

# **BNG Guidance Note**

# **Consultation Statement**

February 2024



**Somerset**  
Council

<b>Version</b>	<b>Purpose</b>	<b>Date</b>
1	For consultation	24/10/2023
2	For adoption	02/02/2024

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# Introduction

Biodiversity Net Gain (from here on referred to as BNG) is an approach to development, and/or land management, that aims to leave the natural environment in a **measurably** better state than it was beforehand. It is intended to deliver measurable improvements for biodiversity by creating or enhancing habitats in association with development. A national mandatory BNG requirement comes into effect from 12 February 2024.

The BNG Guidance Note provides guidance and advice on calculating and delivering BNG in Somerset, ensuring a consistent and efficient approach aligned to local context, making clear requirements and processes for BNG in Somerset.

The Guidance Note is primarily aimed at planning applicants, developers, planning agents, ecologists, landowners, land managers, land agents and site promoters to help guide them through the consideration of BNG in relation to their proposals and the planning system. However, it also deals with off-site delivery mechanisms and so will be of relevance to landowners and promoters of habitat banks and other off-site solutions creating biodiversity units to order. Some prior knowledge of the subject is necessary.

Furthermore, the document sets out the Council's approach to aligning BNG with other plans and objectives in Somerset, particularly in advance of publishing the Local Nature Recovery Strategy. As such, the document may be of interest to a wide range of conservation bodies and other technical stakeholders as well as the general public.

This Consultation Statement explains how Somerset Council have undertaken public consultation to inform the development of the BNG Guidance Note and support effective implementation of the incoming national requirement. The statement explains how the engagement, feedback and responses received through public consultation have influenced the development of the Guidance Note and been taken into account.

This statement covers:

- Which bodies and persons were invited to make comments;
- How those bodies and persons were invited to make comment;
- The material which was subject to consultation;
- A summary of early engagement and how this influenced the development of the initial draft Guidance Note.
- A summary of the responses received; and
- A summary of how the responses influenced the development of the Guidance Note.

The Council has an adopted [Statement of Community Involvement](#) (SCI). The SCI outlines that the Council is committed to effective community engagement and seeks to use a wide range of methods for involving the community in the plan making

process. Somerset Council's Statement of Community Involvement was adopted in October 2023.

In relation to plan preparation, the SCI primarily relates to the preparation of Development Plan Documents (DPDs), Strategic Environmental Assessment (SEA) and Sustainability Appraisal (SA), Supplementary Planning Documents (SPDs) and Neighbourhood Plans.

As the BNG Guidance Note is not any of these types of documents and is not formally required by any legislative, regulatory or administrative provisions, there are no mandatory steps, methods or bodies for consultation to comply with. However, the SCI explains that guidance documents intended to be adopted as a material consideration (as this is) are expected to broadly follow the same process as SPDs, though they may vary according to the specifics of the guidance.

Consultation on the Guidance Note included information on proposed changes to the local validation checklist (locally defined requirements which must be submitted alongside planning applications in order to validate them and begin consideration). In relation to updating the local validation checklist, the National Planning Practice Guidance states that "*where a local planning authority considers that changes are necessary, the proposals should be issued to the local community, including applicants and agents, for consultation*". There are no further detailed requirements on the length or nature of this consultation.

Consultation on the Guidance Note was accompanied by a draft Strategic Environmental Assessment / Habitat Regulations Assessment Screening Report. The purpose of this Report is to determine whether the Guidance Note should be subject to:

- a Strategic Environmental Assessment (SEA) in accordance with European Directive 2001/42/EC (SEA Directive) and associated Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations); or
- a Habitat Regulations Assessment (HRA) in accordance with Article 6(3) of the EU Habitats Directive and with Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

The SEA Regulations require the Council as 'responsible authority' to consult the consultation bodies (Natural England, Historic England and Environment Agency) before making a determination of whether or not a plan or programme is likely to have significant environmental effects. There are no further detailed requirements on the length or nature of this consultation.

The Habitat Regulations require the Council as 'plan making authority' to consult Natural England in determining whether a plan is likely to have a significant effect on a European site or a European offshore marine site, and have regard to any

representations made by that body within such reasonable time as the authority specifies.

The Town and Country Planning (Local Planning) (England) Regulations 2012 require the following in relation to preparation of SPDs:

- Depending upon the subject of the Supplementary Planning Document the Council may invite specific groups or organisations with specialist interest in the subject matter to engage in workshops or provide specific evidence to support production of the Supplementary Planning Document or Guidance.
- When the Council has produced its draft Supplementary Planning Document it will undertake press, Council website and social media coverage of the draft and contact those on its consultation portal inviting comments on the draft. There will be a minimum period of 4 weeks to make representations.
- The comments on the Supplementary Planning Document will all be published on the Council website (with personal contact details redacted).
- A summary of the issues raised and how they are addressed will also be posted on the website.
- The Council will publicise the adoption of the Supplementary Planning Document in the local press, social media and on the Council website. It will inform those who have requested notification of adoption.

Consultation on the draft Guidance Note and associated documents including the SEA/HRA Screening Report were designed to comply with the SCI in the interests of good practice.

## Consultation Summary

In November 2023, the Council published a draft BNG Guidance Note for public consultation. Consultation ran from 6<sup>th</sup> November 2023 until 4<sup>th</sup> December 2023.

The Guidance Note was subject to some limited early engagement with technical stakeholders, which informed the proposals within the consultation draft.

The draft Guidance Note itself was an 85 page long PDF document, supported by five technical appendices totalling a further 20 pages. The draft Guidance Note set out its purpose, context, introduced the subject matter, proposed processes and set out specific proposals for the tailoring of the national requirement to the Somerset context. An executive summary was set out at the front of the document to summarise the document at a glance.

In addition to this, the Guidance Note was supported by a draft SEA / HRA Screening Assessment which was also required to be subject to consultation. This was a 19 page long PDF technical document.

The purpose, objectives and general requirements and process for BNG are pre-determined via national processes including the Environment Act 2021, Natural

Environment and Rural Communities Act 2006 and a number of statutory instruments which bring forward regulations to support the requirement coming into effect. At the time of launching the consultation, these regulations had not been published. However, the Government published draft regulations a few days before the consultation ended. There are limited aspects of the requirement and process that can be tailored to local circumstances and it is these limited areas which the consultation focused on.

As a result, the draft document was technical and text heavy by nature, relating primarily to technical processes within the planning process. The focus of the consultation was specifically on the limited areas where there is scope for local tailoring of the national processes and guidance. Whilst officers tried to ensure that it was drafted in as accessible way as possible, and the consultation hub hosted excerpt chapters of the guidance document as well as the document as a whole, the technical specifics made this particularly difficult. Whilst the consultation was public and available for anyone to respond to, the key intended stakeholders for the consultation were technical.

The consultation was focused on the Council's Citizen Space portal, which presented the core information on how BNG is proposed to be tailored locally alongside the survey questions.

### ***Purpose of the consultation***

Public consultation had the following objectives:

- To meet the national requirement to consult on changes to the local validation list (no explicit consultation length defined).
- To ensure consultation is undertaken in compliance with the Council's SCI with the intention of being adopted as a material planning consideration.
- To publicise to planning applicants, agents and developers that BNG is coming as a mandatory national requirement for new development from January and how we anticipate it working in Somerset.
- To seek views from planning applicants, agents and developers on our proposed processes and local tailoring of the national requirement in order to ensure they are transparent, deliverable and realistic. Identify any flaws or issues or alternative options which the final Guidance Note and Validation Checklist will need to amend / resolve / respond to.
- To seek views from the public and natural environment stakeholders on the proposed local tailoring of BNG in order to understand whether it will deliver on local objectives and priorities. Identify any issues or unintended consequences which the final Guidance Note and Validation Checklist will need to amend / resolve / respond to.
- To seek views from landowners, land managers and land agents and other land use stakeholders on the proposed process for considering, assessing

and securing off-site BNG delivery mechanisms and the parameters for a future 'call for sites'.

The scope of the consultation exercise is:

- To ensure that the proposed processes are reasonable, clear and include all necessary considerations.
- To ensure that the final version of the proposed Somerset BNG Principles are well informed.
- To ensure that the local definition of strategic significance is workable and will deliver its intended outcomes.
- To publicise criteria and process for a future 'call for sites' to support transparent and consistent approach to determining off-site delivery mechanisms.
- There is no scope to consider alternatives to the general approach or issues which are agreed at the national level and enshrined / will be enshrined in law (including the 10%, exceptions, Metric, key structure of the process etc.).
- The Guidance Note covers the whole county of Somerset, though from a planning perspective the guidance only covers the Somerset Local Planning Authority (LPA) (which includes the scope of the local, minerals and waste planning authorities). For general development this excludes the area within the Exmoor NPA which is its own LPA).

### ***Who did we consult?***

As a non-statutory plan, there was no statutory list of bodies and organisations that the Council was required to consult in its preparation. In relation to the proposed changes to the local validation checklist, the Council was required to consult the local community, including applicants and agents. In relation to the SEA / HRA Screening Report, the Council was required to consult Natural England, Historic England and the Environment Agency.

A list of Specific Consultation Bodies and General Consultation Bodies the Council seeks to involve in plan-making is included in Appendix A of the SCI. All those on this list have been included in this exercise.

In addition, the Council is committed to ensuring that local groups, organisations and individuals are provided with the opportunity to be involved in the preparation of planning policy documents.

The Council has a database of consultees, who have expressed an interest in being involved with the development of local plans and planning policy. This database is used to keep individuals, companies and organisations informed on the production of the Local Plan and other planning policy documents. New consultees are added to the consultation database by signing up to receive email updates on local planning policy through the Plan-It Somerset newsletter. The General Data Protection Regulations are followed to ensure that personal data is only required and retained

where proportionate and necessary, is only gathered where explicit consent has been provided, is kept securely and is not disclosed to others. All bodies and persons identified within this database were emailed with notification of the consultation.

In addition to the above, A number of specific consultees were identified as key stakeholders and also invited to comment, including:

- Developers (housing, non-residential, minerals and waste)
- Planning agents
- Land managers
- Land agents
- Minerals site operators
- Significant landowners
- Natural England
- Environment Agency
- Somerset Wildlife Trust
- RSPB
- Local Nature Partnership
- Woodland Trust
- Forestry Commission
- Somerset Catchment Partnership
- FWAG SW
- Wildlife & Wetlands Trust
- National Trust
- Wessex Water
- Hawk & Owl Trust
- Exmoor NPA
- Quantock Hills AONB
- Blackdown Hills AONB
- Mendip AONB
- Cranborne Chase AONB
- Dorset AONB
- Heart of the South West Local Enterprise Partnership
- Historic England
- Canal and Rivers Trust
- City, Town and Parish Councils
- Local Community Networks

### ***How we consulted***

Consultation on the draft BNG Guidance Note ran from 6<sup>th</sup> November 2023 until 4<sup>th</sup> December 2023. During this time, a variety of methods were employed. This section of the report details each of these methods.

Responses to the consultation could be made:

- Online via the Council's [consultation portal](#), which contains a survey;



- By email to [localplanningpolicy@somerset.gov.uk](mailto:localplanningpolicy@somerset.gov.uk);
- By post to BNG, Somerset Council, County Hall, Taunton, Somerset, TA1 4DY.

To publicise the consultation, the Council:

- Emailed notification of the consultation to all bodies and persons identified within the consultation database, developers and agents signed up for the Council's regular 'agents forum' and otherwise those identified as key stakeholders;
- Made the above consultation documents available for inspection at the following locations:
  - Bridgwater House, Bridgwater, TA6 3AR (Monday – Friday 8.45am to 5.00pm)
  - Council Offices, Cannard's Grave Road, Shepton Mallet, BA4 5BT (Monday – Friday 8.30am to 5.00pm)
  - Petters Way Council Offices, Yeovil, BA20 1AS (Monday – Tuesday and Thursday – Friday 9.00am to 4.00pm, first Wednesday of the month 11.00am to 4.00pm and every other Wednesday 9.00am to 4.00pm)
  - Deane House, Belvedere Road, Taunton, TA1 1HE (Monday – Friday 8.30am to 5.00pm)
  - West Somerset House, 20 Fore Street, Williton, TA4 4QA (Monday to Friday 8.30am to 5.00pm)
  - County Hall, Taunton, TA1 4DY (Monday – Friday 8.00am to 6.00pm, Saturday 09:00am to 4.00pm)
  - 'Hub' libraries: Taunton, Minehead, Frome, Bridgwater, Yeovil, Glastonbury.
- Published the documents on the Council's website on a new page linked from <https://www.somerset.gov.uk/planning-buildings-and-land/biodiversity-and-planning/> and on the consultation portal at <https://somersetcouncil.citizenspace.com/planning/bng-guidance-note>. The Council's Consultation webpage at <https://somersetcouncil.citizenspace.com/> also contained information directing people to the consultation portal.
- Published a press release via the Council's website, including articles in the Council's Somerset Environmental and Ecological News (SEEN) newsletter and social media posts, raising interest, communicating the consultation and encouraging participation.
- Presented regarding the Guidance Note consultation to a meeting of the Council's 'agents forum' on Friday 10<sup>th</sup> November 2023.
- Presented regarding the upcoming Guidance Note consultation to a meeting of the parish, town and city council clerks on Monday 1<sup>st</sup> November 2023.
- Promoted the consultation during other engagement meetings with neighbouring local authorities, developers, nature conservation bodies and prospective off-site unit providers.

# Previous engagement

Development of the draft BNG Guidance Note was informed ahead of public consultation by earlier engagement activities.

In May 2022, the previous district councils and county council began working in partnership with Somerset Wildlife Trust, Somerset Environmental Records Centre, Exmoor National Park Authority and Natural England to explore development of a BNG Guidance Note. A number of working group meetings were held and work began in drafting a document, though this was paused awaiting further information from Government.

In July 2022, the previous district councils and county council were invited by Natural England to contribute to and join the steering group for development of a BNG project relating to the Somerset Coast, Levels and Moors Nature Recovery Project (NRP). This project aimed to better understand the scale of BNG required in Somerset; how BNG could help to deliver on the aims and objectives of the NRP and align with other initiatives including carbon credits, nutrient credits and Local Nature Recovery Strategy; and improve developer awareness of BNG and the NRP. This project involved working closely with Natural England, their consultants Bidwells and Somerset Wildlife Trust in the steering group.

The above project involved a developer workshop which was held at Deane House Council offices on 23<sup>rd</sup> March 2023. This was a hybrid session which was attended in-person by 24 developer representatives, with a further 50+ representatives attending on-line. Presentations were given by Natural England, the Council and Bidwells, with a Q&A session following. In-person attendees then took part in breakout sessions focusing around challenges and barriers to delivering BNG; organisational biodiversity targets; resourcing and understanding BNG; interest in working with conservation sector to deliver requirements. Slides were circulated to attendees afterwards along with an FAQ sheet responding to questions posed both in the room and online. Findings from the session informed development of the draft BNG Guidance Note for consultation.

In September 2023, Council officers presented emerging thoughts around a local definition of strategic significance to the Nature Recovery sub-group of the Local Nature Partnership. Feedback helped to shape the consultation document and proposals within.

# Draft Guidance Note Consultation

The Draft Guidance Note was subject to a four-week consultation from 6<sup>th</sup> November 2023 until 4<sup>th</sup> December 2023 using a variety of engagement methods. Through these various engagement methods, the Draft Guidance Note could be further refined. This section of the report details each of these methods:

## Emails

Emailed notification of the consultation was sent to all bodies and persons identified within the consultation database on Monday 6<sup>th</sup> November 2023 as part of the [November edition of the Plan-It Somerset Newsletter](#). This was supplemented by emails directly to

- the specific identified stakeholders for the consultation (listed above),
- parties who had previously contacted the Council regarding potential off-site solutions,
- developers/agents on the Council's agent's forum mailing list, and
- stakeholders on the Council's minerals and waste operators mailing list (screenshot example of this email below),

From: Local Planning Policy  
Sent: Monday, November 6, 2023 10:48 AM  
Subject: CONSULTATION - Somerset Biodiversity Net Gain Guidance Note

Dear consultee,

### Biodiversity Net Gain (BNG) Guidance Note

From January 2024, planning applications submitted for new developments in England will be required to achieve at least 10% Biodiversity Net Gain. Biodiversity Net Gain (from here on referred to as BNG) is an approach to development, and/or land management, that aims to leave the natural environment in a measurably better state than it was beforehand. It is intended to deliver measurable improvements for biodiversity by creating or enhancing habitats in association with development.

Whilst the requirement to demonstrate and deliver at least 10% BNG and the core processes involved in doing so are set nationally, there are limited areas where the requirement can be tailored to local circumstances.

Somerset Council has produced a draft BNG Guidance Note for public consultation which provides technical guidance and advice on calculating and delivering BNG in a Somerset context. It aims to ensure a consistent and efficient approach aligned to local policy context, by making clear the requirements and processes in Somerset.

We are seeking views on this Guidance Note and the proposed validation requirements from planning applicants, developers, planning agents, ecologists, landowners, land managers, land agents, site promoters, nature conservation bodies, other technical stakeholders and the general public.

### **The Consultation runs for 4 weeks from Monday 6<sup>th</sup> November 2023 until Monday 4<sup>th</sup> December 2023.**

We are seeking views specifically on:

- Our proposed processes for dealing with BNG through the planning process (including validation requirements and approach for securing BNG from new development),
- Our proposed approach for tailoring BNG locally through use of the Somerset BNG Principles, definition of strategic significance and the sequential approach,
- Our proposed approach for enabling off-site delivery mechanisms in Somerset,
- Our proposed approach for monitoring BNG, and
- The draft conclusions of the accompanying SEA / HRA Screening Report

To respond to the consultation, we encourage you to use the consultation portal at <https://somersetcouncil.citizenspace.com/planning/bng-guidance-note>. Here you can find the following:

- Draft BNG Guidance Note
- Strategic Environmental Assessment / Habitat Regulations Assessment Screening Report
- Consultation Statement and
- Online survey

Alternatively, you can:

- Email responses to [localplanningpolicy@somerset.gov.uk](mailto:localplanningpolicy@somerset.gov.uk),
- Write to us at: BNG, Somerset Council, County Hall, Taunton, Somerset, TA1 4DY
- Or respond directly through comments on social media: @SomersetCouncil

Paper copies of the consultation documents are also available for public viewing at:

- Bridgwater House, Bridgwater, TA8 3AR (Monday – Friday 9.45am to 5.00pm)
- Council Offices, Cannard's Grave Road, Shepton Mallet, BA4 5BT (Monday – Friday 8.30am to 5.00pm)
- Petters Way Council Offices, Yeovil, BA20 1AS (Monday – Tuesday and Thursday – Friday 9.00am to 4.00pm, first Wednesday of the month 11.00am to 4.00pm and every other Wednesday 9.00am to 4.00pm)
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- 'Hub' libraries: Taunton, Minehead, Frome, Bridgwater, Yeovil, Glastonbury

If you would like to sign up to receive future planning policy related news and information about consultations please subscribe to Plan-It Somerset via the following link <https://public.govdelivery.com/accounts/UKSCS/subscribe/new>

Kind regards

Somerset Council Planning Policy Team



A Greener, More Sustainable Somerset

This was further supplemented by emails to anyone signed up for the Council's Somerset Environment and Ecological News in the [November edition of the Newsletter](#) on Wednesday 8<sup>th</sup> November 2023.



