

Home Builders Federation

Matter 3

GUILDFORD DEVELOPMENT MANAGEMENT POLICIES EXAMINATION

Matter 3 – Policy P6/P7: Biodiversity in New Developments

Main Question: Whether Policy P6/P7: Biodiversity in New Developments is positively prepared, justified, effective and consistent with both national policy and the LPSS.

Supplementary Questions:

3.1 Is the requirement for a 20% increase in biodiversity justified in the case of Guildford?

No. As the inspector will be aware the Environment Act 2021 requires from December 2023 that all new development delivers at least a 10% net gain in biodiversity over its baseline value. However, the Council are seeking in P6/P7 to require development to deliver a 20% gain in biodiversity, an additional 10% on that required by this legislation. However, what is not clear is why the Council consider it necessary for development to deliver more than the 10% required through legislation and in particular how this meets the test set out in paragraph 57 of the NPPF and regulation 122 of the CIL Regulations 2010 that such obligations should meet all the following tests:

- “a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development.”*

We could not find any evidence from the Council to justify the additional 10% in relation to these tests.

Firstly, we could not find any evidence presented by the Council as to why a 20% net gain is required to make a development acceptable in planning terms in Guildford. Paragraph 174d) of the NPPF states that planning policies should “*minimise impacts on and provide net gains for biodiversity*”. As such a development that meets this minimum requirement will ensure that paragraphs 174(d) of the NPPF is addressed. As the Government note on page 9 of their response to the consultation on net gain (SD-013), they considered 10% to deliver the right balance between “*ambition, achieving environmental outcomes, and deliverability and cost to developers*”. The



consultation goes on to state in the same paragraph that this should not be viewed as a cap on the aspirations of developers who want to go further “*voluntarily*”. Further to this it should also be noted that the Impact Assessment produced by Defra and Natural England on BNG (SD-012) noted on page 80 that 10% was “... *the lowest level of net gain that the department could confidently expect to deliver genuine net gain*”. This indicates that 10% is what is required to ensure a net gain in biodiversity and as such any level above this is not necessary to make a development acceptable in planning terms.

Moving on the second test, the Council provide no evidence as to how the additional 10% gain over legislative requirements is directly related to the development. As set out above the Government consider 10% sufficient to address the impacts of development on biodiversity relating to any site. As with other form of infrastructure new development is not required to address existing shortfalls in green infrastructure but to ensure that it provides the necessary mitigation in relation to the impacts of that development. Whilst the Council have set out that biodiversity has declined in the past both in Surrey and across the Country it needs to be recognised that these wider declines in biodiversity will have occurred due to a range of factors, for example changing agricultural practices, and it cannot be considered consistent with the tests set out above for new development to address the losses from past activities. As set out above the Government acknowledge that providing a 10% net gain in biodiversity will ensure that the impact of that development on biodiversity is addressed and as such anything beyond 10% is not directly related to the development and unsound.

Finally, it must be fairly and reasonably related in scale and kind to the development. Again, the Council have not provided any evidence as to how the policy requirement meets this test. Development meeting its requirements set out in legislation will be considered to have addressed its obligations with regard to ensuring the policy requirement and that there is a net gain. As stated above, to go beyond that figure means that the development is addressing historic losses or losses created by other sectors. As such the additional 10% is not fairly or reasonably related to the scale of the development and as such the policy also fails on this final test.

In conclusion there would appear to be no evidence as to why the Council consider the additional 10% on top of the minimum required by the Environment Act 2021 is necessary, directly related to the planning application or fairly and reasonably related in scale and kind to the development being proposed in the Borough. Without this evidence the Council cannot justify this policy requirement, and, on this basis, it should be removed from the local plan.

3.2 What would be the implications of a 20% increase on development viability? Would there be any unintended consequences?

In addition to the failure of the policy in terms of the tests for planning obligations there remains significant uncertainty as to the costs of delivering net gains. Whilst the Government have set out their expectations with regard to these costs these will be principally dictated by the site and the base level of biodiversity. Prior to these being

tested there is significant uncertainty as to what is required on a site-by-site basis. As such it is very difficult to assess how much additional cost the Council's policy will actually place on development. As we have highlighted in our representations, the HBF is concerned that 20% net gain will require a higher proportion of delivery either off site or through the purchase of credits. Given that the national credits scheme is still to be introduced and there does not appear to be a local scheme in place the costs, and as such the impact on development, remain uncertain.

3.3 If viability is an issue on a site, how does biodiversity feature amongst other priorities?

For Council.

Mark Behrendt MRTPI
Planning Manager – Local Plans SE and E

Home Builders Federation

Matter 6

GUILDFORD DEVELOPMENT MANAGEMENT POLICIES EXAMINATION

Matter 6: Policy ID11: Parking Standards

Question: Whether Policy ID11: Parking Standards is positively prepared, justified, effective and consistent with both national policy and the LPSS.

Supplementary Questions:

6.1 In relation to non-strategic sites, is it justified for the policy to require compliance with the standards set out in a Parking SPD that does not form part of the plan?

No. As we set out in our representations the Council can only seek compliance where such standards are set out in the local plan. Supplementary planning documents or guidance are not policy and should not be treated as such.

Home Builders Federation

Matter 8

GUILDFORD DEVELOPMENT MANAGEMENT POLICIES EXAMINATION

Matter 8: Viability

Question: Have the policy requirements in the DMP, including the requirements for First Homes, a 20% net gain in biodiversity and electric vehicle charging infrastructure, been adequately assessed in relation to viability to ensure that they do not undermine the deliverability of housing development in the area? If not, how can the matter be addressed and what would the implications be for the policies in the DMP?

The HBF's concerns are set out in our representations. Our principal concern relates to the 20% net gain and the degree to which this could impact on development given that until the base level of biodiversity is known the cost of meeting this requirement cannot be accurately assessed. The requirement could lead to the developable area being reduced on some sites or the need for offsite provision which is expected to be significantly higher given the market for offsite delivery is still very much in its infancy. As set out in our response to Matter 3 the most appropriate approach would be to remove the 20% requirement and focus on supporting development to achieve 10% as a minimum whilst welcoming those developments that choose to and are able to go beyond 10%.