

Partnership for South Hampshire Strategic Environmental Update

April 2023

Government publishes new details for Nutrients and Biodiversity Net Gain (BNG)

It has been a busy new year in government and planning, with an array of documents published. To keep you up to date, we have compiled a list of what has come out and summarised this new information.

Compulsory SuDS and Guidance

The government announced that sustainable urban drainage systems (SuDS) will become compulsory in 2024. SuDS slow the rate and amount of water that reaches WWTWs during periods of rainfall and reduces the pressure and need to use storm overflows.

Environment Improvement Plan (EIP) 2023

The EIP builds on the 25YEP and sets out how the government will work with landowners, communities, and businesses to meet the countries environmental goals. The goal of this plan is to restore nature, reduce pollution and our impact on the climate, and to promote sustainable resource management and use.

Green Infrastructure Framework (GIF)

The GIF is aimed at planners and developers to help increase the amount of green space in residential areas. One of the commitments of the EIP linked to the GIF is for every person to be able to access green space within a 15-minute walk from their home.

BNG Guidance

On 21st February Defra published the government response on BNG regulation and implementation. The key headlines of the response are:

- Phased introduction of BNG with small sites having until April 2024 to comply with the regulations.
- BNG will not apply to development on 'irreplaceable habitats'.
- Further legislation to be published later in 2023 with further stakeholder consultation before BNG becomes mandatory in November.
- Details of a national statutory credit scheme. Developers will have to demonstrate they cannot deliver habitat onsite or via the offsite market to access the scheme. The scheme credit price will be set in May.
- Self-build sites will be exempt from BNG.
- DLUHC will be producing further guidance in due course on a range of topics including monitoring and reporting.

Guidance was also published for land managers who wish to sell units on the off-site market. This includes [guidance](#) on the actions that land managers can take ahead of November to prepare for selling units.

Furthermore [guidance](#) has been published on combining environmental payments with BNG. This provides further clarification on stacking environmental payments with BNG units such as nutrient mitigation credits.

For enquiries please contact:

Simon Kennedy - Strategic Environmental Planning Manager: skennedy@fareham.gov.uk
Daniel Watts - Partnership for South Hampshire Co-ordinator: daniel.watts@portsmouthcc.gov.uk



Publication of BNG Metric 4.0

BNG Metric 4.0 has now been released. The aim of this update is to streamline the metric and make it more user friendly. Habitat names are now more closely aligned to the relevant habitat classification and there have been changes to the way the spatial risk multiplier is applied.

DEFRA expects that this metric will form the basis of the statutory metric once BNG become mandatory in November 2023.

Spring Budget 2023

The Spring Budget, published on the 15th March, has recognised the scale of the nutrients issue across the country and announced that DLUHC will be looking to provide funding for high quality mitigation schemes.

LURB Update

The LURB is currently at the Committee Stage in the House of Lords. A number of amendments have been tabled by the House of Lords and two of these relate to nutrients. This includes defining what constitutes 'excess nutrient pollution' (amendment 393C) and 'what is treated as environmental damage (amendment 393B). It is anticipated that Royal Assent will take place later this year.

Other Nutrient and BNG News

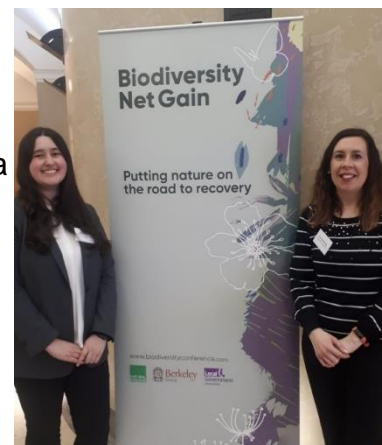
- [Inquiry into the Impact of Environmental Regulations on Development](#) - accepting evidence until the 14th April 2023.
- [Consultation into DLUHC's approach to developing Environmental Outcomes Reports to support the next stage of policy development](#) – accepting responses until 9th June 2023
- There is some possibility that the Knowle nutrient mitigation scheme will be up and running in late Summer/early Autumn 2023.
- BBC2 have aired a two-part programme on the 5th of March 'Our Troubled Rivers' which examines the impact of water companies on rivers. Defra published a [response](#) to the programme.
- Spring budget EOI open. LPA led catchment solutions.

- River Action has applied for judicial review of the EA. The charity is claiming that the EA has not properly applied the relevant rules and allowed nutrient pollution in the River Wye.
- [Update on the Tees Catchment Credit Bank](#): Natural England has launched a credit bank in the Tees catchment. This bank will serve 12 local authorities. So far, Darlington Borough Council is the only LPA to confirm its occupancy rate of 0.8. This is based on a calculation of net additional increase in the local population and the declining average household size. Credits will be released in 3 batches between June 2023 – January 2024 and cost £1825 each (about £2100 per dwelling).

