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# Biodiversity Net Gain



## Main Modification Supporting Note

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For Submission: Elmbridge Local Plan 2037

July 2023



**Elmbridge**

Borough Council

*... bridging the communities ...*



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# Contents

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|  |    |
|--|----|
| .....  | 1  |
| 1. Introduction .....  | 2  |
| 2. Biodiversity Net Gain Background and Context .....                                      | 4  |
| 3. Evidence Supporting the Proposed Increase to 20% BNG .....                              | 9  |
| 4. Assessment of Proposed Increase to 20% BNG Against the NPPF Tests of<br>Soundness ..... | 13 |
| 5. Conclusion .....  | 16 |

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# 1. Introduction

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- 1.1 The Government has introduced a mandatory requirement for development to deliver onsite biodiversity net gains (BNG) through the Environment Act 2021. The Environment Act received royal ascent in November 2021 and the BNG requirement of the Act is expected to commence in November 2023. Under the national BNG approach all development, unless exempt, will be required to deliver an onsite BNG of 10% following Defra's Biodiversity Metric to measure gains or losses.
- 1.2 The Draft Elmbridge Local Plan 2037 has been developed concurrently with the Environment Act and mandatory BNG, with Regulation 18 consultations undertaken in 2017, 2018 and 2020 and a Regulation 19 consultation undertaken in June 2022. Draft Policy ENV6 seeks to adopt the national BNG approach, requiring all development, unless exempt, to achieve a 10% BNG under criterion 4. (a) as set out below:

**ENV6 – Protecting, enhancing and recovering biodiversity**

4. Development proposals must:

a) Lead to a net gain in biodiversity of a minimum of 10% on all sites, unless an exemption applies. The achievement of net gain should be informed by an ecological assessment of the site's existing features and development impacts and demonstrated using a net-gain calculator and biodiversity gain plan;

- 1.3 At the time the Council was preparing its evidence base, drafting policy and considering reasonable alternatives, the Government's proposals for the Environment Act and mandatory BNG were at an early stage, with regulations setting out how BNG will be implemented yet to be produced. As such, there was significant uncertainty around the implications of BNG requirements for development particularly with regards to understanding the impact of setting a higher percentage BNG requirement on development viability and deliverability.
- 1.4 The viability implications of higher BNG requirements are now better understood and several of the Council's neighbouring Local Planning Authorities, such as Guildford Borough Council and Mole Valley Borough Council, are adopting or seeking to adopt a 20% BNG requirement. As such, Elmbridge have proposed a main modification to draft Policy ENV6 of the draft

Local Plan to increase the BNG requirement from 10% to 20% (main modification ref. M4.5<sup>1</sup>).

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<sup>1</sup> Elmbridge Borough Council Proposed Main Modifications. Available at:  
<https://www.elmbridge.gov.uk/sites/default/files/2023-08/CD009%20-%20Schedule%20of%20Proposed%20Main%20Modifications%20-%20June%202023.pdf>

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## 2. Biodiversity Net Gain Background and Context

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### National Context

- 2.1 The UK is one of the world's most biodiversity depleted countries<sup>2</sup>. Human-driven land use changes have led to loss and fragmentation of natural and seminatural habitats. Combined with other pressures, such as development, climate change, pollution in the air and in watercourses, the impact on nature from human activity has been significant. Across the UK generally, the abundance and distribution of species has declined over recent decades with many species experiencing rapid population contractions. Greater than one in seven wildlife species have become extinct or threatened to the point of extinction in the last 40 years.
- 2.2 It is increasingly apparent that the UK's biodiversity decline is so severe that heightened efforts to bring about recovery (as opposed to merely arresting loss) are essential. This is reflected nationally where the focus has shifted from protecting biodiversity to restoration and enhancement. This position is set out in existing and emerging legislation, as well as national planning policy and strategies, including the National Planning Policy Framework (NPPF) (2021)<sup>3</sup> and Planning Practice Guidance (PPG)<sup>4</sup>, the Environment Act (2021)<sup>5</sup> and the 25 Year Environment Plan (2018)<sup>6</sup>. All of which include recommended actions or requirements to deliver measurable environmental and biodiversity net gains through development.

