same type and "Strategic Significance": a score based on whether the location of the development and/or off-site work or the habitats present/created have been identified as significant for nature. Halsey Field, for instance would not score well because there was so much ragwort on it, whereas in reality it was teeming with biodiversity. The Metric gave justifiable scores for certain habitat types such as ancient woodland and bog land, but these already have several other forms of legal protection. If the developer buys "Credits" for Biodiversity Units in a "Green Bank" there is nothing in the Bill to indicate the time scale under which the units must be spent on projects on the ground.

SW then invited questions from other participants

NT asked what level of dual use could compensatory schemes have, e.g. ecological plus recreational.

MH said it depended on the species one was hoping to encourage. Some species, e.g. lapwing, would not touch an area affected by disturbance, noise, dogs, compaction etc.

NT said that he was on the Ashridge Forest management committee, who had already (*i.e. even without the housing growth under the draft Local Plan proposals*) concluded that "Ashridge is full" in terms of balancing visitor numbers with wildlife. In this context what would be the relevant questions to put when considering planning applications.

MH said that this highlighted the need for the strategic planning of recreational places. There were no obvious answers, but at least the matter was beginning to be addressed. In general hitherto the planning system has not been good at securing appropriate long-term management.

RT said that he agreed in particular with **SL**'s views. Big political debates were currently taking place around planning and the NPPF, which could affect the course of the Environment Bill. This November's Budget would be a key event in the process.

MR asked whether there were opportunities for public involvement in site assessments.

MD said yes there would be, but to have any effect those seeking to change an assessment would need to have expert knowledge and to be able to prove that the Metric had not been used correctly. One could also object if the management plan was inadequate. He said that the Knepp rewilding scheme in W. Sussex was the cheapest form of compensatory project, and therefore would be favoured by developers. *Knepp's website describes it as a "highly effective, low-cost method of ecological restoration - suitable for failing or abandoned farmland".*

SH said that he had recently issued a publication about the Knepp site.

CR asked how, if currently e.g. skylarks and linnets nest in a field, can extra provision for them be made elsewhere, and how would one prove that those species had actually arrived at the new site.

MD said that the Metric did not deal with species, therefore a bespoke scheme for any instance of this would be needed.

SW asked whether the Environment Bill and Metric would apply retrospectively, i.e. where planning permission had already been granted.

MD said that it can't be backdated to previously approved permissions. But the Bill did allow backdating of ecological assessments to January 2020. This was to prevent developers trashing sites ahead of putting in a planning application to reduce the level of compensation required.

3. Any Other Business

GE said that he had been notified by Cllr Adrian England that that DBC Full Council would be discussing a motion on COP26 (Climate Change, Glasgow, November) on Wednesday, 15th Sept. when he would introduce a motion to underline the importance of central Government funding for air source heat pumps and for training the workforce to install and service them. The entire meeting is viewable on YouTube at <https://democracy.dacorum.gov.uk/ieListDocuments.aspx?CIId=156&MIId=2788> and Cllr England's motion, which was supported on all sides and passed unanimously, is at approximately 1hr 30mins.

Forthcoming dates for 2021:

Steering Group: 5th Oct.

Main: 18th Nov.