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A total of 19 emailed comments were received. Emailed comments did not respond directly to the survey questions and tended to provide commentary on a wide range of areas of the consultation material. Officers reviewed, analysed and summarised emailed responses and then manually added these to the consultation hub against the most appropriate survey questions.

### ***Citizen Space Consultation Platform***

The [Council's Citizen Space Consultation hub](#) was used to host the consultation material. A new activity with a specific URL was set up at <https://somersetcouncil.citizenspace.com/planning/bng-guidance-note/>. This included a landing page with introductory text about BNG and scope of the consultation as well as links to download PDFs of the main Draft Guidance Note document, SEA/HRA Screening document and draft Consultation Statement. Respondents could click through to begin answering the survey which included a total of 19 questions (8 of which were about the respondent themselves including optional equalities monitoring questions). Questions were split into the following groupings:

- About you;
- BNG planning processes;
- Tailoring BNG to Somerset;
- Off-site delivery mechanisms in Somerset;
- Monitoring BNG; and
- SEA/HRA Screening.

Questions within each of the above groupings were accompanied by links to embedded PDF documents hosting relevant excerpts from the Guidance Note (see example below). Respondents were advised to review this material before answering those questions. This helped to split the overall document into more manageable chunks for the public.

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Closes 4 Dec 2023

This service needs [cookies](#) enabled.

#### **BNG planning processes**

The Guidance Note sets out the key stages involved in dealing with BNG through the planning process. It divides the process up into six key stages and explains how each is expected to work from development site selection through to commencement and monitoring (see Chapter 4 and Appendix 3). It sets out the proposed planning validation requirements in relation to BNG (see Appendix 4), and the proposed approach for securing BNG from new developments (see Chapter 8).

**9. Are the proposed processes for considering BNG through the planning process sufficiently clear and appropriate?**

Please review Chapter 4 and Appendix 3 before responding.

▶ [Chapter 4 - Key stages](#)

▶ [Appendix 3 - Planning process flow diagram](#)

Yes

No

If answering no, please explain your reasons here:

A total of 66 responses were received directly through Citizen Space. Officers reviewed and analysed responses received through this method, and tagged the qualitative elements of responses against specific trends for each question. The emailed responses which were added to Citizen Space by officers were also tagged against these specific trends to improve and ensure consistency of the qualitative analysis.

### ***Somerset Council Website***

A new webpage was set up on the Council's website at <https://www.somerset.gov.uk/planning-buildings-and-land/biodiversity-net-gain/>. The webpage sits within the [planning, buildings and land webpages](#) and is accessible alongside other related webpages via a heading of "Biodiversity and Planning" directly from this page. The webpage included information on BNG, the scope of the consultation and how to get involved, and included a link to the Citizen Space consultation hub as well as a direct link to download a PDF of the Draft Guidance Note. The Council's [Council and Democracy webpage](#) also includes a link to the Citizen Space consultation hub.

### ***Consultation events***

Two online events were held to promote the consultation:

- **Monday 1<sup>st</sup> November 2023** – online presentation to a meeting of the parish, town and city council clerks regarding the upcoming Guidance Note consultation. This was attended by the vast majority of parish, town and city council clerks. The session provided a high level overview on the basics of BNG and the upcoming consultation. A few questions were asked by attendees to help inform conversations they would have with their respective local councillors, but as the consultation had not yet launched and material was not fully available this was predominantly a promotional exercise to ensure awareness of the consultation. The slides and presenter's contact details were shared with attendees should further questions or queries arise.
- **Friday 10<sup>th</sup> November 2023** – online presentation to a meeting of the Council's 'agents forum regarding the Guidance Note consultation. This was well attended by a combination of planning agents and developers. During the session, a Council officer introduced BNG and the content of the Guidance Note and promoted use of the consultation hub for responding to the consultation. This was followed by a question and answer session in which attendees could raise a virtual hand and then come on-screen to ask it. Other questions were asked within the meeting chat function. Council officers from planning policy, development management and ecology responded to questions posed. Where questions were not able to be answered at the time a note was made and these influenced questions included within the FAQ document which accompanies the final Guidance Note. The slides used in the presentation were shared with attendees afterwards.

## Social Media

A social media campaign was launched on the first day of the consultation across the Council's social media platforms (Facebook, Twitter, LinkedIn and Instagram). This was followed up by further posts reminding people to take part before the consultation closing date. An example of a post used below:



Somerset Council

3,040 followers

2mo • 🌐



Help shape new government Biodiversity Net Gain guidance for [#Somerset!](#)

New government [#Biodiversity](#) Net Gain (BNG) planning legislation, expected to come into force in January next year, will mean planning applications for new developments in England must leave nature better off than before.

We're working to embed the new legislation into our planning processes, including tailored guidance to [#BNG](#) for Somerset where we can. Let us know if our planned approaches for delivering and monitoring BNG in Somerset are appropriate, workable, and reasonable.

Find out more and have your say – <https://orlo.uk/T765L>

The closing date for comments is midnight on 4 December.



Social media impressions and engagements are summarised below:

Platform	Impressions	Engagement
Facebook	4507	30
Twitter	3084	43
LinkedIn	1091	52
Instagram	456	14

Despite a total of 139 'engagements', only 3 actual comments were received via social media platforms.



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### **Press Release**

A press release was published on the Council's website at <https://www.somerset.gov.uk/news/somerset-council-needs-your-help-to-shape-new-biodiversity-net-gain-planning-rules-for-somerset/> on 7<sup>th</sup> November 2023 and sent to all regional media.

### **Articles in media outlets**

This was picked up by various local news outlets including

- Somerset County Gazette who published an article entitled "[Somerset Council implementing Biodiversity Net Gain rules](#)" on 8<sup>th</sup> November 2023
- Somerset Live who published an article entitled "[Government could force new Somerset housing developments to be greener](#)" on 20<sup>th</sup> November.

### **Level of response**

Overall, there were 88 responses to the consultation. As set out in the table below, of these, 19 were submitted by email, 0 by post, 66 using Citizen Space and 3 via social media. While this summarises the formal responses, it is important to note that other informal responses and comments were received through the consultation events and there were many more engagements with social media posts (such as 'likes' etc.) which have not been counted in this figure and would be in addition.

<b>Method</b>	<b>Number of respondents</b>
Email	19
Citizen Space	66
Post	0
Social Media	3

## **Summary of Survey Responses**

This section summarises the responses received through the Council's Citizen Space consultation portal, by email/post, via social media and within the consultation events.

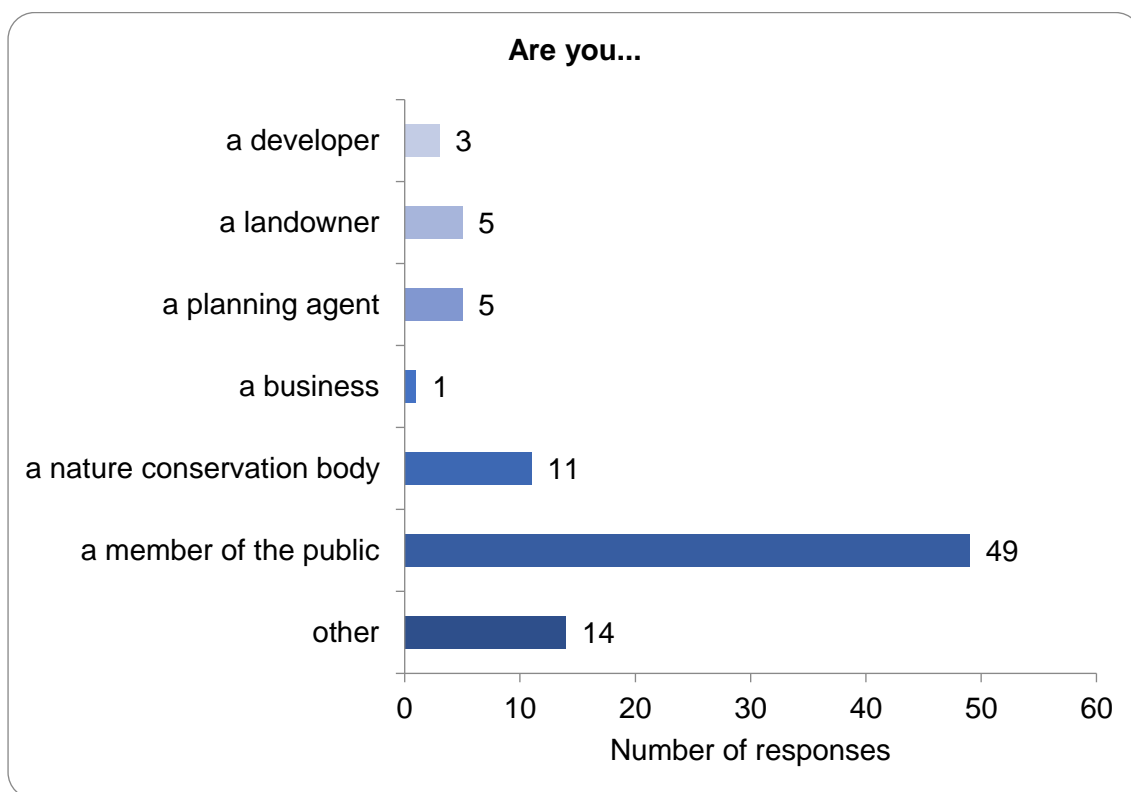
To improve quality, ease, and consistency of analysis, emailed responses were reviewed, analysed and summarised by officers, and then manually added to the consultation hub against the most appropriate survey questions. This means that the trends and data relating to the analysis of the qualitative elements of the questions below includes data from both online survey respondents and email respondents. However, emailed responses did not generally answer the questions directly which means that the analysis in relation to the quantitative elements of the questions below include data almost entirely from only those responding to the online survey.

Emailed and social media responses did not provide any equalities data.

## Respondents

Respondents via Citizen Space answered a specific question on the capacity in which they were responding to the consultation. Respondents via email tended to set out the capacity in which they were responding to the consultation, though where this was not stated or obvious then officers assume that they were being submitted as a member of the public. All three comments from social media are considered to be from members of the public.

On this basis, all 88 respondents to the consultation can be categorised as follows:



49 responses (56%) were from members of the public.

A combined 8 responses (9%) came from those identifying as developers and planning agents. Considering the target audience of the consultation this was a poor response rate from the development industry. This is likely due to the fact that BNG is known to be a national requirement with only limited places for local tailoring, and also the timing of national guidance and regulations, which were published in the final week of the consultation. Officers considered the content of the regulations and national guidance once these had been published and determined that they did not change things drastically and as such there was no need to formally extend the consultation.

11 responses (13%) came from those identifying as nature conservation bodies including:

- Natural England
- Environment Agency



- Canal and River Trust
- National Trust
- Blackdown Hills National Landscape (AONB)
- Mendip Hills National Landscape (AONB)
- East Bridgwater Urban Wildlife Group
- Somerset Badger Group
- The Friends of Easthill Field
- Bumblebee Conservation Trust
- Curry Woods Conservation Trust

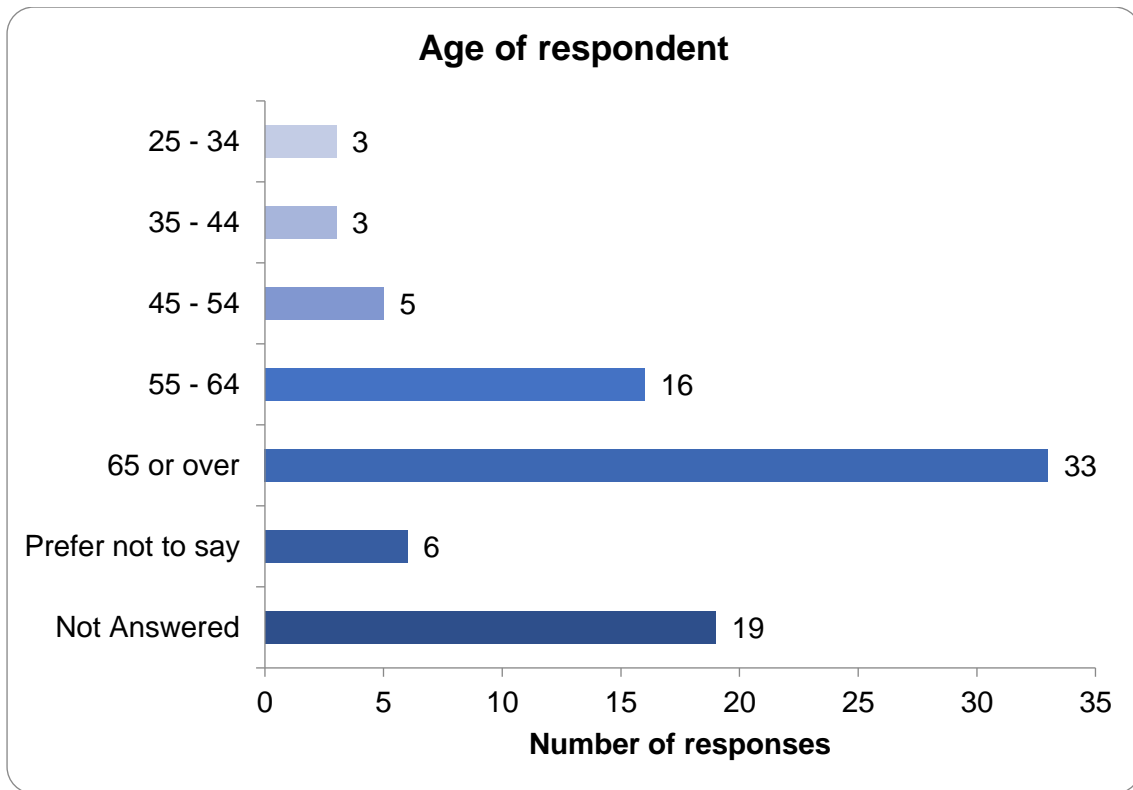
14 responses (16%) came from those identifying as 'other' including:

- Historic England
- The Coal Authority
- The Home Builders Federation (which may be seen as boosting the development industry response up to 10%)
- CPRE
- Quantock Hills National Landscape (AONB) (who may be seen as boosting the nature conservation bodies response up to 14%)
- Mendip Hills National Landscape (AONB) (completed by a different officer to that identified under nature conservation bodies and which may be seen as boosting the nature conservation bodies response further up to 15%)
- Town and parish councils including Curry Rivel, Norton St Philip, Street, Frome and West Monkton)
- Gloucestershire County Council (minerals and waste planning policy team)
- GE Consulting (which may be seen as boosting the businesses response up to 2%), and
- A former parish councillor (which may be seen as boosting the member of the public response up to 57%)

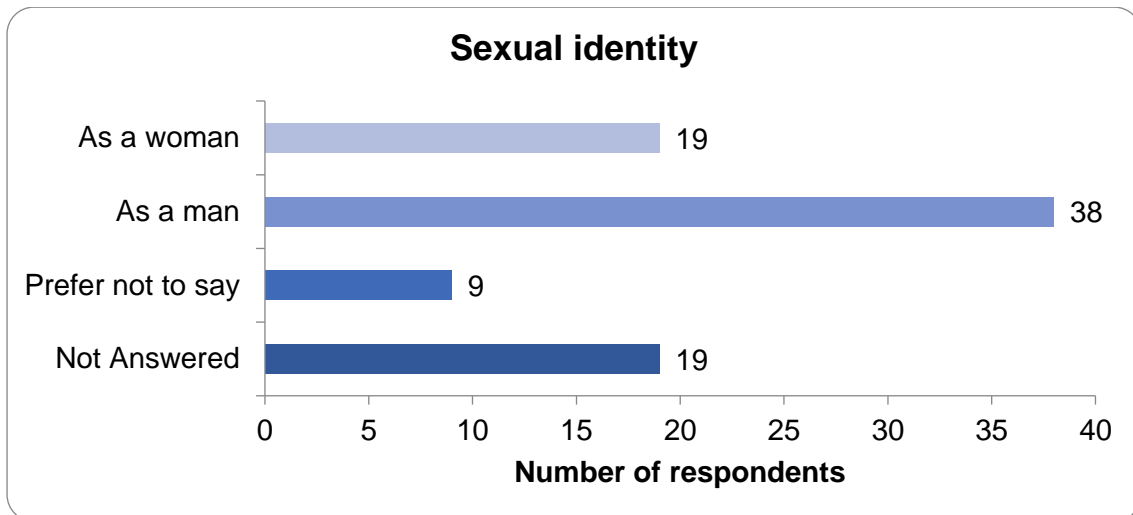
5 responses (6%) came from those identifying as landowners, and 1 response (1%) came from those identifying as businesses.

Respondents answering the survey directly via Citizen Space provided responses to three equalities questions. Respondents via email and social media did not provide responses here.

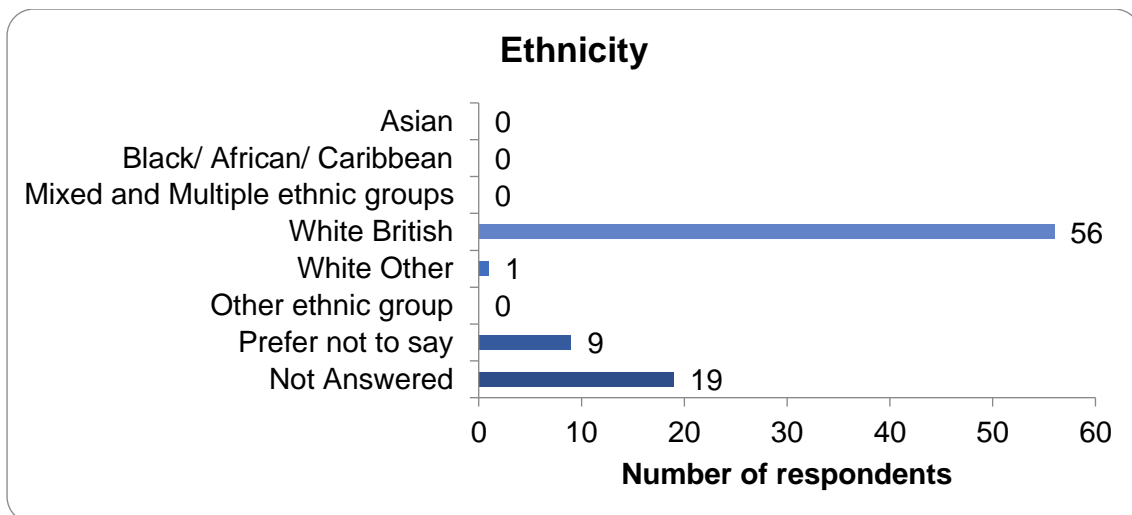
Of the 66 respondents via Citizen Space, there was an older age profile from those who responded with their age (60 respondents). Of those 60 respondents, 55% identified as 65 or older, 27% aged 55-64, 8% aged 45-54, 5% aged 35-44 and 5% aged 25-34, no-one identified as being under 25 years of age. This is a significantly older age profile than for Somerset as a whole.