### Local Context

- 2.3 Surrey is a relatively biodiverse county, and the district of Elmbridge is home to areas of internationally and nationally restricted habitats of importance such as lowland heath<sup>7</sup> and has a large number of sites designated nationally and locally for their nature conservation importance.
- 2.4 This natural richness is an asset that provides many direct benefits for human health and wellbeing, and for the local economy through leisure, tourism and agriculture, and more broadly from the ecosystem services that support all economic activities and sustain life. For example, Surrey's woodlands are

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<sup>2</sup> The UK retains only around 53% of its biodiversity (average across the UK), putting it in the bottom 10% of countries. See '[Natural History Museum reveals the world has crashed through the 'safe limit for humanity' for biodiversity loss | Natural History Museum \(nhm.ac.uk\)](#)'

<sup>3</sup> <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

<sup>4</sup> <https://www.gov.uk/guidance/natural-environment>

<sup>5</sup> <https://www.legislation.gov.uk/ukpga/2021/30/contents/enacted>

<sup>6</sup> <https://www.gov.uk/government/publications/25-year-environment-plan>

<sup>7</sup> A globally rare habitat of which 20% is in the UK.

estimated to provide £90 m value annually through environmental goods (e.g. timber) and services (including air quality and health/leisure benefits)<sup>8</sup>. Biodiversity and landscapes are inextricably linked, with features such as woodlands, shaws and hedgerows integral to the character of rural areas. In addition, at a global scale, ecosystems and soils play an important role in carbon sequestration and help to mitigate climate change.

- 2.5 The county has historically suffered a high degree of habitat loss/fragmentation and routine wildlife persecution, compounded by more modern and ongoing impacts associated with intensification of agriculture and eutrophication of soils and water. As a result, the decline in local biodiversity is even more pronounced than that seen nationally.
- 2.6 The State of Surrey's Nature report<sup>9</sup> produced by the Surrey Nature Partnership (SyNP) - the Local Nature Partnership designated by the Secretary of State for Environment, Food and Rural Affairs in Surrey - was published in 2017, closely following the publication of the second national State of Nature report<sup>10</sup> in 2016. This enabled direct comparisons between the county and national levels of biodiversity decline. The SyNP report concluded the likely local extinction of an estimated 11.5% (or around 1 in 9) species native to the county since 1985, with a further 4.4% threatened with local extinction. In contrast the national extinction rate in 2016 was found to be 2% extinct and 13% threatened. The county rate of species loss is therefore around six times greater than the national level.
- 2.7 The greater degree of biodiversity decline seen in Surrey means there is a greater need to deliver biodiversity improvements. In addition, the recovery of its environment is critical to ongoing economic, social and environmental sustainability. This led the SyNP to publish a position statement in 2020 recommending the adoption of 20% BNG across the Surrey planning sector<sup>11</sup>. In setting out this recommendation, the SyNP notes, in relation to the greater level of biodiversity decline experienced in Surrey, that *“even without a coastline the Surrey administrative area is recognised as ecologically capable of supporting a relatively diverse flora and fauna (i.e. its biodiversity). It may be predicted therefore that our rate of species loss in response to pressures applying universally will be higher than average”*.

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<sup>8</sup> Valuing Surrey Summary (Surrey Nature Partnership, 2015). Available at: <https://surreynaturepartnership.files.wordpress.com/2015/11/surrey-nature-partnership-valuing-surrey-summary-june-2015.pdf>

<sup>9</sup> Available at: <https://www.surreywildlifetrust.org/sites/default/files/2017-12/State%20of%20Nature%20in%20Surrey%20Web.pdf>

<sup>10</sup> Available at: <https://www.bto.org/our-science/publications/state-nature-report#:~:text=The%20State%20of%20Nature%20report,each%20country%20in%20more%20depth.>

<sup>11</sup> Available at: [https://surreynaturepartnership.files.wordpress.com/2020/11/recommendation-for-20-bng-in-surrey\\_snp-november2020\\_final.pdf](https://surreynaturepartnership.files.wordpress.com/2020/11/recommendation-for-20-bng-in-surrey_snp-november2020_final.pdf)

