

Draft overview for BS8683: BSG Ecology, LDA Design, Pinsent Masons

Overview

BSG Ecology, LDA Design and Pinsent Masons have reviewed the draft British Standard for designing and implementing Biodiversity Net Gain (BS8683), collectively bringing together their knowledge and experience of working with clients in the respective disciplines of ecology and landscape, development planning and management within local and national planning policy and the wildlife legislative framework.

The purpose of this overview is to provide solutions for the BSI to consider in shaping the draft specification based standard. It is desirable for the standard to be routinely adopted by practitioners and developers because it is practical, achievable and relevant to the planning and successful delivery of biodiversity net gain through development.

There are three key elements that we have identified for the BSI committee to address within the revision of the draft standard:

- The interrelationship between the UK based standard and the forthcoming Environment Act in England and Wales.
- The focus of the standard to be on biodiversity net gain.
- The needs of local planning authorities, who require a transparent and consistent approach to biodiversity net gain assessments for development management and consistent reporting of figures to government.

1. The British Standard and the forthcoming Environment Act

Part 6 of the Environment Bill deals with nature and biodiversity and will give effect to Schedule 14 of the draft Bill which amends the Town and Country Planning Act 1990 to make it a condition for the grant of planning permission, in certain cases, that the development will deliver a 10% gain in biodiversity. This Part of the Bill applies to England and Wales only, with the Explanatory Memorandum to the Bill stating that the provisions in Part 6 are within the competence of the Northern Ireland Assembly. Accordingly, explanation is required of the relationship between the standard and the biodiversity provisions in the Environment Bill for England and Wales given that the standard applies across the UK whilst Part 6 of the Bill does not.

The approach to setting net gain targets in the standard is over and above the requirements set out for England and Wales in the draft Environment Bill and the Defra Biodiversity Metric 2.0 (July, 2019) in England. The approach taken in the standard creates the risk of confusion for developers and local authorities and raises the prospect of a scheme being compliant with the future Environment Act requirements, but may not be in accordance with the standard. As is well known, a British Standard is not law and compliance with the relevant legislation must always take precedence. The purpose of a British Standard is to provide more of the technical detail on the subject matter in question and following that detail enables a company to demonstrate that it takes its responsibilities seriously.

In this instance, there is a danger of the standard going over and above the legislation and including elements that would be more appropriate in policy.

2. Focus on biodiversity net gain

At early Defra workshops and during the workshops for the development of the Defra and Natural England Eco-metric (working with the University of Oxford) it was always made clear that biodiversity net gain was to come first over and above other wider environmental matters. This is because the planning balance has historically always taken into account wider environmental, social and economic issues and, as a result, biodiversity interests have suffered. The extent and rate of biodiversity loss was one of the drivers for the Lawton review (Defra, 2010). The biodiversity net gain standard should therefore be a specification that focusses specifically on biodiversity net gain and does not introduce other aspects of wider environmental net gain. There are other opportunities for the incorporation of wider environmental net gain guidance as follows:

- The ecosystem services British Standard (in prep)
- The Natural England Green Infrastructure Standards guidance (in prep)
- A revision of the CIEEM CIEMA CIRIA *Biodiversity Net Gain Good Practice Principles for Development – A practical guide* (CIRIA, 2019)
- IEMA Environmental Impact Assessment Guide to Shaping Quality Development (Nov, 2015).

3. The needs of local planning authorities

The standard is likely to be used by local planning authorities in each country to help them discharge their respective biodiversity net gain duties as public bodies by asking applicants to adhere to it as part of pre-planning application validation checklists. In our experience of working with developers to achieve biodiversity net gain as part of planning submissions, it would be difficult for the majority of them to be able to meet the draft standard requirements in its current form for example in relation to optioneering and project feasibility stage clauses and the social net gain requirements. The draft standard assumes that there is a higher level of choice for a developer for a given site and the development than there often is in practical terms. This is why the standard should be refined to come back to the core requirement relating to biodiversity net gain only and be practical.

The standard could usefully set out what a "good practice" report should contain, to provide the consistency needed by local planning authorities to inform their decision taking and upward reporting to the Secretary of State (as will be required in the Environment Bill) and to enable developers and local planning authorities to have clarity on what is expected and that it can be achieved. A number of the current 'shall' clauses cover items that should be under 'good practice'.

There are a number of 'shall' clauses that relate to reporting although there are a number of other items that could be usefully added as good practice guidance that can be completed with or without the use of a metric and therefore would apply to all UK countries:

- The provision of figures/drawings to visualise the biodiversity net gain to show the pre-development baseline habitats and the post-development habitat types - the habitat types, area and their condition. A Green Infrastructure drawing to visualise how biodiversity net gain fits in with other environmental provisions and to identify connectivity between the development site and the landscape referencing relevant spatial local strategic significance areas such as wildlife corridors, biodiversity opportunity areas, Green Infrastructure strategies etc.
- The provision of the area (in hectares, square metres or linear metres or kilometres) for every habitat on site before and after so that a quantitative comparison can be made between losses and gains (whilst this should be a given for all reporting, it is not always provided and it would be transparent to do so). Similarly, there should be consistency between habitat areas shown between disciplines e.g. landscape and ecology.
- The biodiversity net gain management and monitoring plan (BNG MMP) proposed in the draft standard needs to be able to be subsumed within other documents that will be prepared as part of delivering planning conditions or obligations. In practical terms, a developer and a local planning authority need one document to be prepared and submitted to the local planning authority that can then be directly used by contractors on site. At present the BNG MMP overlaps with the requirements of Construction Environmental Management Plans (CEMPs) and Landscape Environmental Management Plans (LEMPs) often subject to planning. In reality they could be all incorporated into one document to achieve the desired outcome without unnecessary duplication of effort or cost.

BSG Ecology, LDA Design and Pinsent Masons have also each provided their own detailed response to the draft standard public consultation that relates to their respective technical discipline. All of the observations, comments and suggestions are put forward to help provide workable solutions for the emerging standard.