Of the 66 respondents via Citizen Space, the majority identified as a man (58%), with 28% identifying as a woman, and 14% preferring not to say and no-one identifying in some other way. This is not representative of the wider Somerset population.



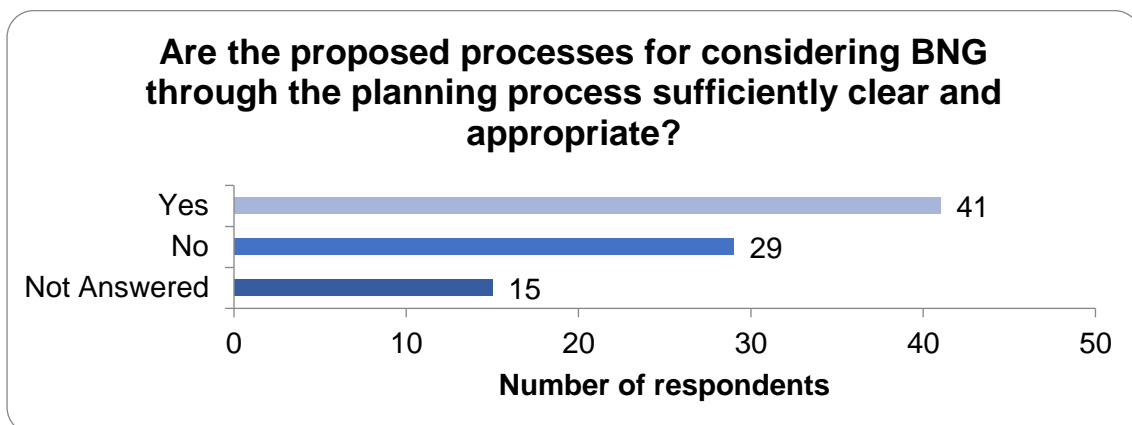
Of the 66 respondents via Citizen Space, the vast majority (85%) identified as White British, with 2% identifying as White Other, and 14% preferring not to say. No-one identified as Asian, Black/ African/ Caribbean, Mixed and Multiple ethnic groups, or as other ethnic group. This is not representative of the wider Somerset population.



The sample of respondents to the survey cannot therefore be said to be representative of the Somerset population in age, sexual identity or ethnicity. However, given the scope of the Guidance Note, and the purpose, scope and primary stakeholders of the consultation (development industry, nature conservation bodies and specific stakeholders rather than the general public) this is not considered in this case to invalidate the results.

### ***BNG planning processes***

Q – Are the proposed processes for considering BNG through the planning process sufficiently clear and appropriate?



Of the 85 respondents to the consultation, 70 people answered this question directly. Of the 70 direct responses to the question, 59% said that “yes”, the proposed processes were sufficiently clear and appropriate, with the other 41% saying “no” they were not.

Some of the emailed responses gave a clear answer to the question and so contributed to the “yes” or “no” quantitative elements above, others were less explicit and so were recorded as “not answered”.

A total of 43 respondents made comments in relation to this question. Key comments focused around:

- Hard for general public to understand / complicated;
- Costly;
- May need to update and reconsult post Regulations;
- Amend definition of competent person;
- Concern LPA won't have resources to deliver;
- Clarity needed re monitoring and enforcement;
- Only works with effective monitoring and enforcement;
- Should apply to more types of development;
- Climate change considerations need to figure more in decision making;
- Don't go beyond policy / national requirements;
- No ecologist currently on the Quality Review Panel (QRP)

Comments raised a range of other points as well. The full range of groupings are as follows:

- Application to works outside of planning system – 1
- Apply mitigation hierarchy locally important species/habitats/ LWS too – 1
- Are the additional time requirements know? - 1
- Avoidance tactics will used – 2
- Climate change considerations need to figure more in decision making – 2
- Complicated – 5
- Costly – 4
- Definition of competent person – 3
- Disproportionate – 1
- Don't go beyond policy / legislative requirements – 2
- Enforcement – 5
  - System only works if sufficient resource to and willing to enforce
  - How will breaches be enforced if in another county?
  - Too many ways to wriggle out?
  - Include what happens if contraventions or diversion from plans in flow chart
- Enhanced duty in relation to National Landscapes – 1
- Flow diagram layout cramped – 1
- Hard for general public to understand – 9
- Identify consequences of not adhering to agreements inflow chart – 1
- Levy local tariff instead – 1
- Local group/community engagement needs to be facilitated early in process – 1
- Minerals development requires pragmatic approach – 1
- Monitoring – 5
  - Needs to be thorough, regular and enforceable
  - How will the Council monitor that actually happens, especially if delivered in another county?
  - Monitoring calculations will be complex, how rigorous will monitoring be?

- HMMP should only be required for significant gains
  - Monitoring should be paid for by application fees
- Need a masterplan for increasing biodiversity – 3
- Need acronym definitions set out – 1
- Needs to apply to all applications – 3
- No ecologist on QRP – 1
- Off site delivered pre commencement – 1
- Relationship with other environmental requirements (mitigation/compensation for protected species/sites) – 1
- Resources to deliver – 3
  - Concerned insufficient staffing resource to cope
  - Metric should be assessed, verified and monitored in-house, not rely on consultancy
- Response doesn't answer the question – 2
- SHEP should be reviewed and subject to own consultation before adoption – 1
- Stronger language -e.g. "no impact" replace "avoid" - 2
- Support – 1
- Timing of enhancements – 2
- Updates and reconsultation – 6
- Use Defra Magic – 1

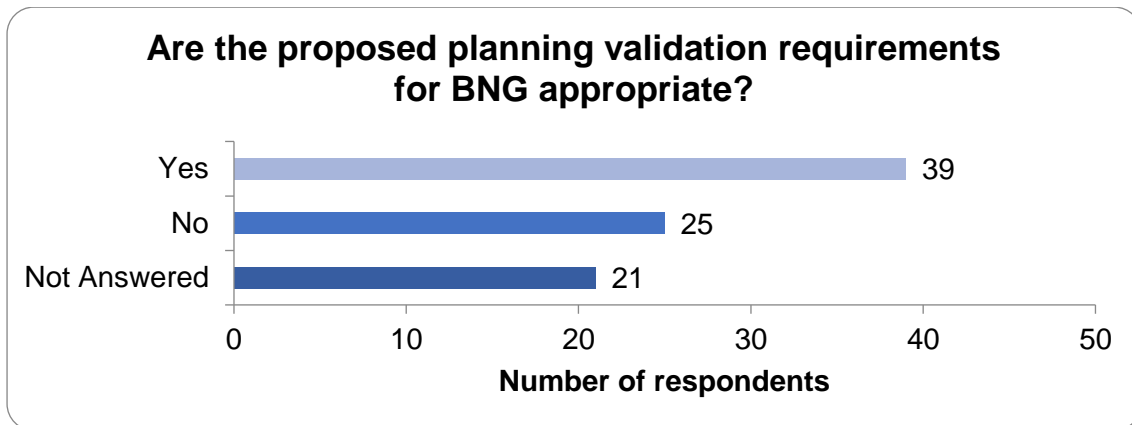
#### Planning processes conclusion

In conclusion, whilst respondents tended to feel that the proposed planning processes were sufficiently clear and appropriate, there were a sizeable number of people who felt that it was not so, and was complicated and difficult to understand. This is likely predominantly a product of the national requirements and subject matter more generally which is by its nature complex and technical. Even so, it highlights the need for an easier to digest, non-technical summary of how the planning processes will work.

A number of specific comments, identified under the 'key comments' bullet points above, raise important points around relationship with the BNG Regulations / national requirements, definition of a 'competent person', resourcing and monitoring and enforcement. These points are responded to more fully in the "You said, we did" section of this report.



Q – Are the proposed planning validation requirements for BNG appropriate?



Of the 85 respondents to the consultation, 64 people answered this question directly. Of the 64 direct responses to the question, 61% said that “yes”, the proposed validation requirements were appropriate, with the other 39% saying “no” they were not.

Some of the emailed responses gave a clear answer to the question and so contributed to the “yes” or “no” quantitative elements above, others were less explicit and so were recorded as “not answered”.

A total of 31 respondents made comments in relation to this question. Key comments focused around:

- Hard for general public to understand;
- Concern LPA won’t have resources to deliver;
- Should apply to more types of development;
- Concern will end up as a tick box exercise;
- Increased cost to developers, impact housing delivery;
- Questioning need and ability to submit GIS data;
- Too onerous/bureaucratic

Comments raised a range of other points as well. The full range of groupings are as follows:

- BNG Statement (Can BNG Statement be part of the Ecological Impact Assessment or need to be a standalone document?)- 1
- Climate change considerations need to figure more in decision making – 2
- Complicated – 4
- Concern over resources to implement – 4
- Concern will all end up as tick box exercise – 3
- Data – 3
  - Where survey results include protected species, it must be mandatory to supply the data to SERC, with proof of reporting included in the checklist
  - Is GIS shapefile data really necessary?
  - Can planning portal accept GIS data?

- Hard for general public to understand – 8
- Higher % for development in National Landscapes – 1
- Increased cost to developers – 3
- Irreplaceable habitats – 2
  - Avoid
  - Definition of irreplaceable habitat should be extended to include calcareous and floodplain grasslands and (due to North Somerset & Mendip Bats SAC), grazed grasslands within SAC consultation zones (at least zones A&B)
- Links not working (biodiversity checklist) – 1
- Need a masterplan for increasing biodiversity – 1
- Needs to apply to all applications – 4
- Small Sites Metric (Shouldn't be mandatory, can use full)- 1
- Too bureaucratic – 1
- Too onerous – 1
- Viable phosphate credit concerns (only taking viable operations out of use should be able to generate phosphate credits and BNG) – 1
- Watercourse units (watercourses include canal network and require baseline of that watercourse and net gain in them)- 1
- What are the difference applied to mineral and waste? – 1
- Will impact housing delivery – 2

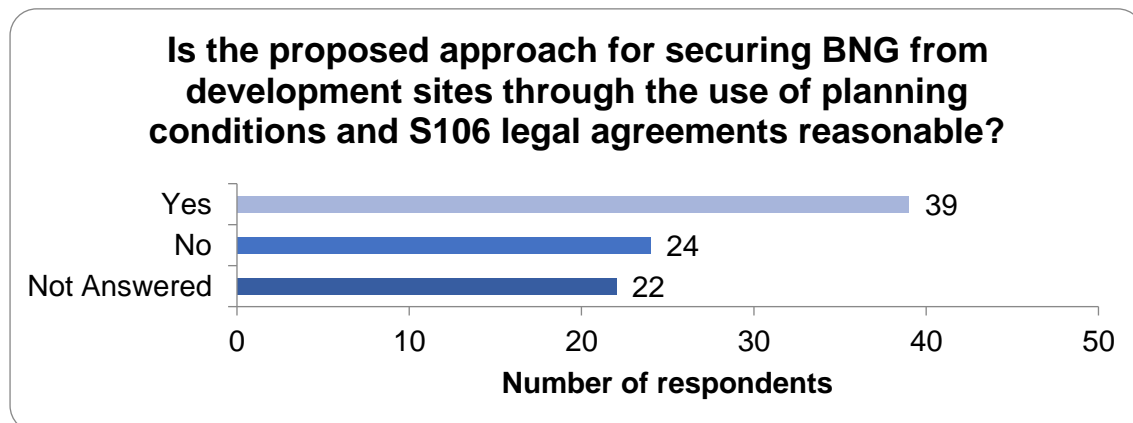
#### Validation requirements – conclusion

In conclusion, whilst respondents tended to feel that the proposed validation requirements were appropriate, there were some specific ways that they could be clarified and reasonably revised. Of most importance will be ensuring that the local validation requirements are consistent with national guidance on the matter and adequately justify why additional information is required at validation where necessary.

As above, a sizeable number of people felt the validation requirements were complicated and difficult to understand, and others raised questions about issues which are out of the Council's scope to change with regards to the application of BNG. This, again, highlights the need for an easier to digest, non-technical summary of validation requirements.

A number of specific comments, identified under the 'key comments' bullet points above, raise important points around impacts on development and justification for additional information. These points are responded to more fully in the "You said, we did" section of this report.

Q – Is the proposed approach for securing BNG from development sites through the use of planning conditions and S106 legal agreements reasonable?



Of the 85 respondents to the consultation, 63 people answered this question directly. Of the 63 direct responses to the question, 62% said that “yes”, the proposed approach was reasonable, with the other 38% saying “no” it was not.

None of the emailed responses gave a clear answer to the question and so none of them contributed to the “yes” or “no” quantitative elements above, and instead were all recorded as “not answered”.

A total of 31 respondents made comments in relation to this question. Key comments focused around:

- Hard for general public to understand;
- Complicated – need simpler approach for small developers;
- How will general NPPF gains be secured?;
- Need clear definition of what is “significant”;
- Is S106 required for off-site when habitat bank is already secured by its own S106?
- Should be securing beyond 30 years;
- BNG should all be on-site;
- Enforcement key;
- Need independent ecologist to review submitted metrics;

Comments raised a range of other points as well. The full range of groupings are as follows:

- Alternative to conservation covenants (required) - 1
- Climate change considerations need to figure more in decision making – 1
- Complicated (inc. need simpler approach for small developers) – 3
- Conditions vs S106 (Can’t permissions use condition if the habitat bank is secured by S106?) – 1
- Costly – 1
- Definition of significant – 1
- Enforcement – 3
  - What if fail to deliver on obligation?



- No evidence Council has appetite to enforce at the moment
- Funding management of sites (need to clearly state that this will be secured from developers) – 1
- Hard for general public to understand – 9
- Independent ecologist should review, paid for by the developer but not in their employ – 2
- Levelling Up & Regeneration Act intention to replace S106 (what's the contingency?) – 2
- Liability for maintaining third party BNG sites (and who pays the monitoring fee related to this?) – 1
- Must be on-site and BNG delivery ensured – 4
- Need to identify adequate resources to deliver effectively – 1
- Needs to apply to all applications – 1
- Needs to be stricter (e.g. higher than 10%) – 3
- On-site high risk – 1
- Secondary legislation inclusion (review against) – 1
- Securing beyond 30 years – 3
- Securing general NPPF gains (will bat/bird boxes be allowed for this, is off-site required for this?) – 1
- Template approach may miss specifics of the site – 2
- Timing of enhancements (early, so not forgotten) – 1
- Timing of monitoring fee payment (clarity needed) – 1
- Too bureaucratic – 2

#### Securing BNG – conclusions

In conclusion, whilst respondents tended to feel that the proposed approach to securing BNG was reasonable, there were some particularly pertinent points raised around how specific aspects of the securing process might work. In many cases, the Government's publication of Regulations and national guidance have helped to answer questions of how these aspects will work.

As above, a sizeable number of people felt the approach for securing BNG was complicated and difficult to understand, and others raised questions about issues which are out of the Council's scope to change with regards to the application of BNG. This, again, highlights the need for an easier to digest, non-technical summary of the approach.

A number of specific comments, identified under the 'key comments' bullet points above, raise important points around the relationship with off-site solutions, beyond the 30 years requirement and general NPPF gains. These points are responded to more fully in the "You said, we did" section of this report.

## ***Tailoring BNG to Somerset***

### *Q – How do you feel about each of the proposed Somerset BNG Principles?*

Respondents provided separate responses to each of the six Principles and then had the opportunity to make comments in relation to their answers. The responses specific to each Principle are discussed further, below.

A total of 16 respondents made general comments not related to any one principle in particular. Key comments focused around:

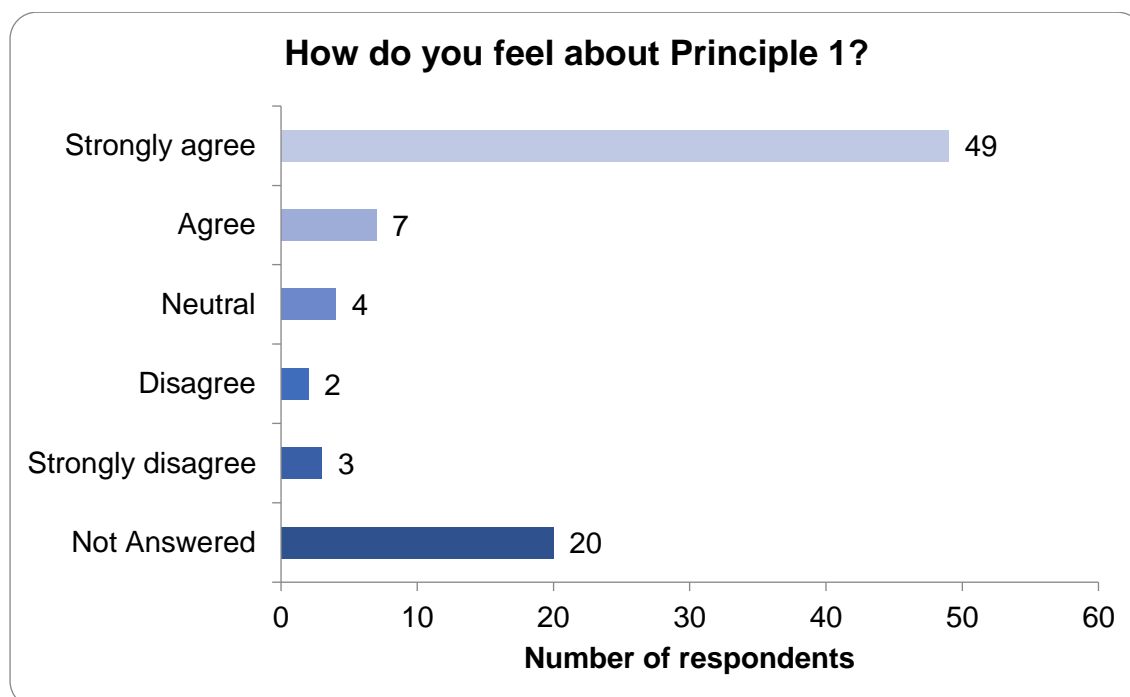
- Good / useful / adds value / great;
- Integrated approach, not a bolt on – should apply to all developments;
- Urban / brownfield first so as to minimise damage;
- Go beyond requiring proposals to “be informed by” / “respond to” the principles;
- Will hamper / reduce opportunities for development;
- Use principles to add detail;
- On-site or very local only ways to deliver benefits to local people, nature and create attractive places.