## National Planning Policy and Guidance

- 2.8 The NPPF is clear in paragraph 7 (c) that enhancing the natural environment and improving biodiversity are key outcomes of the environmental objective of the Planning System and achieving sustainable development.
- 2.9 Paragraph 174 of the NPPF sets out that *“planning policies and decisions should contribute to and enhance the natural and local environment...”* Including by protecting and enhancing sites of biodiversity value (paragraph 174 (a)), minimising impacts on biodiversity and providing BNGs (paragraph 174 (d)).
- 2.10 Paragraph 179 goes on to set out how Local Plans should protect and enhance biodiversity, including by identifying and pursuing opportunities for securing measurable net gains for biodiversity (paragraph 179 (b)).
- 2.11 Finally, paragraph 180 establishes that protections for sites of biodiversity importance, including a mitigation hierarchy that should be applied to development proposals to achieve no overall negative impact on biodiversity. The hierarchy sets out that biodiversity harm should be avoided in the first instance, where harm cannot be avoided it should be mitigated and as a last resort where harm cannot be avoided or mitigated it should be compensated for.
- 2.12 Expanding on national policy, PPG on the Natural Environment states that *“Plans... can be used to set out a suitable approach to [biodiversity net gain], how it will be achieved, and which areas present the best opportunities to deliver gains”* (paragraph 21 Reference ID: 8-021-20190721). Paragraph 22 (Reference ID: 8-022-20190721) adds *“the National Planning Policy Framework encourages net gains for biodiversity to be sought through planning policies...”*. This makes it clear that local plan policies can and should address BNG rather than simply relying on national policy and legislation.

## The Environment Act 2021 and Mandatory Biodiversity Net Gain

- 2.13 The Environment Act introduces a mandatory requirement for developments (unless exempt) to achieve a minimum 10% BNG. It also includes conservation covenants that will secure land used for biodiversity gains; targets for preserving water resources and restoring wildlife; and Local Nature Recovery Strategies which will coordinate nature recovery at the local level. The Act was first proposed in 2018 and received Royal assent in November 2021. The mandatory BNG requirement is currently expected to commence in November 2023.

## Principle of Additionality

- 2.14 Fundamental to the national BNG approach is the principle of additionality. The BNG target and the Defra methodology do not replace the mitigation

hierarchy or compensation and mitigation regimes – they are additional to them. Alongside this, BNG improvements must be additional to habitat works that would have been undertaken without a BNG requirement due to legal or policy obligations for compensation or mitigation as a result of impacts on protected habitats.

- 2.15 This principle of additionality is confirmed in the PPG (Natural Environment, paragraph 24, reference ID 8-024-20190721) which states *“biodiversity net gain complements and works with the biodiversity mitigation hierarchy set out in NPPF paragraph 175a. It does not override the protection for designated sites, protected or priority species and irreplaceable or priority habitats set out in the NPPF. Local planning authorities need to ensure that habitat improvement will be a genuine additional benefit, and go further than measures already required to implement a compensation strategy”*.
- 2.16 By excluding obligatory habitat works from BNG, the mitigation hierarchy is preserved and development is guided away from impacts on protected sites, habitats and species. If protected habitat could be harmed or lost with the damage compensated through provision of BNG habitat that would have to be provided anyway, the incentive to avoid or reduce harm to protected habitats would be lessened.

