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Sent by email only to julie.tuck@sse.com

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Dear Julie

A Network for Net Zero Consultation Response

Please find attached RSPB Scotland's response to SSEN's consultation on implementing Biodiversity Net Gain. We welcome the ambitious approach to Biodiversity Net Gain and appreciate the amount of work that has been undertaken in moving this forward. We very much welcome the voluntary approach taken by SSEN in this area and would like to engage in a positive and open way to help achieve positive outcomes for Scotland's environment.

Yours sincerely
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RSPB Scotland Response to 'A Network for Net Zero' - Our Approach to Implementing Biodiversity Net Gain Consultation July 2019 – Scottish and Southern Electricity Networks

Introduction

RSPB Scotland is part of the RSPB, the UK's largest nature conservation charity, inspiring everyone to give nature a home. Together with our partners, we protect threatened birds and wildlife so our towns, coast and countryside will teem with life once again. We also play a leading role in a worldwide partnership of nature conservation organisations.

The 2019 IPBES Global Assessment Report on Biodiversity and Ecosystem Services[1] highlighted the critical state that the world's biodiversity is in. There have been significant losses of key habitats and around 1 million species are already facing extinction unless action is taken to reduce the intensity of drivers of biodiversity loss.

Therefore, we welcome SSEN's consultation on proposals for a biodiversity net gain (BNG) approach and the positive leadership to promote best practice. The Planning (Scotland) Bill unfortunately did not take the opportunity to make BNG a statutory requirement. We hope that the next National Planning Framework will go further to instil this principle in the Scottish planning system.

We strongly agree that any BNG implementation must be part of wider approach towards wildlife and the natural environment, which follows the mitigation hierarchy, takes account of key species and the good practice principles set out in CIRIA guidance[2].

The RSPB has set out 12 key principles for BNG, which are in summary:

1. Ensure biodiversity net gain is mandatory for all developments and all local planning authorities and ensure the system is regulated.

2. Apply it only outside statutory protected areas.

3. Irreplaceable habitats are inappropriate for the net gain system and should be protected from any loss.

4. Use a robust biodiversity metric, taking account of species and habitats.

5. Have a clear and consistent national framework that sets minimum values for nationally important habitats and species based on favourable conservation status.

6. Secure biodiversity net gain before considering environmental net gain.

7. Apply and enforce the mitigation hierarchy.

8. New habitat created should follow a proximity principle

[1] IPBES, 2019, Global Assessment Report on Biodiversity and Ecosystem Services
https://www.ipbes.net/global-assessment-report-biodiversity-ecosystem-services
[2] CIRIA, 2016, Biodiversity Net Gain -Good Practice Principles for Development

9. The data on existing habitats and species (including importance, condition and irreversibility) needs to be significantly improved.

10. Integrate with improved strategic spatial planning and a strategic programme of nature conservation at a variety of appropriate scales.

11. New habitats delivered through net gain should be secured in perpetuity.

12. Improve access to independent ecological expertise in local planning authorities.

Although we appreciate that the SSEN proposals are voluntary and the above principles were formulated in the context of a national approach, they reflect the RSPB's position on the issue.

Other comments

The 'What is Biodiversity Net Gain' section in the consultation document refers to "The principle of BNG is to avoid, minimise and restore nature, and ensure that negative impacts from development are compensated by either equivalent or preferably additional gains for biodiversity (no net loss and net gain respectively)". However, this seems to incorporate no net loss as well as BNG. RSPB Scotland considers that BNG could be more clearly and simply defined as 'development which leaves biodiversity in a better state than before'.

This section of the document also states that "Any remaining biodiversity losses should be compensated outside of the development or 'offsite' (known as biodiversity offsetting)". However, we consider that offsetting can be done on or off-site. This definition is also given in CIRIA guidance[3] which states that this can be 'within or outside a development site'.

The last paragraph in this section discusses how biodiversity units can be calculated on-site before and after development. It is our understanding that the calculation can also be used to quantify habitat off-site if BNG has not been able to be achieved on-site and off-site compensation is required.

Question 1. Can you identify any opportunities for stakeholder engagement to help achieve the above targets?