Comments raised a range of other general points as well. The full range of groupings are as follows:

- Can't disagree with any, all good
- Development in rural areas maximises environmental damage.
- If off-site isn't very local then does not benefit the local community
- Will hamper and reduce opportunities for development
- Need to apply to all developments
- Not enough or soon enough
- Great if they work
- Brownfield development first so as not to encroach on nature
- Concerned won't have resources to check developers
- Conservation and regeneration should be legal requirement
- Integrated approach, not a bolt on.
- 'Other neutral grassland' as a habitat type is very vague, could encompass wide range of habitats containing grass – not necessarily flower rich or beneficial to pollinators. Needs more detail
- Unfortunately only recommends adhering to the principles / go beyond 'informed by/respond to'.
- Need to link principles with emerging legislation
- Useful, adds value
- On-site can lead to mental/physical health benefits – connection to nature and creating attractive places

A total of 2 respondents made comments which did not seem to be related to the principles.

### Principle 1 – Consider biodiversity early on in site selection and design



Of the 85 respondents to the consultation, 65 people answered this question directly. Of the 65 direct responses to the question, 75% strongly agreed, 11% agreed, 6% were neutral, 3% disagreed, and 5% strongly disagreed. This equates to an 86% positive sentiment in responses.

None of the emailed responses gave a clear answer to the question and so none of them contributed to the quantitative elements above, and instead were all recorded as “not answered”.

A total of 7 respondents made comments in relation to Principle 1. Key comments focused around:

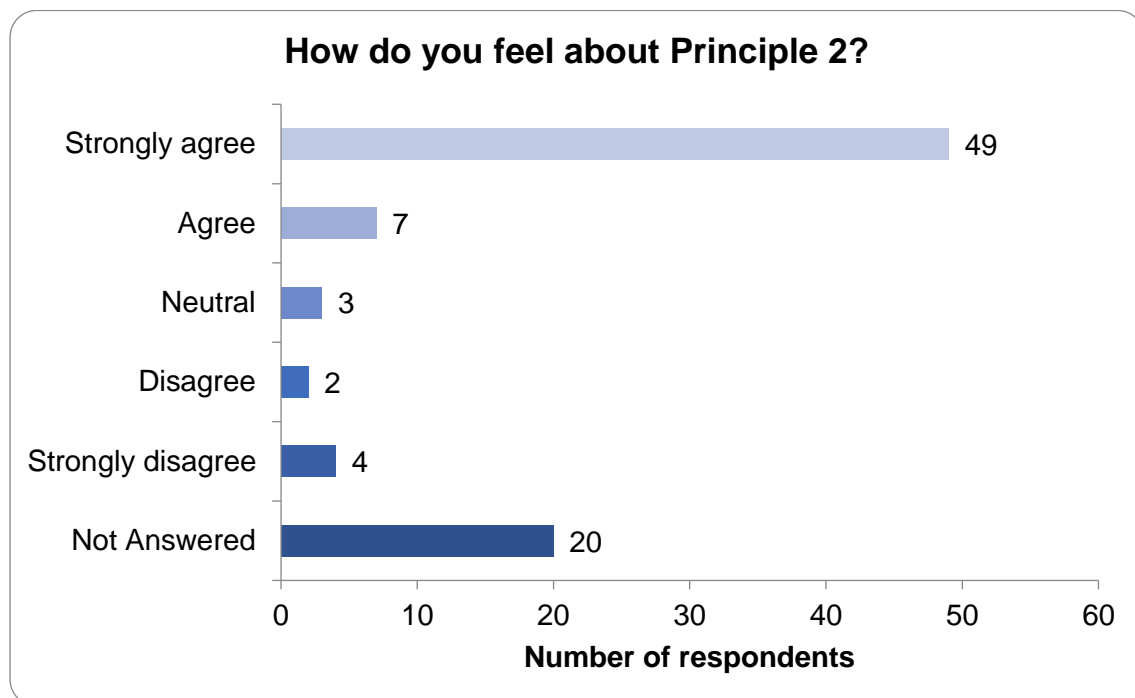
- Greater emphasis needed on avoiding degradation;
- BNG mustn't become get out via offset;
- Principles 1 & 2 highest priority and inform approval/rejection
- Link with justification on mitigating climate change
- Retain existing trees, shrubs and hedges

Comments raised a range of other points as well. The full range of groupings are as follows:

- Not enough emphasis on ensuring no degradation of biodiversity in the pre-application stage, thus lowering the baseline for determining how much gain needs to be achieved.
- Biodiversity not given greatest weight in battling climate change.
- BNG mustn't become get out as can offset impacts.

- 1 & 2 are highest priority and should form basis of whether development is approved or rejected.
- Link with wider justification of how proposals mitigate climate change
- Existing trees/shrubs/hedges should remain as sacrosanct, fines if removed.
- Integrated approach from the start is essential using these parameters – not a bolt on

Principle 2 – Pay special attention to habitat retention, compensation and connectivity



Of the 85 respondents to the consultation, 65 people answered this question directly. Of the 65 direct responses to the question, 75% strongly agreed, 11% agreed, 5% were neutral, 3% disagreed, and 6% strongly disagreed. This equates to an 86% positive sentiment in responses.

None of the emailed responses gave a clear answer to the question and so none of them contributed to the quantitative elements above, and instead were all recorded as “not answered”.

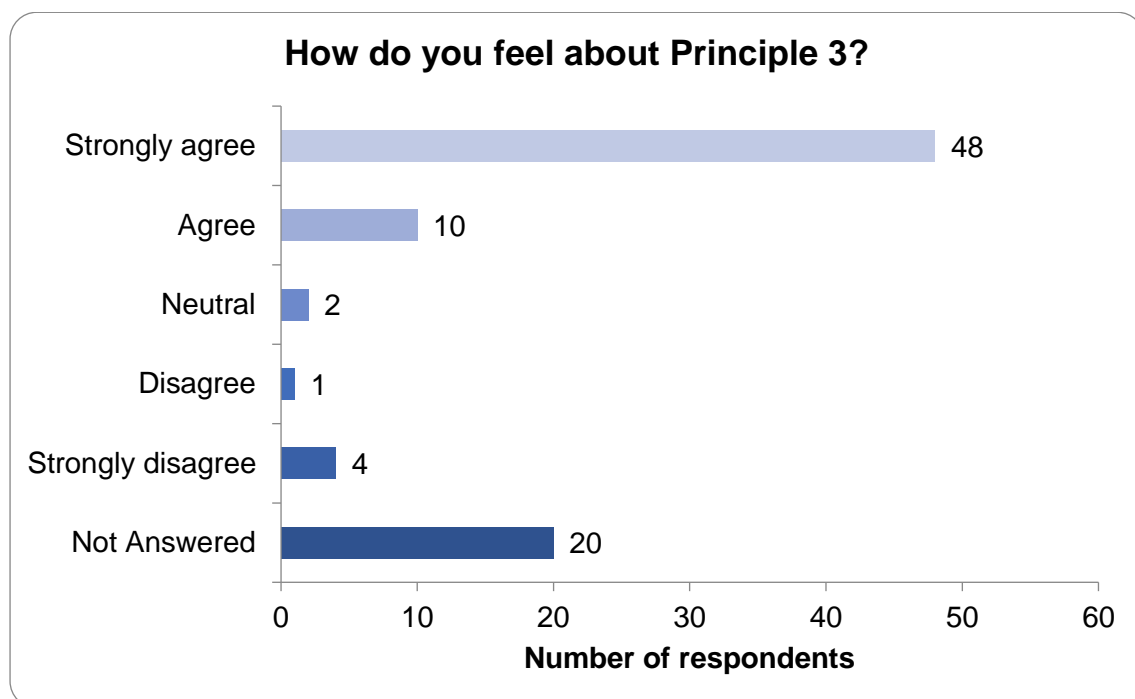
A total of 5 respondents made comments in relation to Principle 2. Key comments focused around:

- Engage specialists for management of high distinctiveness on-site BNG;
- Remove phrases like “wherever possible”;
- Principles 1 & 2 highest priority and inform approval/rejection;
- Retention and connectivity need greater weight;
- Need to condition on-site measures to prevent occupiers removing/changing.

Comments raised a range of other points as well. The full range of groupings are as follows:

- Include engagement of specialists for management of high distinctiveness on-site BNG as per section 10.15
- Delete “wherever possible” from reference to fertiliser etc.
- 1 & 2 are highest priority and should form basis of whether development is approved or rejected.
- Retention and connectivity should have greater weight
- Need to condition any additional on-site BNG from open-sided car ports or bee/swift bricks to prevent occupiers removing/changing.

Principle 3 – Respond to heritage and landscape opportunities from the start



Of the 85 respondents to the consultation, 65 people answered this question directly. Of the 65 direct responses to the question, 74% strongly agreed, 15% agreed, 3% were neutral, 2% disagreed, and 6% strongly disagreed. This equates to an 89% positive sentiment in responses.

One of the emailed responses gave a clear answer to the question and so contributed to the quantitative elements above, others were not and so were recorded as “not answered”.

A total of 4 respondents made comments in relation to Principle 3. Key comments focused around:

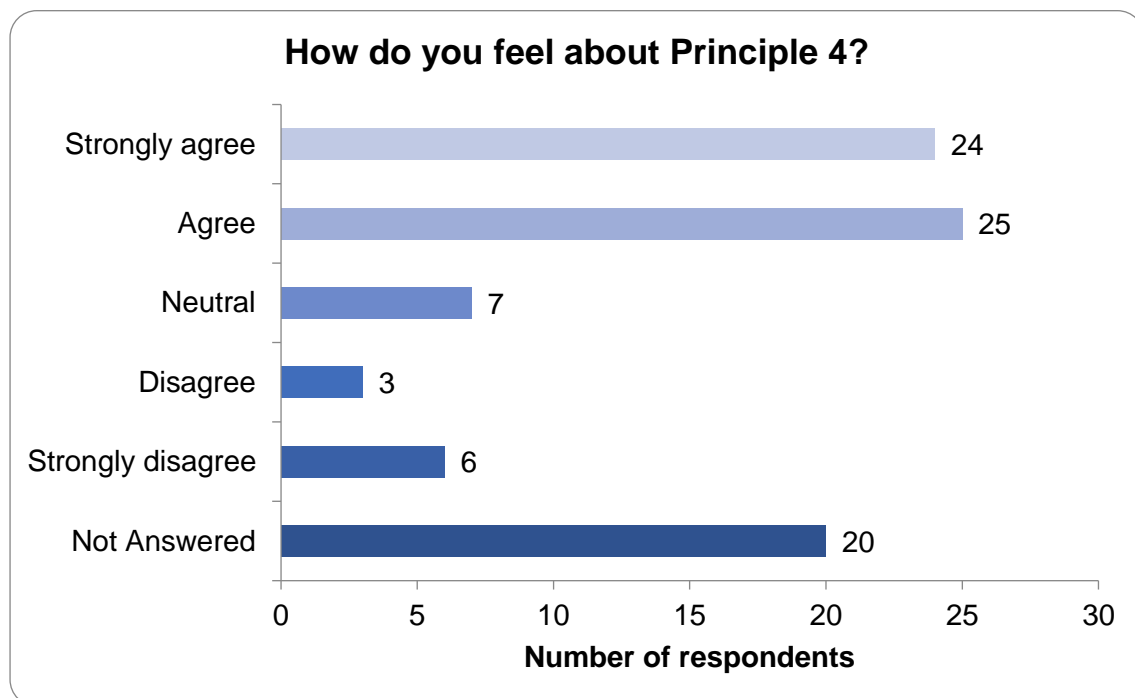
- Greater emphasis on distinctive character of protected landscapes and value of alignment with National Landscape (AONB) Management Plans etc.

- Prevent unsuitable lighting of landscape and wildlife;
- Remove phrases like “otherwise endeavour to”;
- Involve conservation and archaeology advisors;

Comments raised a range of other points as well. The full range of groupings are as follows:

- Delete “otherwise endeavour to” from reference to nesting and roosting capabilities
- Prevent unsuitable lighting to detriment of landscape and wildlife.
- Welcome inclusion of principle 3 and recommend that you involve your local authority conservation and archaeology advisers
- Refer to additional weight afforded to ‘distinctive character of the built and natural setting of the development and the wider landscape character’ in protected landscapes. Add reference to NL Management Plans (LCAs not consistent, comprehensive or up to date across Somerset). Also ref in para 2.51

Principle 4 – Enable and deliver appropriate multi-functionality and recreation

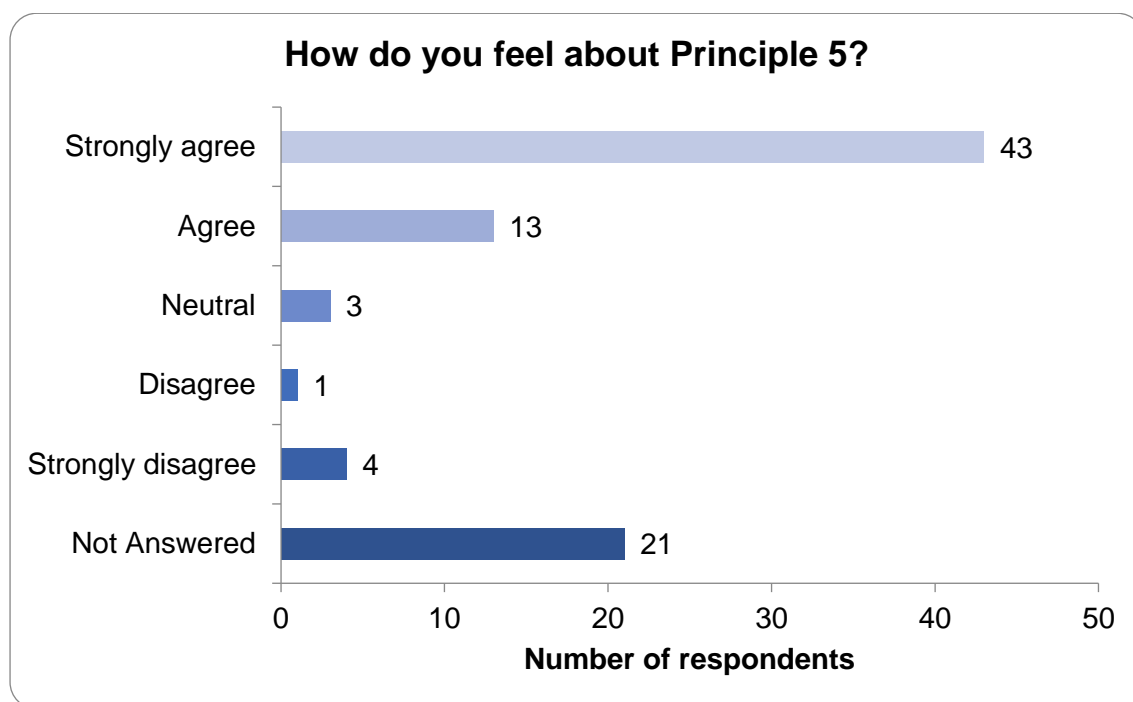


Of the 85 respondents to the consultation, 65 people answered this question directly. Of the 65 direct responses to the question, 37% strongly agreed, 38% agreed, 11% were neutral, 5% disagreed, and 9% strongly disagreed. This equates to a 75% positive sentiment in responses.

None of the emailed responses gave a clear answer to the question and so none of them contributed to the quantitative elements above, and instead were all recorded as “not answered”.

No respondents made any comments in relation to Principle 4.

### Principle 5 – Build climate resilience through green and blue infrastructure



Of the 85 respondents to the consultation, 64 people answered this question directly. Of the 64 direct responses to the question, 67% strongly agreed, 20% agreed, 5% were neutral, 2% disagreed, and 6% strongly disagreed. This equates to an 88% positive sentiment in responses.

None of the emailed responses gave a clear answer to the question and so none of them contributed to the quantitative elements above, and instead were all recorded as “not answered”.

A total of 7 respondents made comments in relation to Principle 5. Key comments focused around:

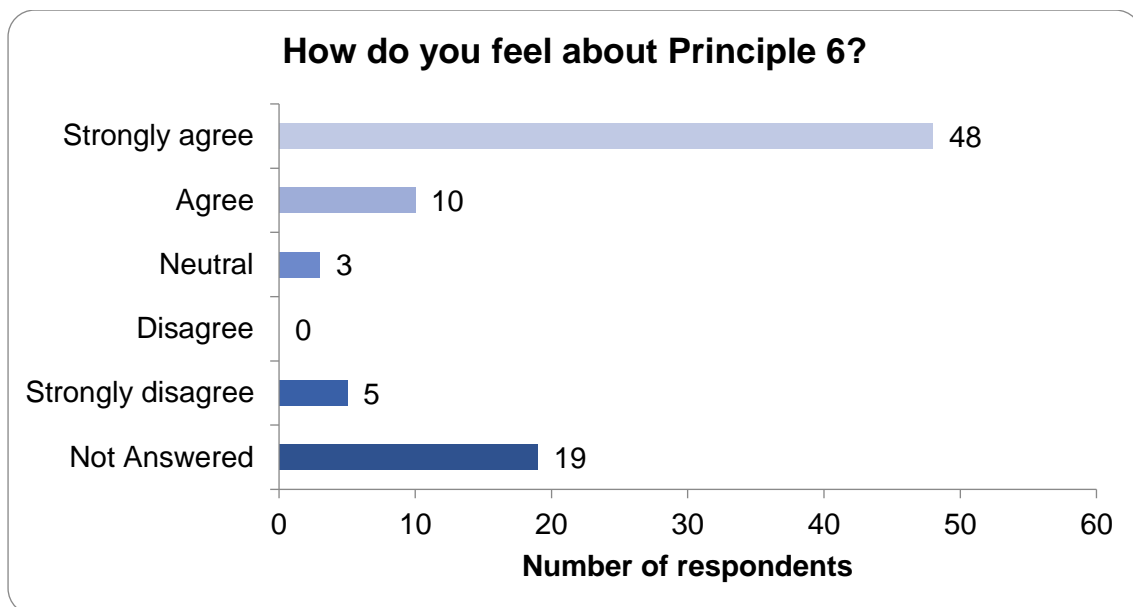
- Plan for long term adaptation to inevitable climate change;
- Plan for blue infrastructure on a catchment-wide basis;
- Natural filtration should be an instruction and linked with points on SUDS;
- Pay attention to hard surfaces to stop excess run offs / protect water courses from nitrates/phosphorates;
- Promote resilience, sustainability and wellbeing in the community;
- Ensure most appropriate infrastructure for the area is incorporated and maintained.