#### The Draft Elmbridge Local Plan 2037 Approach to Biodiversity Net Gain

- 2.17 The Regulation 19 Draft Elmbridge Local Plan 2037 sets out a vision to support ‘good growth’ and shape development in the Borough so that it meets the needs of residents and business. To achieve this vision, the Plan is led by five guiding principles: (1) tackling climate change; (2) protecting and enhancing the quality of the environment; (3) delivering homes; (4) growing a prosperous economy; (5) providing infrastructure and connectivity. Protecting and enhancing green and blue spaces to improve biodiversity is a key objective of principle 2.
- 2.18 The draft Local Plan includes three strategic policies within chapter 3 and a range of development management policies to support the implementation of the Local Plan vision and guiding principles. The detailed policies that aim to support the delivery of the objectives of draft principle 2 are set out in chapter 5 – Principle 2 – Protecting and enhancing the environment.
- 2.19 Strategic policy SS2 sets out at criterion 2. *“all development proposals will be assessed taking into account... (a) protecting and enhancing our natural, historic and built environment by: (ii) conserving and enhancing biodiversity”*. Policy ENV6 – protecting, enhancing and recovering biodiversity goes on to include the mandatory BNG requirements in accordance with the provisions of the Environment Act. The level of BNG required was set at 10% in line with national mandatory BNG.



2.20 Since the publication of the Regulation 19 Draft Elmbridge Local Plan in June 2022, the Council has been preparing the Local Plan for submission to the Planning Inspectorate and Examination in public. The Council has considered the representations received during the Regulation 19 public consultation to inform this process. The submission documents prepared include a set of proposed main modifications to the draft Plan for the Inspector's consideration. A proposed change set out within the modifications is increasing the BNG requirement of draft Policy ENV6 from 10% to 20%.

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## 3. Evidence Supporting the Proposed Increase to 20% BNG

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### Surrey Nature Partnership 20% BNG Position Statement

- 3.1 The Surrey Nature Partnership (SyNP) published a position statement on BNG<sup>12</sup> recommending that Surrey Local Planning Authorities (LPAs) adopt a 20% BNG policy requirement.
- 3.2 The statement refers to evidence presented by Defra on the introduction of BNG into the planning system (December 2018 - February 2019), which made clear that an increase of 10% is the lowest level of net gain that Defra could confidently expect to deliver genuine BNG, or at least no net loss, of biodiversity. It also refers to the Surrey State of Nature Report (2017), which found the rate of biodiversity decline across the county is more severe than the already severe level seen nationally. In addition, the statement cites the Defra BNG Impact Assessment, which states that *“advice from some Natural Capital Committee members suggests that a level of net gain at or above 10% is necessary to give reasonable confidence in halting biodiversity losses”*.
- 3.3 The position statement argues that based on the evidence present in the Defra Impact Assessment and the need to reverse the relatively greater level of biodiversity loss, there is justification for the adoption of a 20% BNG requirement across Surrey LPAs.

### Defra Biodiversity Net Gain Impact Assessment

- 3.4 Regarding the cost of BNG, Defra’s BNG Impact Assessment<sup>13</sup> sets out that achieving 10% BNG carries a relatively small cost when compared to the costs associated with mitigating and compensating for development impacts on biodiversity under the existing mitigation hierarchy regime.
- 3.5 The Impact Assessment notes that *“the majority of the costs associated with net gain are incurred to correct for the initial loss of biodiversity through development (i.e. achieving only ‘no net loss’). When compensation for development’s impacts is incorporated, a 10% net gain could be seen as a requirement to deliver approximately 110% of the total lost biodiversity (approximately because the 10% is applied to the full biodiversity value of the development site, rather than only those lost or in the structures’ footprint). A*

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<sup>12</sup> Available at: [https://surreynaturepartnership.files.wordpress.com/2020/11/recommendation-for-20-bng-in-surrey\\_snp-november2020\\_final.pdf](https://surreynaturepartnership.files.wordpress.com/2020/11/recommendation-for-20-bng-in-surrey_snp-november2020_final.pdf)

<sup>13</sup> Available at: [https://consult.defra.gov.uk/land-use/net-gain/supporting\\_documents/181121%20Biodiversity%20Net%20Gain%20Consultation%20IA%20FINAL%20for%20publication.pdf](https://consult.defra.gov.uk/land-use/net-gain/supporting_documents/181121%20Biodiversity%20Net%20Gain%20Consultation%20IA%20FINAL%20for%20publication.pdf)

*10% gain therefore represents a relatively small proportion of overall habitat creation/enhancement requirements” and “the analysis undertaken in this Impact Assessment indicates that the level of requirement makes relatively modest difference to the costs of mitigating and compensating for impacts... when assessed against the more significant costs of achieving no net loss and wider development policy objectives” (page 80, paragraph 3).*