RSPB Scotland welcome opportunities to work with developers at an early stage to help identify key sensitivities early in the design process. For example, advice which draws on local knowledge and species records may help inform the identification and assessment of alternative options at an early stage, as well as possible mitigation.

BNG is likely to work best if the enhancements address existing strategic goals identified at a local level. Working with other stakeholders including local authorities, NGOs and other local groups to identify strategic priorities for enhancement at an early stage is likely to be beneficial. RPSB Scotland has a lot of experience managing sites for conservation and may be able to provide advice to ensure that the enhancement proposals deliver long term benefits for biodiversity.

[3] CIRIA, 2019, Biodiversity Net Gain -A Practical Guide

Question 2. Do you have any comments on our proposed staged approach for the inclusion of Biodiversity into our project development process?

We welcome the proposal to integrate natural environment considerations into each stage of the development process and welcome the emphasis placed on the importance of using the mitigation hierarchy. In particular, this should help to identify and avoid the most damaging impacts– such as those on designated sites and irreplaceable habitats.

Question 3. Do you believe the level of assessment is appropriate at each stage?

The early stages (opportunity and optioneering stages) focus on using existing data and high-level mapping, which can be useful in identifying constraints. However, the proposed approach on page 7 does not identify opportunities for consultation or explain how this could contribute to the process. As highlighted above, early consultation with key stakeholders can be beneficial in identifying environmental constraints and enhancement opportunities. For example, up to date information on golden eagle nest sites would not be available from desk-based study and could be important in considering route options and ensuring that the mitigation hierarchy is followed. It would be useful if optioneering reports could clearly highlight why certain options were chosen and what the balance in the decision-making process between engineering, land, landscape, biodiversity and other relevant considerations was.

At the optioneering stage, SSEN are proposing utilising a BNG site optioneering tool to aid in the BNG assessments of each option. We have some concerns about whether a metric can be properly applied using only "high-level mapping and available data sets". The mitigation hierarchy must be applied at this stage and irreplaceable habitat avoided to ensure the best environmental option is selected, but it may be more difficult to apply a metric at the optioneering stage. However, we would be interested to see the optioneering toolkit when further developed.

The detailed surveying of the site and establishment of a baseline once the preferred route option/site has been chosen seems sensible. However, we would strongly recommend that a walkover survey to ground truth key constraints/options is undertaken at the optioneering stage.

When establishing the baseline, it will be important to capture qualitative aspects of the site which cannot be fully captured by the metric, for instance, a site's unique importance in area as an accessible greenspace for people.

The ongoing monitoring of enhancement sites is important. When it can be ascertained that the 'long term establishment' has been achieved is likely to differ across sites. At the operation stage we would welcome a commitment to share the findings with stakeholders as widely as possible.

Question 4. Do you have any comments on a proposed adaptive management approach?

The inclusion of adaptive management is welcomed to identify required changes in light of unforeseen circumstances or new information. It could also identify if additional measures are required to ensure that BNG is achieved. It will be important to have a clear process to follow when changes are required, such when to discuss any additional measures and/or a change in maintenance with stakeholders. This would ensure that the process is open and gives confidence to stakeholders. Clear timeframes and the extent to which adaptive management on sites can be used should be set out from the beginning.

Question 5. Do you have comments on our use of the newly drafted DEFRA tool?

The RSPB provided a response to DEFRA's consultation on net gain (December 2018) which is attached for your information. In that response we highlighted that the RSPB supports the use of a metric within a net gain system but believe a number of changes were needed to prevent some habitats being unreasonably favoured over others to avoid reaching the point where the system cannot deliver strategic gains.

Without seeing the full details of the proposed metric and how DEFRA's metric would be modified by SSEN, it is not possible to comment in detail.

It is noted that carbon impacts are not captured and would need to be considered separately from biodiversity impacts. We would be interested to understand the approach to the avoidance of deep peat (>50cm deep)[4] and how is this would be incorporated into the toolkit.

In the consultation SSEN propose that achieving 95% of pre-development biodiversity units post-development would be considered to be 'no net loss' and 105% as a BNG. It is noted that DEFRA proposed a 10% biodiversity gain requirement and this was accepted as an appropriate level by DEFRA in the recent response to the consultation[5].