Comments raised a range of other points as well. The full range of groupings are as follows:

- Don't understand this principle

- Plan for long term adaptation to inevitable climate change
- Plan for blue infrastructure on a catchment-wide basis. Not all nature-based solutions are effective and impacts of climate change may change things.
- Point re natural filtration should be an instruction and linked with points on SUDS
- Pay attention to hard surfaces to stop excess run offs / protect water courses from nitrates/phosphorates
- Principle 5 has particular significance in promoting resilience, sustainability and wellbeing in the community
- work with local officers (planning/resilience/tree etc) to ensure the most appropriate infrastructure for the area is incorporated and will be maintained.

Principle 6 – Ensure all proposals are realistic, deliverable, and unlikely to fail



Of the 85 respondents to the consultation, 66 people answered this question directly. Of the 66 direct responses to the question, 73% strongly agreed, 15% agreed, 4% were neutral, 0% disagreed, and 8% strongly disagreed. This equates to an 88% positive sentiment in responses.

One of the emailed responses gave a clear answer to the question and so contributed to the quantitative elements above, others were not and so were recorded as “not answered”.

A total of 11 respondents made comments in relation to Principle 6. Key comments focused around:

- Must be strongly enforced and achievable;
- Future iterations should be informed by failed proposals;
- Work with wildlife groups to educate on wildlife friendly management;
- Use SMART targets;



- Encourage connectivity through developments;
- 'Relatively simple, robust and low maintenance habitats' risks homogenous habitats – 'In keeping with the locality' better?;
- 'Other neutral grassland' very vague, wide range of habitats not necessarily beneficial to pollinators;
- Support more imaginative projects even if slightly unrealistic;
- Reference to gardens not being able to be relied upon is not consistent with national guidance – they can be counted.

Comments raised a range of other points as well. The full range of groupings are as follows:

- Must be strongly enforced and achievable
- Sites often promise much more than they deliver and nobody seems willing or able to police conformity
- Future iterations of BNG strategy should be informed by lessons learned from failed proposals
- habitats, species, ecosystems generally require management and must be secured in any agreement.
- SMART targets are an invaluable tool.
- Work with wildlife outreach groups to increase education about wildlife friendly management.
- Encourage connectivity through residential sites, particularly gardens
- What are 'relatively simple, robust and low maintenance habitats'? – risk steering to homogenous habitats across an area? 'In keeping with the locality' would be better. If developer can't afford to maintain best fit habitat for locality, they can't afford to develop the site.
- 'Other neutral grassland' is very vague, could encompass wide range of habitats containing grass not necessarily beneficial to pollinators, more detail needed.
- more imaginative projects should be fully supported no matter being slightly unrealistic
- All-too-numerous examples of the failure of newly-planted trees, and the failure to implement the agreed maintenance plans for SUDS infrastructure.
- Reference to gardens not being able to be relied upon under Principle 6 is not consistent with national guidance – they can be counted and scoring caveated accordingly.

#### Somerset BNG Principles – conclusions

The Somerset BNG Principles generated overwhelming levels of support, with the positive sentiment for all principles being between 75% and 89%. Comments received generally identified ways that the principles could be improved through additional explanation within the supporting guidance text.

A number of specific comments, identified under the 'key comments' bullet points above, raise important points in relation to each principle and more generally. These points are responded to more fully in the "You said, we did" section of this report.

Q – Are there any other Principles you think should be identified?

A total of 35 respondents made comments suggesting other principles which could be identified. Key comments focused around:

- Carbon footprint consideration of maintenance activities, methane from wetlands etc.;
- Alignment with climate change considerations;
- Consider all nature and species, not just those protected;
- Greater consideration on impact on surrounding biodiversity / respond to local species records;
- Pay greater attention to habitat condition alongside extent;
- Greater consideration of light pollution;
- Engage with local groups / community early in the process;
- Avoid use of plastic grass;
- Consider minimum outdoor space standards;
- Refer to pre-app and other permissions / licences from other bodies;
- Wellbeing intrinsically linked to loss of nature.

Comments raised a range of other points as well. The full range of groupings are as follows:

- Aim for more than 10% BNG – 2
- AONB Management plans (refer to them) – 1
- Assessment through multiple seasons – 1
- BNG in or very close to Somerset boundary – 1
- Carbon footprint consideration (of maintenance activities and potential for methane from wetlands etc.) – 3
- Climate connections, reduce light pollution, sustainable transport – 6
- Consider all nature and species not just those protected – 2
- Drainage (cover drains to protect amphibians, hedgehogs, reptiles from drowning) – 1
- Education – programme for developers and residents on the value and positives of biodiversity & NG – 1
- Ensure any BNG is in perpetuity – 1
- For all developments including national infrastructure (should apply) – 1
- Greater consideration of the impact on surrounding Biodiversity (inc habitat types lost, connectivity, potential for improvement etc.) – 4
- Habitat condition (greater emphasis required alongside extent) – 1
- Hedgerow introduction (more needed) – 2
- Involve local artists – 1
- Lack of accredited competent Ecologist= delays (insistence on CIEEM accreditation may create backlog as not enough) – 1
- Landscape enhancement (NPPF weight re conserving/enhancing NL landscapes) – 1
- Light pollution (inc, dark skies policies and restricting householders installing intrusive lighting- 2

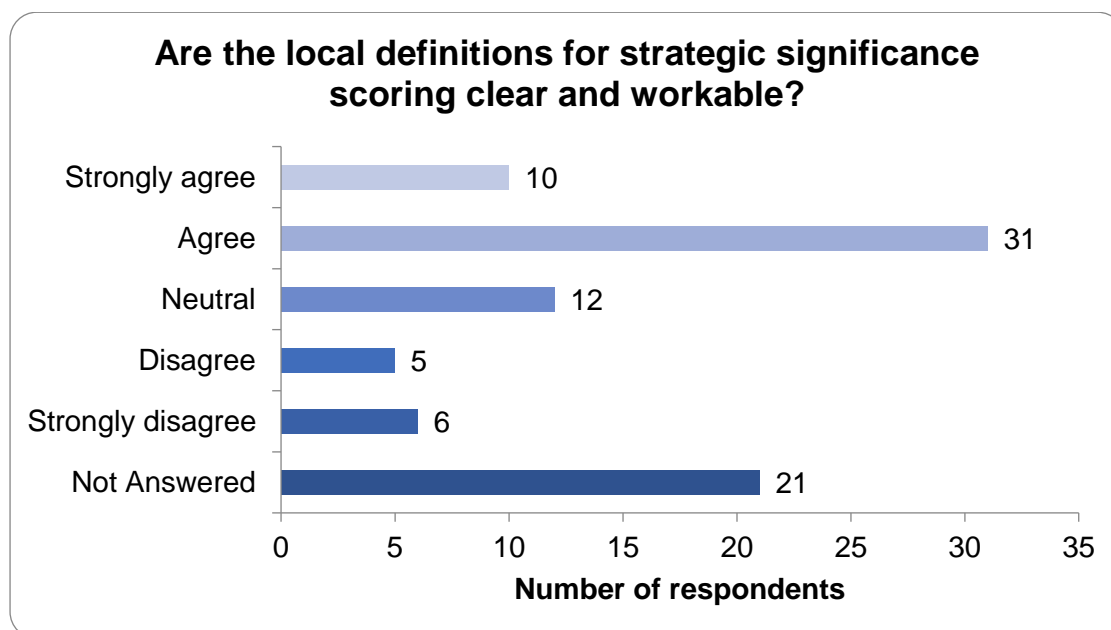
- Local group/community engagement needs to be facilitated early in process – 2
- Monitoring resources (needed) – 1
- No use of plastic grass – 1
- Not relevant to the principles – 1
- Outdoor space minimum standards (needed) – 1
- Permission refused if not on-site – 1
- Phosphates (upgrade sewage works is the answer) – 1
- Pre-app and permissions from other bodies (CRT) – 1
- Reduce charges / burdens within process – 1
- Refuse if reliant on credits – 1
- Respond to species records identified locally – 4
- Rolling on-site target (30% biodiversity by 2030 (rolling 5-10 years) – 1
- Wellbeing (intrinsic link to loss of nature) – 1

#### Additional principles – conclusions

A number of prospective additional principles were identified in responses. However, in all cases, officers considered that the points being made could be better accommodated through improved reference within guidance supporting the already proposed six Somerset BNG Principles, rather than by adding specific additional principles.

A number of specific comments, identified under the 'key comments' bullet points above, raise important points in relation to each principle and more generally. These points are responded to more fully in the "You said, we did" section of this report.

#### Q – Are the local definitions for strategic significance scoring clear and workable?



Of the 85 respondents to the consultation, 64 people answered this question directly. Of the 64 direct responses to the question, 16% strongly agreed, 48% agreed, 19% were neutral, 8% disagreed, and 9% strongly disagreed. This equates to a 64% positive sentiment in responses.

Two of the emailed responses gave a clear answer to the question and so contributed to the quantitative elements above, others were not and so were recorded as “not answered”.

A total of 26 respondents made comments in relation to this question. Key comments focused around:

- Hard for general public to understand;
- Careful about how treat ‘white space’ between priority areas;
- Use the LNRS to focus;
- Language used open to interpretation;
- NHN data not reliable enough;
- Use National Landscape Management Plans / Nature Plans / NE Peat Map to supplement;
- Avoid suggesting competition between strands of sustainability;
- Careful not to dilute purpose;
- Landscape-scale projects provide good opportunities.

Comments raised a range of other points as well. The full range of groupings are as follows:

- Careful not to dilute purpose – 1
- Clarify who are the assessors – 1
- Climate change considerations need to figure more in decision making – 1
- Enhancements in ‘white space’ between priority areas (could lead to lower standard proposals / disregard in-between and hide greater need in these areas?, need to dedicate more areas to nature) – 4
- Greater focus on brownfield sites – 1
- Habitat data (NHN not reliable enough, supplement with NE peat map / support for use of NHN ahead of LNRS) – 3
- Hard for general public to understand – 7
- Include Neighbourhood Plan policies also (in Appendix 1) – 1
- Land Use Framework (significant undertaking, could delay things) – 1
- Landscape-scale projects could provide good opportunities – 2
- Language used open to interpretation (could be more specific?) – 3
- Local group/community engagement needs to be facilitated early in process – 1
- Mitigation needed for all biodiversity loss through development – 3
- National Landscape Management Plans / Nature Recovery Plans (use to supplement) – 2
- Strategically focus re LNRS – 3
- Sustainability in the round (Venn diagram and text suggest competition between objectives) – 2

- Values for specific habitats not appropriate in Metric – 1

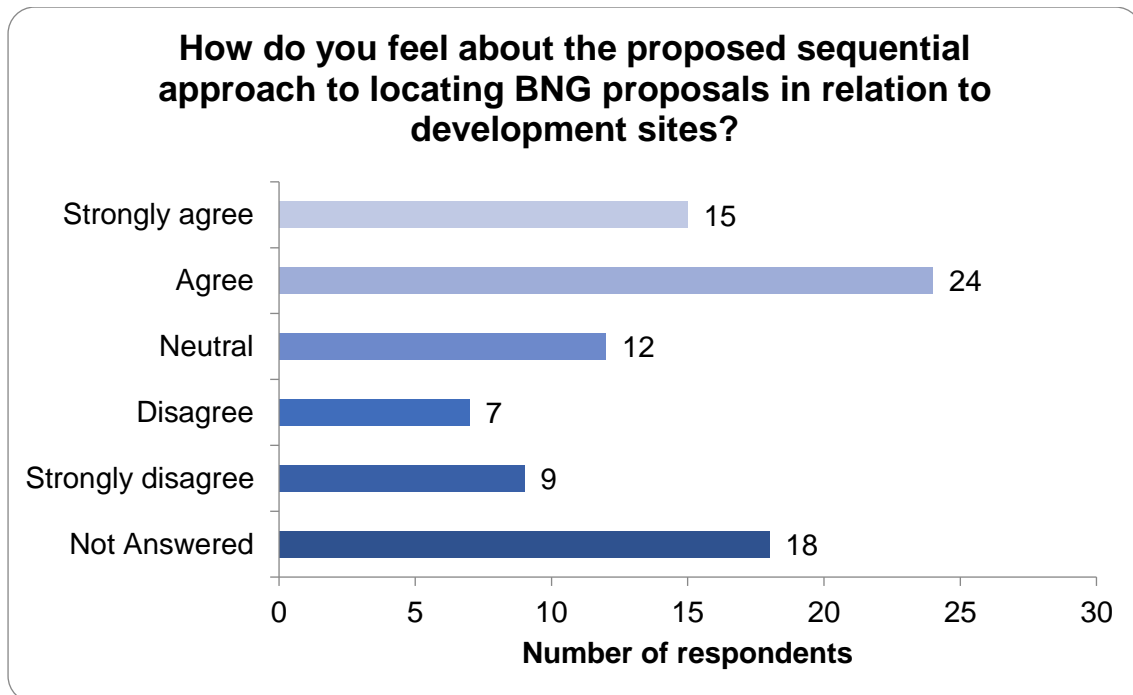
Strategic significance – conclusions

Respondents showed strong support for the local definitions of strategic significance, with a positive sentiment of 64%. Despite this, important questions were raised and ideas shared for improving things further.

As above, a sizeable number of people felt the definitions / issue was complicated and difficult to understand. This, again, highlights the need for an easier to digest, non-technical summary of the approach.

A number of specific comments, identified under the ‘key comments’ bullet points above, raise important points about how the space between high priority areas is treated, reliability of national data, other potential sources, and the importance of taking a rounded view on sustainability. These points are responded to more fully in the “You said, we did” section of this report.

Q – How do you feel about the proposed sequential approach to locating BNG proposals in relation to development sites?



Of the 85 respondents to the consultation, 67 people answered this question directly. Of the 67 direct responses to the question, 22% strongly agreed, 36% agreed, 18% were neutral, 10% disagreed, and 13% strongly disagreed. This equates to a 58% positive sentiment in responses.

Three of the emailed responses gave a clear answer to the question and so contributed to the quantitative elements above, others were not and so were recorded as “not answered”.

A total of 32 respondents made comments in relation to this question. Key comments focused around:

- Hard for general public to understand;
- On-site or near-site only;
- Should be on-site only
- Consider within Somerset related National Park or National Landscapes before other out of County solutions;
- Result in isolated pockets off-site unless link ecological networks;
- Off-site/credits are greenwashing;
- Support statutory credits as last resort only;
- Pragmatic approach welcomed;
- Clarify small sites don't have to use the SSM.

Comments raised a range of other points as well. The full range of groupings are as follows:

- Add consideration of Somerset Natural landscapes (NP, NLs) before BNG out of the County – 2
- Bureaucratic – 1
- Climate change considerations need to figure more in decision making – 2
- Compensating specific impacts e.g. on CRT waterways – 1
- Enforcement (great if it is enforced) – 1
- Ensure off-site actually delivers desired benefits – 1
- Flow diagram needed – 1
- Food security concerns – 1
- Greenwashing (credits/off-site are) – 2
- Hard for general public to understand – 4
- Isolated pockets of off site BNG (unless link with ecological networks) – 2
- Monitoring (how will compliance with the approach be monitored?) – 1
- More exacting rules needed for developments departing from Local Plan – 1
- On and Off sites equally important – 1
- On-site only – 5
- On-site or near-site only – 8
- Points contradict each other (see 5.9 and 5.12) – 1
- Pragmatic approach welcomed – 1
- Secondary guidance changes (check compliant) – 2
- Secure long-term future of BNG (post 30yrs?) – 1
- Small sites likely need to use full metric too- clarify possible – 1
- Strong justification necessary between steps – 1
- Support statutory credits as last resort only – 2
- Too little, too late – 1

### Sequential approach – conclusions

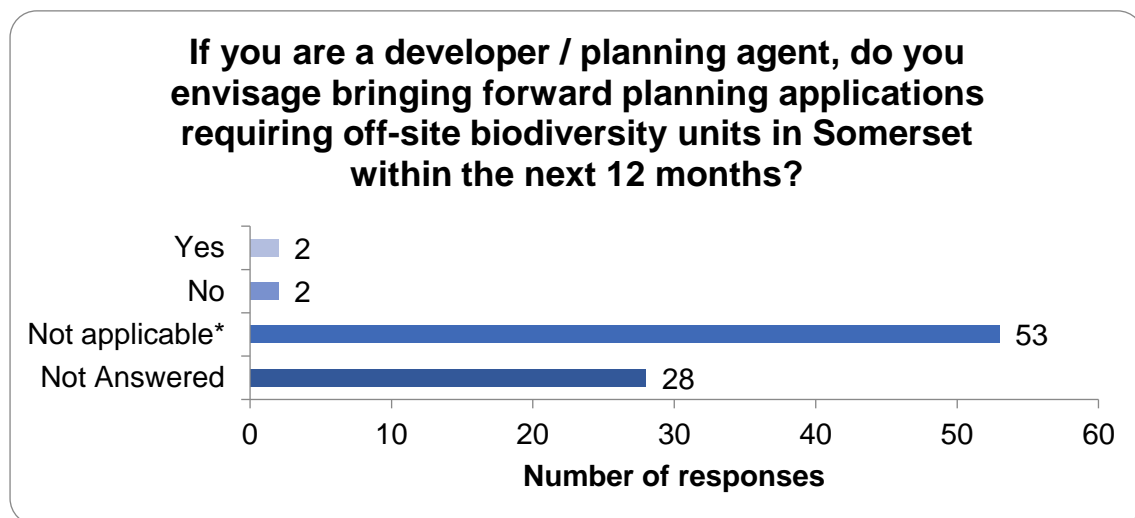
Respondents showed support for the local sequential approach, with a positive sentiment of 58%, though there was a negative sentiment of 23%. However, the majority of negative sentiment towards the approach would appear to be in relation to concern about reliance upon off-site solutions or statutory credits being allowed at all, and the scope these have for missing the primary point of BNG to leave the environment in a measurably better state than it was beforehand, and effectively becoming a means of “greenwashing”. As these are allowed in the legislation, this is beyond the scope of how the Council can influence things locally, though it does highlight a desire to maximise the local value of BNG in delivery.

As above, a sizeable number of people felt the definitions / issue was complicated and difficult to understand. This, again, highlights the need for an easier to digest, non-technical summary of the approach.

A number of specific comments, identified under the ‘key comments’ bullet points above, raise important points about the on-site/ off-site/ credits balance, and near-site solutions. These points are responded to more fully in the “You said, we did” section of this report.

### *Off-site delivery mechanisms in Somerset*

Q – If you are a developer / planning agent, do you envisage bringing forward planning applications requiring off-site biodiversity units in Somerset within the next 12 months?



Respondents who were not a developer / planning agent were asked to select “Not applicable”.

Of the 85 respondents to the consultation, 57 people answered this question directly. Of these only 4 respondents were not selecting “not applicable”, with 2 of these saying “yes” they were envisaging bringing forward planning applications requiring off-site biodiversity units within Somerset in the next 12 months, with the other 2 saying “no” they were not.