### Viability Evidence

- 3.6 The Council's Viability Assessment of the Draft Elmbridge Local Plan (March 2022) produced by DSP<sup>14</sup> reflected the 10% BNG requirement set out in draft policy ENV6 as part of the overall set of assumptions for the study. The study found that the policies in the draft Plan, including the BNG requirement would not negatively impact the viability and deliverability of development in the Borough.
- 3.7 DSP have also produced a Biodiversity Net Gain: Commentary Note (July 2023)<sup>15</sup> to consider the potential impact of the Council's proposed increase to 20% BNG on development viability. The note concludes that an increase to 20% BNG would lead to a marginal increase in the cost of development in the Borough, even at high end cost assumptions and would not undermine the ability of development proposed through the plan to come forward viably in support of a deliverable approach when viewed overall.
- 3.8 DSP also highlights that there is recent precedent at examination of Guildford Borough Council's (GBC) Local Plan that a 20% BNG requirement can be considered viable, supportable and justified based on the same costs evidence analysed in their commentary note.

### Examples from Other Local Authorities

- 3.9 As mentioned in DSP's BNG Commentary Note, there is recent precedent at examination that a 20% BNG requirement can be considered viable, supportable and justified. GBC successfully adopted their Development Management Policies in March 2023 following Examination in November 2022, which included a 20% BNG requirement.
- 3.10 Referring to the BNG requirement, the Inspector concluded that *“having regard to this evidence, in relation to build and other development costs, I am satisfied that the impact of a 20% BNG policy on viability in Guildford Borough would be marginal and as such would not undermine the deliverability of the LPSS”* and goes on to say that *“whilst 10% BNG strikes the right balance nationally between the ambition for development and the pressing need to reverse environmental decline, 20% BNG strikes the right balance between those objectives in the Borough”*.

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<sup>14</sup> Available at: <https://www.elmbridge.gov.uk/planning/new-local-plan/new-local-plan-supporting-evidence/other-supporting-evidence>

<sup>15</sup> Available at: <https://www.elmbridge.gov.uk/sites/default/files/2023-08/ENV016%20-%20Biodiversity%20Net%20Gain%20Viability%20Commentary%20Note%20-%20Jul%202023.pdf>

- 3.11 Other LPAs are also seeking to introduce 20% BNG in their Local Plans, for example Mole Valley submitted their Draft Local Plan 2020 – 2037 in February 2022. Policy EN9: Natural Assets of the draft Plan includes a 20% BNG requirement. In addition, the SyNP BNG Position Statement highlights that Lichfield District Council Biodiversity and Development SPD (2016)<sup>16</sup> seeks 20% BNG from development.
- 3.12 Both Guildford Borough Council and Mole Valley are Surrey districts with similar contexts to Elmbridge that are seeking to address the severe level of biodiversity decline seen across the county.

#### Evidence of Feasibility

- 3.13 The Draft Elmbridge Local Plan proposes a brownfield approach, with the emerging planned site supply constituted of sites on previously developed land. The overall BNG baseline is acknowledged to be at a lower level on brownfield sites compared to greenfield sites and the cost to achieve a 'net gain' of 10% or 20% is likely to be less, typically, than in comparison to development on greenfield sites. This is corroborated within the evidence presented by Guildford Borough Council during their Examination in '*Matter 3: Policy P6/P7: Biodiversity in New Developments*' of their Examination Documents<sup>17</sup>. At paragraph 2.16, Guildford note that their BNG Sites Study indicates that sites with a low biodiversity baseline (like many brownfield sites with low biodiversity value) are likely to be able to achieve generous BNG levels onsite.
- 3.14 Guildford go on to provide a list of emerging and permitted development schemes in the Borough (see table 1 and 2 of document linked at footnote 17) that all achieved or sought to achieve onsite BNG levels significantly above 20%. Demonstrating that delivering BNG at and above 20% is feasible and deliverable, particularly on brownfield land where schemes are able to achieve net gains significantly above the 10% or 20%, with some achieving over 100% BNG.
- 3.15 Similar evidence of feasibility has also been seen within Elmbridge. For example, an application for redevelopment of the Brooklands College site (ref. 2023/1359) included a BNG assessment of the proposals using the Natural England Biodiversity Metric 4.0 calculation tool. The assessment expects the proposal to achieve a 14.2% habitat gain and 568.76% hedgerow gain.
- 3.16 In addition, an application for redevelopment of 47 Portsmouth Road, Thames Ditton, Surrey, KT7 0TA (ref. 2021/3857) included a supporting ecological assessment that concludes the proposed development and landscape