RSPB Scotland believes that anything less than 100% of pre-development biodiversity should be considered a net loss. Given the biodiversity crisis that we face, and to ensure that SSEN achieve their ambitions, we think that higher percentages of net gain, with a minimum of 110%, should be aimed for. Although we appreciate that risk is built into the metric in relation to difficulty, time to target condition and spatial risk, sufficient additional gain is needed to the manage risk associated with loss and recreating habitat. Given the urgency of the global biodiversity crises, it would be great to see a more ambitious proposal with a 110% net gain requirement for each project. However, we appreciate that SSEN is proposing a voluntary scheme and that this could be a practical trial for developers in Scotland and we welcome the forward thinking commitment which is being made. We would suggest the consideration of using different levels of targets or key performance indicators could allow more ambitious targets, to encourage maximum gains, while ensuing that goals are achievable and realistic.

Question 6. Do you have any comments on the proposed modification of the tool to make it more applicable to Scottish habitats?

Although it is not possible to comment fully at this stage without seeing the full values in the adapted tool, RSPB Scotland welcomes the modification of the tool to recognise the potential limitations in a Scottish context.

We would agree that compensatory tree planting can represent a missed opportunity for more appropriate habitat improvement for a particular species in an area, or result in habitat loss for key species, such as hen harrier. We note that the Scottish Government's Policy on Control of Woodland Removal does provide for situations where woodland removal would be appropriate without compensatory planting. We also note that this policy is not a statutory planning document and Scottish Forestry (formally FCS) is not a statutory planning consultee and any advice should also be

[4] SNH, 2016, Carbon Rich Soils, Deep Peat, and Priority mapping – Consultation Analysis Report, https://www.nature.scot/sites/default/files/2018-05/Carbon%20and%20Peatland%20map%20consultation%20analysis%20report.pdf

[5] DEFRA, Net Gain -Summary of responses and government response, 2019. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819823/net-gain-consult-sum-resp.pdf

considered in the context of other Scottish Government strategies such as the Scottish Biodiversity Strategy.

In relation to peat, we would agree that beneficial peatland habitat restoration can be undertaken and RSPB Scotland has experience of both delivering this and advising others. We would welcome any measures to support the restoration of damaged peatland, but it is extremely important that this must not be used to justify causing damage to peatland.

Due to the unique sensitivity of peat, its value as a carbon store and because it is an irreplaceable habitat, we do not think it can be adequately incorporated into the metric. We would suggest that a separate reporting system would be needed to report on the impacts on peat habitat and we would welcome further discussion on this.

Question 7. Do you have comments on our approach to reporting from portfolio to project level?

The proposed methods for reporting of BNG is welcomed and we agree that it should be as transparent and publicly assessible as possible. For instance, it would be helpful if this could be easily accessible through an SSEN webpage and/or Local Authority webpage. As mentioned above, different levels of reporting may allow for more ambitious targets to be met for projects. We would ask for caution in reporting at portfolio level to ensure that losses of biodiversity on one project are not 'flatted out' across a number of developments. However, this could also give a wider overall picture; provided that the reporting is clear and open this could also be useful.

Question 8. Do you have any comments on reporting frequency?

The proposed reporting frequency would seem appropriate.

Question 9. Do you have any comments on when we can conclude a net gain target has been met?

It can be very difficult to ascertain when a net gain target has been met, especially if it relates to a habitat which takes a long time to be restored. It will be important to set out clear milestones at the outset to ascertain, through monitoring, when targets have been achieved. If a long-term management plan is needed then working with conservation or community bodies to ensure this takes place may be appropriate. If the management has to be adapted, timescales (and budgets) may need to be altered and there needs to be room for this. Processes to be followed in the event that management or goals need to be changed should be clearly set out.

Question 10. How do you report of on successful avoidance?

As noted above, the avoidance of designated sites, wildlife reserves, deep peat, other irreplaceable habitats and key species is essential in ensuring negative impacts on biodiversity are minimised. We would welcome reporting which shows projects have avoided such features, as this is a key principle of the approach and would increase transparency and understanding of the real impacts.