Of the 4 respondents, 2 were planning agents, 1 was a developer and the fourth was a member of the public (and so should really have selected “not applicable”).

None of the emailed responses gave a clear answer to the question and so none of them contributed to the quantitative elements above, and instead were all recorded as “not answered”.

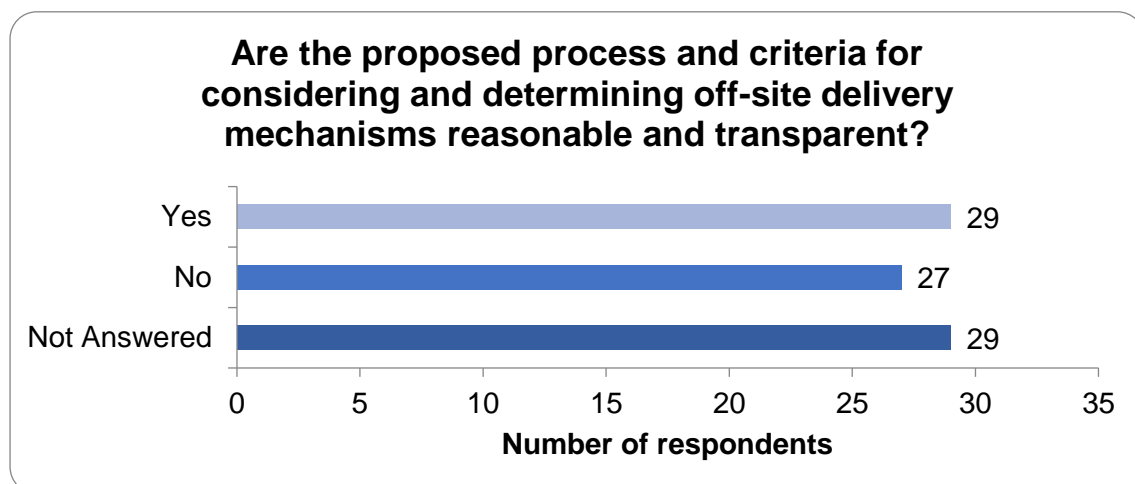
Respondents answering “yes” to this question were then given an opportunity to set out if known, broadly how many biodiversity units they were expecting to require via an off-site solution. A total of 5 respondents made comments in response, though 2 respondents made comments which did not seem to be related to the question. Key comments focused around:

- Smaller rural developments will struggle to deliver on-site, and if they have to will result in less efficient site layouts and subsequently more development sites being needed
- Not sure how many units needed

#### Demand for off-site solutions in Somerset – conclusions

Given the poor response to the consultation by the development industry, the responses to this question are fairly inconclusive. This is likely because the industry was waiting for the Government to publish the Regulations and national guidance before they were able to really engage in the topic and the question of off-site demand in particular.

#### Q – Are the proposed process and criteria for considering and determining off-site delivery mechanisms reasonable and transparent?





Of the 85 respondents to the consultation, 56 people answered this question directly. Of the 56 direct responses to the question, 52% said that “yes”, the proposed process and criteria were reasonable and transparent, with the other 48% saying “no” they were not.

Some of the emailed responses gave a clear answer to the question and so contributed to the “yes” or “no” quantitative elements above, others were less explicit and so were recorded as “not answered”.

A total of 35 respondents made comments in relation to this question. Key comments focused around:

- Off-site undermines the purpose and lets developers off the hook;
- Need to ensure habitat target quality is achieved;
- Need to ensure delivery and enforce;
- Hard for general public to understand;
- Is this really deliverable?;
- Need clarity on costs per unit;
- Could communities suggest sites?;
- Compensation must be like for like habitats;
- Timing of off-site delivery is important;
- What if a developer chooses a site that hasn't been via the call for sites?;
- If selling excess on-site units, do they have to be over 10 unit minimum in call for sites?

Comments raised a range of other points as well. The full range of groupings are as follows:

- Climate change considerations need to figure more in decision making – 1
- Community suggestions for sites (could they?) – 2
- Costly – 2
- Developers outmanoeuvre cash-strapped council – 1
- Ensure delivery / enforcement – 6
- Ensuring habitat target quality is achieved – 6
- Establish partnership with trusted partner – 1
- Facilitate stacking of nutrient neutrality and BNG – 1
- Habitat banks should be priority – 1
- Habitat compensation must be like for like habitats – 2
- Hard for general public to understand – 5
- Is it really deliverable? – 4
- Map sites to avoid double-counting – 1
- More exacting rules needed for developments departing from Local Plan – 1
- Need clarity on cost per unit – 3
- Need clarify on liabilities for off-site – 1
- Off-site should deliver more than 10% - 1
- Off-site undermines purpose and lets developers off the hook – 8
- Prioritising off-site solutions (through proximity to ecological network) – 1
- Regulation of off-site market (how will this be done?) – 1

- Routes to an overarching S106 (what if a developer wants part of what could be achieved but the site hasn't gone through the call for sites?) – 1
- S106 BNG moneys must be ring-fenced – 1
- Selling excess on-site units (what if not over 10 unit minimum for call for sites?) – 1
- Sounds difficult to incentivise landowners – 1
- Surveys required for off-site land – 1
- Timing of off-site delivery – 3
- Use documents by trusted partners to add value to off site evaluations – 2
- Use in-house ecologists – 1
- Use of Council land (should explore) – 1
- Use of nature conservation body land – 1
- What if unsuccessful (in applying to call for sites)? – 1

#### Process and criteria for considering off-site delivery mechanisms – conclusions

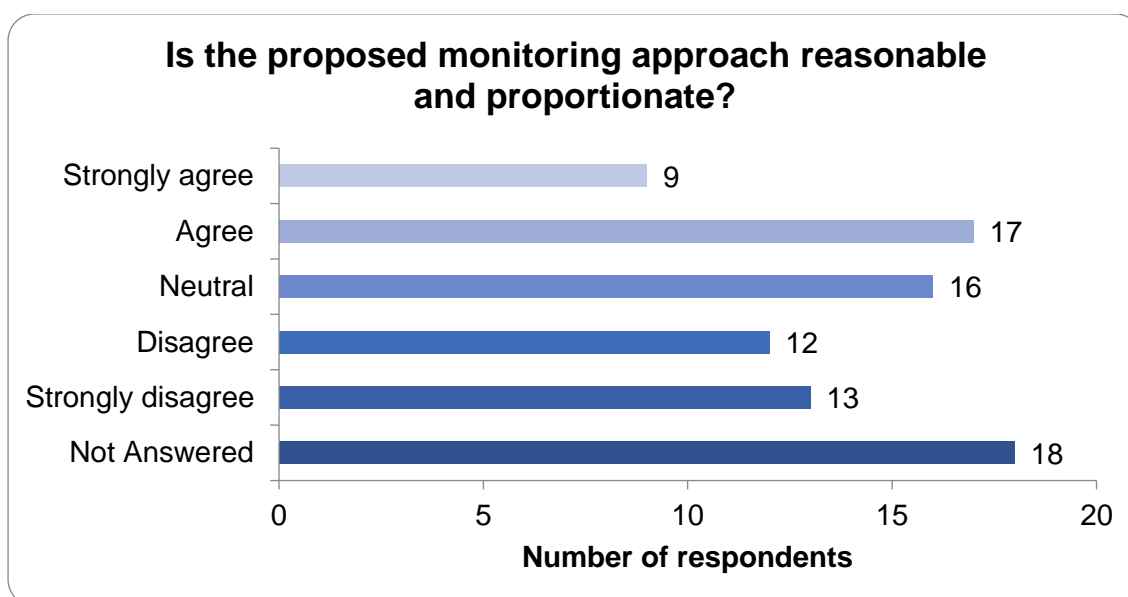
Respondents were split relatively evenly between those feeling the proposed process and criteria were reasonable and transparent, and those who felt they were not. As with responses to the sequential approach, above, a fair amount of the negative sentiment around this, seems to stem from a distrust / dislike for off-site solutions, over on-site.

Again, a sizeable number of people felt the guidance and issue were complicated and difficult to understand. This, again, highlights the need for an easier to digest, non-technical summary of the approach.

A number of specific comments, identified under the 'key comments' bullet points above, raise important points about community involvement, other routes to securing off-site solutions, selling of excess units, deliverability and enforcement. These points are responded to more fully in the "You said, we did" section of this report.

## Monitoring BNG

Q - Is the proposed monitoring approach reasonable and proportionate?



Of the 85 respondents to the consultation, 67 people answered this question directly. Of the 67 direct responses to the question, 13% strongly agreed, 25% agreed, 24% were neutral, 18% disagreed, and 19% strongly disagreed. This equates to a 39% positive sentiment in responses.

Two of the emailed responses gave a clear answer to the question and so contributed to the quantitative elements above, others were not and so were recorded as “not answered”.

A total of 42 respondents made comments in relation to this question. Key comments focused around:

- Regular monitoring and potential enforcement are essential, won't work without it;
- Monitoring needs proper funding (e.g. developers pay via S106, use PPAs, consider using bonds, investment from Government, cover full 30+ years);
- Council has lack of resources and teeth to implement failing to enforce conditions already);
- Penalties required for non-compliance;
- Long term concerns (original developer no longer exists, management companies, leaseholders, homeowners);
- Developer self-monitoring a conflict of interest;
- Involve local people as eyes and ears;
- Ensure monitoring fees set reasonably;
- Competent person needs to be appropriately defined.

Comments raised a range of other points as well. The full range of groupings are as follows:

- Greenwashing – 2
- Climate change considerations need to figure more in decision making – 1
- Contingency (need it) – 1
- Definition of competent person (accreditation not a requirement nationally, specific to target species and habitat, need to know competency before appointment) – 2
- Disproportionate – 2
- Enforcement required – 21
- won't work without it
- needs resourcing
- self-regulations means enforcement more likely
- needs to be timely
- Factors for setting monitoring fees (size the only relevant factor, consider flat fee) – 1
- Funding monitoring (and enforcement, admin) responsibilities – 7
- Developers should fund Council monitoring and enforcement
- Consider use of PPAs
- Consider use of a bond, or an insurance policy to be lifted only after 5 years
- Needs massive investment from Government (poor history)
- Need assurances that obligations will be financed long term even if original developers no longer exist.
- Needs to be sufficient to cover all costs for 30+ years
- Set aside some funds for enforcement costs
- Secure costs via S106
- Hard for general public to understand – 4
- Increased cost to developers – 1
- Involve local people in monitoring site BNG progress (be the Council's eyes and ears) – 3
- Lack of resources to implement (inc. failing to enforce conditions at the moment) – 9
- Long term monitoring and expectations considerations - 6
- Indication of time periods for monitoring and maintenance by type and performance would be helpful
- In time add successful examples from Somerset
- What if original developer no longer exists?
- Long-term responsibility of remote management companies, leaseholders, homeowners an issue.
- Add monitoring of continued management
- Monitoring intervals – 2
- Are ecologists expected to suggest monitoring requirements for approval based on habitats present or will LPA specify?
- Identify frequency/duration range for reports
- Penalties required for non-compliance – 8
- Regular monitoring of all sites essential – 6
- Responsibility for developers/landowners to monitor a conflict of interest – 6
- Review against secondary legislation – 1

- Self-build (unreasonable expectations to place on self-builders) – 1
- Transparent reporting, including public access – 2
- What teeth will LPA have with breaches – 3
- Will impact housing delivery – 2

#### Monitoring approach – conclusions

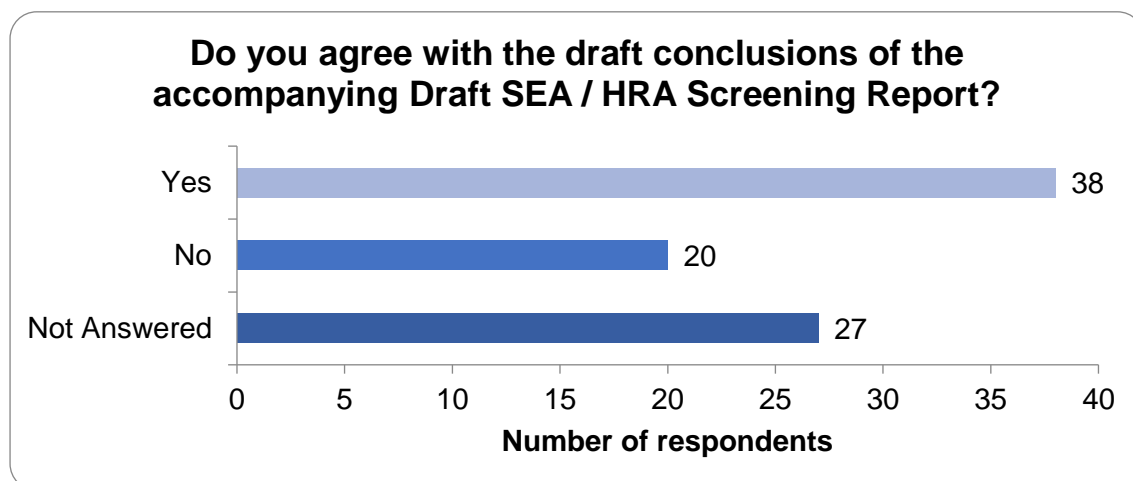
Respondents were split relatively evenly between those feeling the proposed approach was reasonable and proportionate, and those who felt it was not, with a positive sentiment of just 39% and a negative sentiment of 37%. The majority of concern from the public and nature conservation bodies was around the importance of monitoring and having a genuine threat of enforcement where breaches occur versus a perceived reputation and image of the Council as not having the teeth, resources or inclination to enforce. Some raised issues which fell beyond the scope of Council influence including issues with the wider national approach around developer/provider monitoring. The development industry and supporting businesses were keen to emphasise the importance of setting reasonable and justified monitoring fees and the definition of a ‘competent person’.

Again, a sizeable number of people felt the guidance and issue were complicated and difficult to understand. This, again, highlights the need for an easier to digest, non-technical summary of the approach.

A number of specific comments, identified under the ‘key comments’ bullet points above, raise important points about funding, resourcing, consequences of breaches, long-term issues, conflicts of interest, community involvement and definitions. These points are responded to more fully in the “You said, we did” section of this report.

### **SEA/HRA Screening**

Q – Do you agree with the draft conclusions of the accompanying Draft SEA / HRA Screening Report?



Of the 85 respondents to the consultation, 58 people answered this question directly. Of the 58 direct responses to the question, 66% said that “yes”, they agreed with the draft conclusions, with the other 34% saying “no” they did not.

Some of the emailed responses gave a clear answer to the question and so contributed to the “yes” or “no” quantitative elements above, others were less explicit and so were recorded as “not answered”.

A total of 27 respondents made comments in relation to this question. Key comments focused around:

- Hard for general public to understand;
- Agree with conclusions (3x statutory bodies);
- Environmental screening process not resulting in necessary action for individual applications;
- Significant weight should be given to views of statutory bodies.

Comments raised a range of other points as well. The full range of groupings are as follows:

- Agree with conclusions – 3
- Concerns in ability to implement – 1
- Costly – 1
- Environmental regulations need to be revised – 2
- Environmental screening process not resulting in necessary action for individual applications – 2
- Hard for general public to understand – 7
- Missing references/ inclusion of statutory AONB documents and management plans – 1
- No comment – 62
- Not sure – 1
- Public should have access? – 1
- Significant weight should be given to (views of) statutory bodies – 2
- These should be standard procedures in evaluating any development – 1
- Too little, too late – 1
- Too many unknowns politically and financially – 1

#### SEA/HRA Screening – conclusions

Respondents generally supported the draft conclusions of the SEA/HRA Screening Report. Where they did not, it seems to have been primarily due to a misunderstanding of the purpose and scope of the SEA and HRA processes in plan-making. Importantly, the three statutory consultation bodies for SEA purposes, and the one for HRA purposes supported the draft conclusions.

# Summary of informal comments

In addition to the consultation survey, comments were received through less formal channels including events and social media.

## Events

The comments and questions received from the consultation events are broadly summarised in the table below:

Event	Summary of comments
City, Town and Parish Clerks Working Group – 1 <sup>st</sup> November 2023	<ul style="list-style-type: none"> <li>No comments were made or questions asked.</li> </ul>
Agents Forum – 10 <sup>th</sup> November 2023	<ul style="list-style-type: none"> <li>Off site credits... how much £££ are we looking at?</li> <li>If a current Planning Application is being considered by the LPA prior to BNG being enacted, but has not been determined at enactment date, will the applicant/agent then need to address BNG before approval can be granted?</li> <li>Do agents first contact the Planning Officers or go directly to Somerset Ecology Services?</li> <li>Is the monitoring fee annual or one-off?</li> <li>Will the council create a UU agreement for BNG (offsite) – or are the council expecting all applicants to go through protracted legals to secure s.106 agreements?</li> <li>Please stop using acronyms as not all listeners are fully aware of what many acronyms refer to.</li> <li>If an offset site isn't ready for the call for sites process in Jan, when will be the next opportunity to engage with the council re a S106. i.e. will there be set windows for entering into discussions or will there remain an open on-going window.</li> <li>Are there any threshold r.e. size/nature of planning applications before BNG is required to be addressed.</li> <li>For sites providing BNG credits only and not subject to planning, who is going to verify that the calculated credits are calculated correctly?</li> <li>Will you publish a BNG FAQ live document like you did with nutrient neutrality, if you haven't already?</li> <li>Please could you explain how the Six BNG Priorities will be linked with the baseline score (and future Net Gain) with the DEFRA Metric?</li> <li>Will a planning proposal be exempt from BNG if it supersedes a previous prior approval for the same principle?</li> <li>Will BNG sites that are already implemented Nutrient sites have to be enhanced from their nutrient only state to qualify for BNG Credits?</li> <li>Will BNG be triggered when applying for Reserved Matters?</li> </ul>

	<ul style="list-style-type: none"> <li>• Has anyone discussed with RSPB, NE or SWT about if they can actually staff/partner on these sites?</li> <li>• This kind of local guidance is exactly what the Home Builders Federation has been calling for and is needed. However, we still don't have the Government guidance or regulations to know how consistent the content and approach is with them. Might the Council consider extending the consultation if these are published during it?</li> </ul>
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Most of the questions included in the above table were responded to during the events. However, they identify genuine questions and places where additional information could be provided to assist understanding in implementation. As such, the questions and matters raised above will be considered further in compiling a Frequently Asked Questions document for publication.

### Social media

Social media impressions and engagements are summarised below:

Platform	Impressions	Engagement
Facebook	4507	30
Twitter	3084	43
LinkedIn	1091	52
Instagram	456	14

Despite a total of 139 'engagements', only 3 actual comments were received via social media platforms:

Yesterday the park where I walk my dog was cleared of all brush, bushes and some trees. I was shocked to see this once woodland area now bare! There is now no shelter or habitat for the wildlife that used to be in abundance. The bushes that were once full of birds feeding on the berries have gone! I dread to think what has happened to the hedgehogs and other small creatures. Everything was hacked down and put through the massive shredder! I've enjoyed this park in all its glory for many years and now it's desolate. How is this helping biodiversity?! 😞

We have loads of Hedgehogs, Badgers Foxes and Bat's in our garden from the farm next door that we feed every night so you have to stop the housing development at Parsonage Farm in Watchet.??? 😞😞😞😞😞

About flippin' time. Too many developments displacing wildlife.