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<sup>16</sup> Available at: <https://www.lichfielddc.gov.uk/downloads/file/1112/supplementary-planning-document-biodiversity-and-development>

<sup>17</sup> ED-GBC-LPDMP-003a - available at: <https://www.guildford.gov.uk/article/26445/Examination-documents>

strategy produces a BNG of 491.34% in habitat units and 100% in hedgerow units using the Biodiversity Metric 3.0.

### Regulation 19 Representations

- 3.17 Representations received during the Regulation 19 consultation<sup>18</sup> that made comment on draft policy ENV6 were supportive of the proposed 10% BNG requirement. However, the Surrey Wildlife Trust made a representation (Response ID 1112272) in which they argued that the BNG requirement should be increased to 20%, making reference to the SyNP BNG position statement discussed above.
- 3.18 In addition, the Environment Agency's representation on draft policy ENV6 (Response ID 1111011) suggested a modification to the wording of the BNG requirement to clearly state that 10% BNG is a minimum target.

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<sup>18</sup> Available at: <https://consult.elmbridge.gov.uk/reg19/listResponses>

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## 4. Assessment of Proposed Increase to 20% BNG Against the NPPF Tests of Soundness

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- 4.1 Paragraph 35 of the NPPF sets out that *“local plans and spatial development strategies are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. Plans are ‘sound’ if they are:*
- a) **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;*
  - b) **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;*
  - c) **Effective** – deliverable over the plan period, and based on effective joint working on cross boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and*
  - d) **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant”.*

### Positively Prepared

- 4.2 The NPPF provides further detail on the meaning of positive preparation within paragraph 15, which states that *“the planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities...”*. In addition, paragraph 16(b) goes on to state that [Plans should] be *“prepared positively, in a way that is aspirational but deliverable”*.
- 4.3 As established through the discussion above, biodiversity recovery is both a national environmental priority and an environmental priority locally in Surrey. Perhaps more so in Surrey due to the even greater degree of biodiversity decline it has seen compared to that at a national level.
- 4.4 The Council’s proposed main modification that would increase the BNG requirement of draft policy ENV6 to 20% aims to ensure development contributes to biodiversity recovery in the Borough. It is aspirational and presents a positive vision for biodiversity rich developments that support a thriving natural environment with associated social (e.g. health and recreation) and economic (natural capital) benefits, but in a way that is deliverable as

demonstrated by the viability and feasibility evidence presented above. As such, the Council considers the proposed modification to be positively prepared in accordance with NPPF paragraph 35(a), 15 and 16.