PfSH Strategic Environmental Planning Officers Attend BNG Conference

On the 2nd of March Emma and Millie attended the Natural England BNG Conference in London.

They attended panel discussions on how home building can be a driver for nature recovery, the issues facing small and large-scale developments, and how BNG can be delivered on and off site. It was an informative and positive event, but it is evident that there is still a lot of work to be done across the sector to be ready for when BNG becomes mandatory in November



PfSH Strategic Environmental Planning Officers Working Update

- The new nutrients pages of the PfSH website are live!
- Our next reporting season is due to start towards the end of April, so meeting requests will be sent to relevant Officers soon.
- The PfSH Strategic Environmental Planning Manager is currently gathering interest from relevant authorities on work on Council owned land for BNG.

For enquiries please contact:

Simon Kennedy - Strategic Environmental Planning Manager: skennedy@fareham.gov.uk
Daniel Watts - Partnership for South Hampshire Co-ordinator: daniel.watts@portsmouthcc.gov.uk



Recent Nutrients and BNG Appeal Decisions

[Chichester Council \(Nutrient Mitigation and Conditions\)](#)

A proposal for one dwelling and associated landscaping was dismissed at appeal due to the conflict with the Habitats Regulations. A condition was applied to the development to secure nutrient mitigation in perpetuity. The Council and Natural England accepted a condition to require details of a nitrogen mitigation scheme agreed by the LPA. However, the condition did not provide details if the appellants were to sell the land that the requirements would be legally binding for the new landowners, and therefore could not be secured across the lifetime of the development. The Inspector found the level of certainty did not guarantee implementation or effective mitigation in perpetuity.

[Horsham District Council \(BNG and Water Neutrality\)](#)

A proposal for 83 dwellings has been approved east of Billingshurst. The application had previously been declined in 2021 due to the impact on the areas character and the Arun Valley SAC, SPA and Ramsar sites. There were also concerns as to whether the development would be able to demonstrate water neutrality with part of the water increase being mitigated offsite. The inspector concluded the scheme was water neutral and granted the appeal on the agreement that the developer meets a number of conditions, including the submission of a Landscape and Ecological Management and Maintenance Plan, a 10% BNG scheme, surface water drainage scheme and development of a SuDS drainage system.

[Middlesbrough Council \(Nitrogen\)](#)

A proposal for 18 bungalows has lost its appeal in Middlesbrough due to nutrient neutrality. The development was previously declined planning due to the impact of increased traffic, disturbance to existing residents and the ecological impact of the removal of grassland and semi-mature woodland.

The original application was submitted before nutrient neutrality came to the Tees catchment, but was refused in October 2021, after nutrient neutrality become compulsory. The inspector found that the impact on ecology and to residents was not significant but raised the new issue of nutrient neutrality. The developer said they would seek mitigation, but no evidence was provided of potential sources, and, at the time, the Natural England scheme had not yet been implemented. As the inspector could not be certain that the scheme would be sufficient, the appeal was declined.

[Somerset West and Taunton Council \(Phosphate Issue\)](#)

A proposal for 80 new dwellings and a retail centre have been approved near the village of Cotford St Luke. The council had opposed the scheme due to the location and visual impact on the surrounding countryside. The phosphate solution was to fallow 9ha of the wider land owned by the appellant set out in the land management plan. The Inspector agreed with Natural England's advice that the proposal achieved nutrient neutrality and that it would not adversely affect the Ramsar site and allowed the appeal.

[Somerset West and Taunton Council \(Nutrient Neutrality and Discharge of Planning Conditions\)](#)

On the 8th of March, the high court granted C G Fry & Sons permission to proceed with its claims for S.228 statutory review of the dismissal of its appeal against the refusal of the council to discharge conditions on the reserved matters approval for Phase 3 of the Jurston Farm development. The development was granted planning permission in 2015, with Phase 3 approved in June 2020, before Nutrient Neutrality was introduced. The key issues are whether appropriate assessment is required at discharge of conditions and if so whether the scope of the assessment is limited or covers the whole development. Furthermore, the court will consider whether the conditions apply to Ramsar sites which are not protected by law under the Habitats Regs. A date for the 2 day case has yet to be determined.

For enquiries please contact:

Simon Kennedy - Strategic Environmental Planning Manager: skennedy@fareham.gov.uk
Daniel Watts - Partnership for South Hampshire Co-ordinator: daniel.watts@portsmouthcc.gov.uk