## You said, we did

The comments received through the consultation have directly informed development of the final Guidance Note proposed for adoption. Officers have considered all comments made and applied professional judgement in identifying key comments and whether or not they merit changes. In some cases, this has resulted



in specific changes, in others it has resulted in a shift of emphasis. However, not every comment was deemed to require a change to be made.

The table below details the key comments raised and the officer response. In some cases, the response has been to make changes to the document, in others the response provides written justification, but no change is deemed to be necessary. Comments are organised by the relevant section of the Guidance Note.

Key comment theme	Officer response
<u>General</u>	
Hard for general public to understand / complicated	BNG is a complex aspect of development planning. By its nature it is technical and requires a reasonable amount of understanding of the subject matter to be able to comprehend the detail of some aspects. The target audience of the Guidance Note is predominantly the development industry and supporting organisations as well as prospective off-site providers, rather than the general public. Although planning applicants, many of whom are the general public, will need to understand sufficiently about the topic and whether or not their application is BNG liable. That being the case, it is important that a non-technical and accessible summary is available. Officers have now provided this as a standalone document, along with an FAQ document.
Costly	BNG will place additional costs on development over and above the cost of bringing forward development before its implementation. However, the requirement has been in the offing for a long time (Natural England's first version of the Metric was published in 2012 along with the first mention in the NPPF, plus the Environment Bill was first introduced to Parliament in January 2020, and the implementation date has been pushed back). As such, an expectation to deliver at least 10% BNG and a broad understanding of the costs that might be involved in this has been the case for some time. The key aspects of the process are determined at a national level, with the Guidance Note simply setting out how those aspects will be considered locally alongside existing adopted policy. The Local Guidance adds no additional cost to developers. The Guidance emphasises the importance of pre-application discussion re BNG and building BNG proposals into scheme design from the outset in order to reduce costs, minimise potential viability impacts and reduce the likelihood of issues during planning.

<p>The document should be updated to align with newly published regulations and national guidance, and then reconsulted upon</p>	<p>The BNG Regulations were published during the final week of the consultation period. This was expected, but given the numerous delays that had occurred in publication of the regulations and national guidance the Council felt it important to proceed with consultation. The draft Guidance Note was informed by knowledge and understanding of the direction of travel for BNG based on published information at that point in time as well as engagement with industry experts and other local authorities. This being the case, the draft Guidance Note was expected to be broadly reflective of the final direction of BNG as would appear in the regulations and national guidance. Officers considered that if, once published there was a significant gap between the Council's proposals and the national position, then consultation may need to be extended. However, once reviewed during the final week of the consultation, it was felt that this was not the case, and the Guidance Note would only need to be tweaked in places to ensure alignment. As such, an extension of the consultation and/or reconsultation were not considered to be necessary. The updated, final Guidance Note is consistent with the regulations and national guidance. It provides guidance on how certain aspects will be considered / work in a Somerset context, but works with the national system and is not incongruous with it. The greatest deviation is around local validation requirements, which do go beyond those set out in the regulations. However, the Planning Practice Guidance allows for this where reasonable, justified and set out in a local validation checklist. The Guidance Note provides the justification for this and the validation requirements are to be adopted as an addendum to adopted validation checklists.</p>
<p>Need acronyms defined</p>	<p>A list of acronyms used in the Guidance Note has been provided in Appendix 5 of the document.</p>
<p>Levy a local tariff instead</p>	<p>With the advent of national mandatory BNG, local tariff-style approaches (where a sum is collected from developments and pooled by the Council to spend on strategic projects) is no longer permissible. Furthermore, there are no local adopted planning policies which would allow such an approach in Somerset.</p>

<p>Should require a higher % for development in National Landscapes</p>	<p>The Planning Practice Guidance acknowledges that LPAs are able to develop their own local planning policies regarding BNG as long as they complement and are not inconsistent with the national BNG framework. This can include a requirement to go beyond 10% where justified. However, there are no such adopted policies in Somerset at present and as such this approach is not permissible. Going forward, the new local plan could theoretically consider such an approach, but this would need to be weighed with other considerations and justified, and the local plan is not sufficiently progressed at this stage.</p>
<p>Definition of irreplaceable habitat should be extended to include calcareous and floodplain grasslands and (due to North Somerset &amp; Mendip Bats SAC), grazed grasslands within SAC consultation zones (at least zones A&amp;B)</p>	<p>The list of irreplaceable habitat for BNG purposes is set out nationally via the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024. It is understood that DEFRA intends to launch public consultation on the definition and list of irreplaceable habitats in the second half of 2024 and this may potentially lead to changes. Development of the Somerset Local Nature Recovery Strategy (LNRS) will consider further the importance and relevance of local habitats in the Somerset context.</p>
<p><u>Planning processes</u></p>	
<p>Definition of 'competent person'</p>	<p>National guidance on use of the statutory Metric states that the Metric should be completed by a 'competent person'. An LPA may reject a submitted Metric if they do not believe they have been provided by a 'competent person'. There is no national guidance on what may constitute a 'competent person'. The draft Guidance Note suggested that the Council would define this locally as being someone holding a CIEEM accreditation / accredited ecologist. Based on feedback that this may prove unworkable and overly constraining, the final Guidance Note has amended the local definition to a member of CIEEM or other reputable membership body for ecology professionals (e.g. ALGE, MRSB).</p>
<p>Resourcing concerns</p>	<p>Many respondents raised concerns that the Council will struggle to resource assessment of BNG proposals and subsequent monitoring and enforcement activities. Resourcing is an ongoing issue nationally in local authority planning and ecology services, and this is reflected locally. The Government has provided BNG preparation grant funding and is expected to provide further new burdens funding to assist with the implementation</p>

	<p>stage. The Council is exploring opportunities to retain and where possible strengthen its officer resources to deal with BNG with these grants in mind, but also an eye on the future sustainability of funding such roles. Training is being provide to all teams and IT systems have been upgraded to assist with the efficient processing of proposals. The monitoring and enforcement aspects of BNG are slightly different to some aspects of planning in that BNG is a statutory requirement, and the Council intends to charge monitoring fees which can be ring-fenced for this purpose. The Guidance Note sets out how it will use its resources prudently and recover costs associated with the non-statutory function of enabling off-site solutions in Somerset.</p>
Should apply to more types of development	<p>The types of development liable for BNG are set out nationally through a combination of the Environment Act 202 and Town and Country Planning Act 1990 with the development types exempted from the requirement set out in the Biodiversity Gain Requirements (Exemptions) Regulations 2024. The Council does not have the power to make BNG apply to other types of development explicitly exempted by the regulations. Development outside of the Town and Country Planning Act regime (for instance Nationally Strategic Infrastructure Projects (Planning Act 2008) or works progressed under the Highways Act 1980 are not caught by the regulations and are not development for the purposes of LPA planning decisions as such local planning policy cannot require BNG in these cases.</p>
Climate considerations need to figure more in decision making	<p>The Guidance Note makes clear the linkages between BNG delivery and responding to the climate emergency. Principle 5 of the Somerset BNG Principles in particular deals with this aspect alongside the general holistic approach which is set out throughout the Guidance Note. Wider climate considerations associated with planning decision making are beyond the scope of this guidance, though the Council has a range of adopted planning policies and guidance notes relating to this topic.</p>
Don't go beyond policy / national requirements	<p>The final Guidance Note is consistent with the regulations and national guidance. It provides guidance on how certain aspects will be considered / work in a Somerset context, but</p>

	<p>works with the national system and is not incongruous with it. The greatest deviation is around local validation requirements, which do go beyond those set out in the regulations. However, the Planning Practice Guidance allows for this where reasonable, justified and set out in a local validation checklist. The Guidance Note provides the justification for this and the validation requirements are to be adopted as an addendum to adopted validation checklists. The Planning Practice Guidance acknowledges that LPAs are able to develop their own local planning policies regarding BNG as long as they complement and are not inconsistent with the national BNG framework. This can include a requirement to go beyond 10% where justified. However, there are no such adopted policies in Somerset at present and as such this approach is not permissible. Going forward, the new local plan could theoretically consider such an approach, but this would need to be weighed with other considerations and justified, and the local plan is not sufficiently progressed at this stage.</p>
<p>No ecologist on the Quality Review Panel (QRP)</p>	<p>The Somerset QRP has a range of panel experts from different disciplines available to it. Whilst there is not currently an ecologist on the QRP, there are panellists who have landscape, biodiversity and sustainability expertise and experience of relevance. The Council will explore whether a dedicated ecologist on the panel would be preferable or necessary going forward.</p>
<p>Include what happens if contraventions or diversion from plans in flow chart</p>	<p>The flow chart in Appendix 3 has been updated to ensure alignment with the rest of the updated guidance note and now includes loops covering situations where concerns are raised with the proposed approach set out in the BNG Statement and Metric during consideration of the planning application, and where the Biodiversity Gain Plan fails to be in broad accordance with the submitted BNG Statement. A further references is made to the role of the LPA in investigating potential breaches identified by Somerset Ecology Services (SES) and if necessary taking enforcement action.</p>
<p>The Somerset Species Habitat Evaluation Procedure (SHEP) should be reviewed and subject to own consultation before adoption</p>	<p>Somerset Councils have used a Habitat Evaluation Procedure (HEP) for many years to assess the value of habitats for and potential impacts upon protected species as well as identifying the quantum of habitat replacement that may be necessary to mitigate these impacts. SES</p>

	<p>is in the process of updating and improving this tool and re-branding it as the Somerset Species Habitat Evaluation Procedure (SHEP) to work alongside the Biodiversity Metric to ensure that the 'Favourable Conservation Status' of local populations of important species are not adversely affected. The Council will consider what the appropriate level of consultation should be to support finalisation and adoption of this updated procedure, bearing in mind its technical rather than policy nature.</p>
<p><i>Validation requirements</i></p>	
<p>Questioning need and ability to submit GIS data</p>	<p>GIS data showing the same information as provided on submitted plans and drawings was being requested by the Council at validation so as to aid assessment of proposals against other held data including species and habitat data, constraints and opportunities data, improve measurement accuracy and importantly track, monitor and report on BNG proposals and subsequent delivery in line with the statutory duties placed on the Council by the NERC Act 2006 (as amended by the Environment Act 2021). However, some applicants and agents will struggle to produce and submit GIS data at the point of application. As such, the BNG validation requirements have been pegged back to remove the requirement to submit GIS data at validation. Instead, this will be required as part of any S106 Agreement securing significant on-site or off-site gains.</p>
<p>Too onerous / bureaucratic</p>	<p>The Council's validation requirements go beyond the minimum statutory requirements. However, the Planning Practice Guidance allows for this where reasonable, justified and set out in a local validation checklist. The Guidance Note provides the justification for this and the validation requirements are to be adopted as an addendum to adopted validation checklists. Whilst the validation requirements go beyond the statutory minimum, the information requested is all considered necessary to understand broadly whether the general condition is capable of being successfully discharged, ensure that significant on-site gains are able to be secured via any S106 associated with the site and any potential use of off-site units or statutory credits is sufficiently justified and the potential viability impacts of this</p>

	are considered alongside other aspects of the development proposal and its ability to achieve sustainable development in the round.
Increased costs on developers and impact upon housing delivery	See response under 'Costly' comment, above.
Can the BNG Statement be part of the Ecological Impact Assessment or does it need to be a standalone document?	The BNG Statement should be a standalone document and contain the core information required nationally by Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended by the Biodiversity Gain (T&CP)(Modification and Amendments)(England) Regs 2024) relating to the biodiversity gain condition, and also the information required locally to aid consideration and determination of planning applications in relation to BNG.
It shouldn't be mandatory for small sites to use the Small Sites Metric, can use full one.	The draft Guidance Note inadvertently suggested that any small site development would have to use the Small Sites Metric. However, this is incorrect. Small sites have the option to use the Small Sites Metric (a streamlined version of the main Biodiversity Metric), but they can use the main Metric if they wish. If a small development site sits within Priority Habitat Protected under Section 41 of the NERC Act 2006; protected sites; and/or European Protected Species site within the site, then the Site will not qualify under the 'Small Site Metric' characterization and instead the full Biodiversity Metric should be used. Small sites must also use the full Biodiversity Metric if they are reliant upon use of any off-site gains.
Ensure consistency with national guidance and justify where additional information is required.	See response under 'Too onerous / bureaucratic' comment, above.
<i><u>Securing BNG from development sites</u></i>	
How will general NPPF gains be secured?	The Guidance Note has been updated to make improved reference to how general NPPF gains will be secured. This confirms at para 8.14 that such gains should be on-site only, may be demonstrated more generally through the Ecological Impact Assessment or through the Habitat Evaluation Procedure where required for other purposes anyway (i.e. not necessarily through the statutory Metric) and may be secured via planning condition as part of any general on-site Landscape and Ecological Management Plan.

<p>What is the definition of 'significant' on-site enhancement?</p>	<p>The Government has set out in the <a href="#">DEFRA Guidance</a> that 'significant' on-site enhancements are areas of habitat enhancement which contribute significantly to the proposed development's BNG relative to the biodiversity value before development. It suggests that exactly what counts as significant will vary depending on the scale of development and existing habitat, though sets out what may normally be considered 'significant'. As such, it is for the applicant to justify what on-site enhancements should be considered 'significant', what should not, and why.</p>
<p>Is S106 required for off-site when habitat bank is already secured by its own S106?</p>	<p>The draft Guidance Note suggested that developments proposing to rely on off-site BNG (whether in part or in whole) would need to secure this through a S106 legal agreement associated with the development being permitted. The national guidance has since confirmed that this will not generally be necessary as the off-site solution being relied upon will generally have already been legally secured separately to the development, and the national biodiversity gain sites register will provide the necessary link between the development site and the units being purchased, and the developer will simply need to demonstrate proof that these units have been purchased from a nationally registered site alongside submission of their Biodiversity Gain Plan. This being the case, development S106 legal agreements will not generally be required to secure the off-site element of BNG. The exception to this will be where a bespoke off-site solution is being sought and promoted via the planning application, and as such the off-site solution has not already been legally secured. In this circumstance, there may or may not need to be secured via the development S106.</p>
<p>Enhancements should be secured beyond 30 years</p>	<p>The Environment Act 2021 and subsequent BNG regulations are clear that BNG which needs to be legally secured must be secured for a minimum of 30 years. There are no adopted local planning policies requiring BNG to be secured for any longer than this. There is therefore no statutory or policy basis for securing BNG beyond the minimum of 30 years. However, the Guidance Note has been updated to explain that where significant on-site gains are part of a multi-functional provision, and are also required and relied upon for wider ecological mitigation or</p>



	<p>compensation or they contribute towards other policy requirements such as open space, amenity, landscaping, SuDS, nutrient mitigation, HRA compensation/mitigation etc., then the management and maintenance of such on-site areas will be secured beyond the statutory BNG 30 year period. Where on-site land is secured for BNG purposes alone (i.e. it is not multi-functional and required for other purposes as suggested above), then the applicant will still need to set out broadly what the plan for that land will be at the end of the 30 year period.</p>
BNG should all be on-site	<p>The Environment Act 2021 and subsequent BNG regulations are clear that BNG can be delivered on-site, off-site via statutory credits, or through a combination of the above. The national Biodiversity Gain Hierarchy sets an on-site first approach, placing statutory credits as a last resort. Together with the Council's sequential approach as set out in the Guidance Note, clear justification is required for progression from on-site, to off-site, to credits. There is no legal or policy basis for the LPA to limit BNG proposals to on-site only.</p>
Funding management of sites (need to clearly state that this will be secured from developers).	<p>The Habitat Management and Monitoring Plan (HMMP) for any significant on-site or off-site enhancements will be required to clearly set out how the gains will be managed, maintained and monitored. This includes providing an overview of how funding has been secured to deliver the HMMP. It is the developer (or, depending on the nature of specific agreements and contracts associated, their nominated management company, or off-site provider's) responsibility to fund the delivery, management, maintenance and monitoring of any significant on-site or off-site gains being claimed.</p>
Levelling Up & Regeneration Act intention to replace S106 (what's the contingency?)	<p>The proposals for replacement of the S106 regime with the Infrastructure Levy as set out in the Levelling Up &amp; Regeneration Act 2023 are long term and not immediate. The Government has suggested that this will be phased in over a ten year period. Longer-term, the assumption would be that conservation covenants play a larger role in the securing of BNG as S106 agreements are phased out.</p>
Liability for maintaining third party BNG sites (and who pays the monitoring fee related to this?)	<p>Third party BNG sites (off-site solutions), any associated HMMP and monitoring fee will be secured with those with a legal interest in the land. This may be via S106 legal agreement or</p>

	conservation covenant. Liability for any associated obligations (including the payment of the monitoring fee) will lie with those signatories to that agreement.
<b><i>Somerset BNG Principles</i></b>	
Should go beyond requiring proposals to “be informed by” / “respond to” the principles	The BNG Guidance Note is not able to set new planning policy in itself (this must be done via Development Plan Documents, which are subject to a formal examination process). Instead, the purpose of the Guidance Note is to clarify how the national mandatory BNG requirement aligns and works alongside adopted plans, policies, guidance and other material considerations. The Somerset BNG Principles are key to this. So, whilst it is not possible for the Guidance Note to <i>require</i> compliance with the six BNG principles, other adopted planning policies may in some cases require this. The intention is to adopt the Guidance Note as a material planning consideration. Planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
Principles will hamper / reduce opportunities for development	The Principles are an interpretation of how the Lawton Principles, adopted plans, policies, strategies, guidance and wider good practice interact with BNG. Delivering against the Principles will respond directly to a range of other adopted planning policies and associated guidance and improve the prospect of delivering sustainable development.
<p>Suggestions re Principle 1:</p> <ul style="list-style-type: none"> <li>• Greater emphasis needed on avoiding degradation</li> <li>• Link with justification on mitigating climate change</li> <li>• Retain existing trees, shrubs and hedges</li> </ul>	Principle 1 already references the need to avoid protected, irreplaceable and priority habitat. This is further necessary via the national Biodiversity Gain Hierarchy. Unauthorised degradation of sites is dealt with via regulations and national guidance. Linkage with climate change is dealt with in Principle 5. Retention of trees is already dealt with in the Principle.
<p>Suggestions re Principle 2:</p> <ul style="list-style-type: none"> <li>• Engage specialists for management of high distinctiveness on-site BNG</li> <li>• Remove phrases like “wherever possible”</li> <li>• Retention and connectivity need greater weight.</li> <li>• Need to condition on-site measures to prevent</li> </ul>	Engagement of specialists for high distinctiveness habitats has been incorporated into Principle 6. It is important to retain some degree of flexibility within some aspects of the guidance to recognise the importance of a balanced and pragmatic approach to delivering BNG as part of a wider sustainable development. Principle 2 is already about retention and connectivity. The guidance has been updated to make a clear definition between those elements which can contribute as