#### Justified

- 4.5 As set out under NPPF paragraph 35(b), justified plans must contain an appropriate strategy that takes into account the reasonable alternatives and are based on proportionate evidence.
- 4.6 The Draft Elmbridge Local Plan 2037 was subject to three Regulation 18 consultations undertaken between 2017 and 2020, which set out options for development of the Draft Elmbridge Local Plan policy. The representations received during these consultations have been considered and have informed the development of draft policy ENV6 and the wider draft Local Plan.
- 4.7 The Council's Sustainability Appraisal (SA) (June 2022) of the Draft Elmbridge Local Plan<sup>19</sup> considered and evaluated reasonable policy options. It determined that draft policy ENV6 takes forward the most sustainable and appropriate options and that it will produce positive effects on the biodiversity baseline. The policy aligns with SA objective 16 "to conserve and enhance biodiversity", as well as SA objectives 8, 10 and 12 which relate to reducing greenhouse gases, adaptation to climate change and water quality.
- 4.8 A no policy option was not assessed as this was not considered a reasonable alternative given the legislative requirements around BNG and requirements of national policy to protect and enhance biodiversity. 20% BNG was also assessed as an alternative option, which was found to result in more significant positive effects than the 10% BNG requirement set out in the draft policy. However, it was also found to have potential negative social and economic impacts due to the potential impact of the increased requirement on development viability.
- 4.9 At the time the Regulation 19 Draft Elmbridge Local Plan and the SA were produced (2021/2022), mandatory BNG requirements through the Environment Act were at an early stage of development and there was uncertainty around the mandatory BNG regulations and their impact on development viability and feasibility. Therefore, the Council took a conservative and cautious approach taking forward the 10% BNG requirement.
- 4.10 The impact of BNG requirements on development viability and feasibility is now better understood and the evidence presented above demonstrates that achieving BNG levels significantly above 10% or 20% is deliverable,

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<sup>19</sup> Available at: <https://consult.elmbridge.gov.uk/connect.ti/reg19/consultationHome>

particularly on brownfield or previously developed land where the biodiversity baseline is relatively low.

- 4.11 A proportionate evidence base has been produced which has informed the development of draft policy ENV6 and as set out in the discussion above, the Council's BNG Viability Commentary Note (July 2023) sets out that an increase to 20% BNG represents a marginal increase to development costs and would not undermine the viability and deliverability of development in the Borough.

#### Effective

- 4.12 NPPF paragraph 35(c) defines effective plans as being deliverable over the plan period, based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground.
- 4.13 As set out earlier, the Council considers there is strong evidence that the proposed increase to 20% BNG deliverable. In addition, the Draft Elmbridge Local Plan is based on effective joint working on cross boundary strategic matters demonstrated through the Council's Statement of Common Grounds (SOCGs) with statutory consultation bodies, including Surrey County Council and the Environment Agency (EA)<sup>20</sup>.
- 4.14 Biodiversity recovery is a strategic, cross boundary matter due to the scale at which habitats function. This is reflected in various nature recovery plans for river catchments, Biodiversity Opportunity Areas, National Character Areas and the emerging county-wide Local Nature Recovery Strategy, all of which operate at a landscape scale. The proposed 20% BNG requirement would align with the SyNP's approach to biodiversity recovery for Surrey, as well as Guildford Borough Council's approach and Mole Valley's emerging approach. The proposed modification would therefore be based on effective joint working across boundaries in accordance with paragraph 35(c).

#### Consistent with national policy

- 4.15 Finally, the proposed main modification to increase to 20% BNG in draft policy ENV6 is consistent with national policy, which sets out that enhancing the natural environment and improving biodiversity are key outcomes of the environmental objective of the Planning System and achieving sustainable development (NPPF, paragraph 7(c)); and that plans should protect and enhance biodiversity, including by identifying and pursuing opportunities for securing measurable net gains for biodiversity (NPPF, paragraph 179 (b)).

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<sup>20</sup> Available at: <https://www.elmbridge.gov.uk/local-plan-examination/submission-documents>



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## 5. Conclusion

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- 5.1 There is a clear and pressing need for a BNG policy within the Draft Elmbridge Local Plan that ensures development contributes to biodiversity recovery within the Borough and county, owing to the severe level of biodiversity decline seen across Surrey.
- 5.2 The Council has proposed a main modification to draft policy ENV6 that would increase the BNG requirement from 10% to 20%. Defra stated in their BNG Impact Assessment that 10% BNG is the minimum level of net gain that could reliably be considered to constitute no net loss of biodiversity. It is considered that a greater level of BNG is needed to address the particularly severe level of biodiversity decline in Surrey.
- 5.3 The evidence discussed demonstrates that the proposed modification is deliverable and would only lead to a marginal increase in the cost of development, particularly as the spatial strategy proposed in the Draft Elmbridge Local Plan focuses on development on brownfield land. Therefore, it is considered that the proposed increase to 20% BNG meets the NPPF tests of soundness and is positively prepared, justified, effective and consistent with national policy.