<p>occupiers removing/changing</p>	<p>'significant' on-site enhancements, those which can contribute to BNG but would not be considered 'significant' and those which are not able to count at all (species-based features). Only measures which contribute to significant on-site enhancements can and will be legally secured.</p>
<p>Suggestions re Principle 3:</p> <ul style="list-style-type: none"> <li>• Greater emphasis on distinctive character of protected landscapes and value of alignment with National Landscape (AONB) Management Plans etc.</li> <li>• Prevent unsuitable lighting of landscape and wildlife;</li> <li>• Remove phrases like "otherwise endeavour to";</li> <li>• Involve conservation and archaeology advisors</li> </ul>	<p>Principle 3 has been updated to enhance linkages with National Landscape (AONB) Management Plans and Nature Recovery Plans and the role these can play in guiding BNG proposals. Lighting impacts are already mentioned. "Otherwise endeavour" has been amended to "otherwise, where appropriate". Conservation and archaeology advisors will be engaged on applications and pre-application discussions as appropriate and will contribute to consideration at this point.</p>
<p>Suggestions re Principle 5:</p> <ul style="list-style-type: none"> <li>• Plan for long term adaptation to inevitable climate change;</li> <li>• Plan for blue infrastructure on a catchment-wide basis;</li> <li>• Natural filtration should be an instruction and linked with points on SUDS;</li> <li>• Pay attention to hard surfaces to stop excess run offs / protect water courses from nitrates/phosphorates;</li> <li>• Promote resilience, sustainability and wellbeing in the community;</li> <li>• Ensure most appropriate infrastructure for the area is incorporated and maintained</li> </ul>	<p>Principle 5 has been amended to improve reference to adaptation, carbon footprint of proposals and interaction with wider climate considerations such as active travel. A catchment-wide approach is now referenced. The point about natural filtration has been addressed, and this now helps respond to the call for stopping excess runoffs to protect water courses. Health and wellbeing relationships are already included within Principle 4, which has been further strengthened. Maintenance is key to deliverability and dealt with in Principle 6.</p>
<p>Suggestions for Principle 6:</p> <ul style="list-style-type: none"> <li>• Future iterations should be informed by failed proposals;</li> <li>• Work with wildlife groups to educate on wildlife friendly management;</li> <li>• Use SMART targets;</li> <li>• Encourage connectivity through developments;</li> <li>• 'Relatively simple, robust and low maintenance habitats' risks homogenous</li> </ul>	<p>Principle 6 has been updated to include reference to ensuring future iterations are informed by failed proposals, promote for developers to provide guidance to new residents of schemes re wildlife friendly practice, and use of SMART targets. Reference to relatively simple, robust and low maintenance habitats is retained as this is a not unreasonable way of ensuring habitats on development sites are reasonable and deliverable, however, "in keeping with the locality" has also been added to this as this will further assist in the successful implementation. "Other neutral</p>

<p>habitats – ‘In keeping with the locality’ better?;</p> <ul style="list-style-type: none"> <li>• ‘Other neutral grassland’ very vague, wide range of habitats not necessarily beneficial to pollinators;</li> <li>• Support more imaginative projects even if slightly unrealistic;</li> <li>• Reference to gardens not being able to be relied upon is not consistent with national guidance – they can be counted</li> </ul>	<p>grassland” is a habitat type in the statutory Metric and not something that the Council’s Guidance Note can influence. The purpose of Principle 6 is to ensure that proposals are deliverable. If projects are “slightly unrealistic” then this undermines that purpose and the ability of schemes to achieve and the Council to discharge its duties regarding the general biodiversity gain objective. Reference to gardens has been updated to align with national guidance – they can be counted but their condition and distinctiveness scores for are heavily restricted to reflect the variability in ways that such spaces will be managed by future residents and that long-term management, maintenance and monitoring of these habitats is not feasible. This also references encouragement for continued/improved connectivity through development sites.</p>
<p>Other suggested principles:</p> <ul style="list-style-type: none"> <li>• Carbon footprint considerations</li> <li>• Consider all nature and species, not just those protected</li> <li>• Consider impact on surrounding biodiversity / respond to local species records.</li> <li>• Consider habitat condition alongside extent.</li> <li>• Consider light pollution</li> <li>• Avoid plastic grass</li> <li>• Minimum outdoor space standards</li> <li>• Refer to pre-app and other permissions / licences from other bodies</li> <li>• Wellbeing linked to loss of nature</li> </ul>	<p>Carbon footprint considerations have been added to the guidance under Principle 5. BNG uses habitat as a proxy for all biodiversity, not just protected species. Principle 1 has been expanded to ensure that it refers to BNG proposals responding to species and habitat recommendations identified by ecology / wildlife surveys, Habitat Evaluation Procedure and ecological impact assessments. The Metric considers habitat condition as well as extent. Light pollution is already identified as a consideration under Principles 1 and 3. Avoidance of artificial grass has been explicitly referenced alongside other considerations in Principle 6. Minimum outdoor space standards would need to be identified and required by a development plan policy. The Council currently has no planning policies identifying or requiring these but the new local plan could potentially consider a policy along these lines if deemed appropriate. Principle 6 has been updated to refer to the need for and relationship of proposals with permissions and licences from other bodies. Wellbeing is already identified as an important consideration in relation to Principle 4 in particular.</p>
<p><u>Strategic significance</u></p>	
<p>Careful about how treat ‘white space’ between priority areas</p>	<p>Space between any locations identified by the National Habitat Networks (NHN) mapping or Somerset Ecological Network Report mapping is not automatically of “low” significance. Proposals anywhere in Somerset may potentially achieve</p>

	<p>“medium” through contributing to the ecological functionality within the landscape, or “high” if the y would support or could support recovery of priority species or protected sites. Habitat enhancements in any location in any situation will still provide some benefit. The purpose of the strategic significance score is to help incentivise delivery in places which can deliver greatest strategic benefit to local nature recovery. The Local Nature Recovery Strategy (LNRS) will consider further how different location within Somerset are described and defined in relation to local nature recovery.</p>
Use the LNRS to focus	<p>In time the LNRS will provide the primary means of defining strategic significance in Somerset. However, this is not yet ready and so an interim approach is provided within the Guidance Note in the meantime.</p>
Language used open to interpretation	<p>An element of flexibility is needed in the definition of strategic significance. This allows for reasonably pragmatic consideration of proposals. Proposers will need to reasonably justify their application of strategic significance scoring.</p>
NHN data not reliable enough	<p>NHN data is identified as an interim proxy for identifying areas and interventions which may deliver greatest strategic benefit to nature recovery. At present, until such time as the LNRS has progressed, alongside use of the Somerset Ecological Networks Report, this constitutes the best published evidence to support strategic nature recovery across Somerset as a whole with an eye on cross-border alignment.</p>
Use National Landscape Management Plans / Nature Recovery Plans / NE Peat Map to supplement	<p>The strategic significance chapter has been updated to refer to National Landscape Management Plans and Nature Recovery Plans (amongst others) as having potential to assist in understanding the most appropriate solutions in a specific location. The NE Peat Map has a specific purpose and better alternative exist in relation to nature recovery as a whole.</p>
Avoid suggesting competition between strands of sustainability	<p>The policy context chapter makes clear reference to the importance of taking a holistic approach as a means of delivering sustainability in the round and also delivering upon the Council Plan. Whilst BNG alone will deliver clear environmental benefits, and indirectly and cumulatively likely some economic and social benefits also, a more holistic and integrated approach where BNG</p>

	proposals actively aim to improve their direct contribution to economic and social considerations as well is more favourable. This is not to suggest competition between the strands of sustainability, as delivery against all three is the only way to deliver true sustainability.
Careful not to dilute purpose of BNG by trying to align with too many other objectives	Concern was raised that too much focus on ensuring a holistic approach and multi-functionality could lead to a dilution of the core purpose to deliver a net gain in biodiversity and contribute towards nature recovery. Text has been added to chapter 6 to state that delivering on multiple benefits and objectives will not be possible or appropriate in all cases, and achieving BNG will remain the primary objective. However, where possible and appropriate, these wider objectives and multi-functionality should be considered and explored.
Include Neighbourhood Plan policies also (in Appendix 1)	'Made' Neighbourhood Plan policies are part of the development plan and hold weight in the same way as policies of the adopted local plans for Somerset. There are a large number of Neighbourhood Plans currently in production. Continually updating the appendix with reference to these plans and policies is likely to be resource intensive and may result in gaps when 'made' policies have not been captured in updated guidance. As such, the appendix continues to refer to the importance of reviewing appropriate Neighbourhood Plan policies and that these are no less important than other policies of the adopted development plan.
<i>Sequential approach</i>	
Should be on-site or near-site only	The Environment Act 2021, and the BNG regulations allow for the BNG requirement to be met through on-site enhancements, off-site enhancements or purchase of statutory credits, or a combination of these. There is no legal or policy basis for the LPA to restrict the delivery of BNG only to on-site or near-site solutions. However, the Biodiversity Gain Hierarchy and Somerset's sequential approach both set out an on-site first approach, with the latter having been adapted post-consultation to reference a preference for off-site solutions to be closer to the development site – though this cannot be insisted upon.
Consider within Somerset related National Park or	The sequential approach refers to "off-site, outside of Somerset but physically connected to

National Landscapes before other out of County solutions	Somerset's ecological network" ahead of land within adjacent authorities more generally. Land within Exmoor National Park or any of the National Landscapes (AONBs) which span the county's borders would likely fall into this category.
Result in isolated pockets off-site unless link ecological networks	The Guidance Note aims to promote contribution towards nature recovery in Somerset via the local strategic significance definition.
<i>Off-site delivery mechanisms</i>	
Off-site undermines the purpose and lets developers off the hook	See response under 'Should be on-site or near-site only' comment, above.
Need clarity on costs per unit	Paragraph 9.10 of the Guidance Not sets out what is known about potential costs of off-site units. Estimates range from £20k-£35k per unit, though the market will determine this, and pricing will differ from provider to provider depending on their business model.
Could communities suggest sites?	The detail of the proposed 'call for sites' is yet to be determined, including whether this allows for communities to suggest sites or not. There are pros and cons with allowing this. On one hand it provides the public with the opportunity to identify opportunities and what matters to them locally and be engaged in local nature recovery. On the other hand it may encourage and incentivise undeliverable proposals to come forward where the landowner is not aware or on board with the idea.
Compensation must be like for like habitats.	The regulations and national guidance including guidance on use of the statutory Metric set out the relationship between on-site habitats to be lost and what needs to be provided in compensation. The Metric user guide includes a series of 'trading rules' which must be adhered to for the Metric to be considered acceptable. This, along with the Metric principles stipulate that area-based units lost must be replaced by area-based units, similarly for hedgerow and watercourse units, with no trading between the three unit types. Units must be replaced by units of the same or higher band of distinctiveness. However, this does not mean the replacement habitat necessarily needs to be exactly the same as that lost.
Timing of off-site delivery is important	National guidance states that off-site habitat creation, enhancement and management work should start within 12 months of allocation to a

	specific development. This is reiterated in the Guidance Note.
What if a developer chooses a site that hasn't been via the call for sites?	It is reasonable to expect that in some cases developers may propose to use an off-site solution of their own (e.g. on land in their ownership or in the same ownership as the application site, or on land they have other options on for instance) which may not have been submitted via the 'call for sites'. The LPA will not be in a position to refuse use of such a site, so long as it is adequately justified including in relation to the wider Guidance Note. However, such proposals will be assessed along similar lines to those submitted to the 'call for sites'. Such sites will then be secured via the S106 for the development as a bespoke solution just for that development. The Guidance Note has been updated at paragraph 9.41 in relation to this.
If selling excess on-site units, do they have to be over 10 unit minimum in call for sites?	Where a developer proposes on-site BNG which exceeds its statutory requirement of at least 10%, they may wish to sell these excess units. The Guidance Note explains the process envisaged in this circumstance. Generally, these will be secured via the development S106 legal agreement. Where this is not the case (i.e. the excess units are not secured for future sale, for whatever reason) then the developer would need to secure the site by submitting it to the 'call for sites', by working with another specific development proposal to provide them with a bespoke solution for their planning application, or entering a conservation covenant with a Responsible Body. Where submitted to the 'call for sites', the site would need to achieve the minimum threshold of at least 10 units to be considered. This helps to protect the Council's resources and work towards greater ability to deliver on strategic nature recovery in Somerset.
Map sites to avoid double-counting	Off-site solutions must be legally secured by either S106 legal agreement or conservation covenant and then registered with the national biodiversity gain site register (a prerequisite for selling units to developers). The national site register will avoid double-counting of units by registering specific units to specific developments as they are purchased. Locally, the BNG validation requirements include submission of GIS data. This will allow the recording of spatial data on the location of proposed significant on-site and off-site



	solutions, which can then be updated at the point of agreeing the Biodiversity Gain Plan.
How will the off-site market be regulated?	The Council plays no part in the regulation of the off-site market. Off-site solutions must be registered on the national biodiversity gain sites register before units can be sold. Natural England will be administering this register. See also response under 'Need clarity on costs per unit', above.
The Council should explore use of its own land for off-site solutions	The Council is actively exploring how it can utilise its own land in this regard. Further information can be found in the report to the Planning and Transport Policy Sub-Committee recommending adoption of the Guidance Note.
<u><i>Monitoring and Enforcement</i></u>	
How will breaches be enforced if in another county?	The Council will monitor and where necessary enforce compliance with conditions and legal agreements to which it is party. At this stage (as the Council is not a 'responsible body' for the purpose of signing conservation covenants), this means it will only be responsible for monitoring and where necessary enforcing compliance with conditions and S106 agreements within Somerset. Where a developer relies upon an off-site solution outside of Somerset, it will need to be legally secured with another body (either S106 with the Council within which it is located) or conservation covenant with a suitable responsible body). Whichever of these is party to the legal agreement will be responsible for monitoring and where necessary enforcing compliance with such agreements. This is clarified in updates to the Guidance Note.
Monitoring needs proper funding (e.g. developers pay via S106, use Planning Performance Agreements (PPAs), consider using bonds, investment from Government, cover full 30+ years)	The Guidance Note sets out that the LPA will include monitoring fees to cover the full term of the agreement/HMMP as part of any S106 to secure significant on-site or any off-site solution. Furthermore, it refers to use of PPAs particularly for larger and more complex sites and the relevance of this to considering BNG through the planning process, though this will not extend to monitoring stages which will be governed by S106 agreements. At this stage it is not envisaged that the use of bonds will be required or efficient for the purposes of BNG, though this may be reviewed as the system is implemented. The Government is providing initial new burdens funding to local authorities to assist in the implementation of new

	duties associated with BNG, though the securing of monitoring fees via S106 will be critical to the ongoing sustainability of this.
Council has lack of resources and teeth to implement, it is failing to enforce conditions already	Securing of monitoring fees will be critical to the Council's ability to monitor and where necessary enforce compliance with legal agreements it is party to. These fees will be ring-fenced for this purpose and help to ensure that the Council is able to resource and take appropriate actions. This sets the monitoring and enforcement apart from conditions (where such fees cannot be secured) or historic S106 agreements (where such fees were generally not secured). Furthermore, the legal status of the BNG requirement (as opposed to local/national policy makes BNG more enforceable than some issues.
Penalties required for non-compliance	The LPA has a range of planning enforcement powers available to it and will consider taking enforcement action as may be necessary, in the public interest. Depending on the situation, this may include requiring remedial action to address any failings. Enforcement matters and potential for remedial action will be covered within any associated S106 legal agreement securing the significant on-site / off-site gains in question. The Guidance Note has been updated to reflect this.
Long term concerns (original developer no longer exists, management companies, leaseholders, homeowners)	The Council proposes to use S106 legal agreements to secure significant on-site BNG. S106 agreements run with the land and successors in title. The Biodiversity Gain Plan and HMMP for a site will detail the responsibilities of different parties in managing and maintaining the BNG for the minimum 30 year period together with contingency arrangements. Regular monitoring will identify any potential risks along the way. Homeowners are unlikely to ever become liable for breach of BNG obligations as private gardens (whilst counting towards BNG totals in a limited capacity) cannot count towards 'significant' on-site BNG and as such are not legally secured via S106.
Developer self-monitoring a conflict of interest	S106 legal agreements will obligate developers to monitor and submit monitoring reports in relation to delivery of the relevant BNG as set out in the agreed Biodiversity Gain Plan and associated HMMP. The LPA is required to monitor for non-compliance with such obligations, and also has a role to play in monitoring such reports to ensure they are accurate and where necessary,

	appropriate measures are proposed to keep the BNG delivery on-track. The Council will undertake spot monitoring on occasion to supplement this. Such an arrangement is standard practice and is consistent with the regulations.
Involve local people as eyes and ears	Local communities will have an interest in the progress of BNG proposals against agreed plans and may alert the Council to potential breaches (as they may with any potential or suspected planning breach). Such claims will be investigated as necessary.
Ensure monitoring fees set reasonably	Monitoring fees will be set at a rate so as to recover the costs involved against a set of fair assumptions. There are a range of methods which could be used to identify how that fee should be calculated, but the Guidance Note sets out a reasonable approach to guide calculation of these fees on a case by case basis, depending on the amount of time it will take to undertake the monitoring. This will be influenced by a range of different factors as set out in the Guidance Note. The Guidance Note has been updated to state that any monitoring fees charged will be fairly and reasonably related to Council resourcing of the activity.
Are ecologists expected to suggest monitoring requirements for approval based on habitats present or will LPA specify?	The Guidance Note has been updated to explain that competent persons producing the Biodiversity Gain Plan, Habitat Management and Monitoring Plan and completing the Metric for a development should propose appropriate monitoring arrangements and reporting intervals based on their professional opinion, the habitats present/proposed and in consideration of the above factors. The Council will review monitoring proposals and advise if any amendments should be made.
<u>SEA/HRA Screening</u>	
Environmental screening process not resulting in necessary action for individual applications	The purpose of Strategic Environmental Assessment and Habitat Regulations Assessment screening of plans and programmes is to identify potential for significant effects on the environment and for likely significant negative effects upon protected European sites respectively. Similar assessments are made at a project scale to determine whether Environmental Impact Assessment or Appropriate Assessment are required in relation to a specific application.

Missing references/ inclusion of statutory AONB documents and management plans.	Reference to National Landscape (AONB) plans has been added to Table 2 (g).
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The table above captures a number of changes made in response to comments received. However other changes were also made in response to the publication of the Regulations and national guidance.