



## 21/05164/F | *Erection of 157 no. dwellings (MAJOR).* | *Land On The West Side Of Novers Hill Bristol*

### Bristol Tree Forum - Further comments

We refer to our previous comments on the application:

[First comments](#)

[Second comments](#)

[Third comments](#)

We note that the applicant has recast their Biodiversity Net Gain calculation<sup>1</sup>. We have asked for a copy of the calculation, but, as this report still shows a substantial net loss, we see little point in undertaking another detailed critique of the new calculation at this stage. We will now only comment on the following three conclusions and recommendations:

1. *'...These existing habitats generate 28.25 biodiversity units. The development proposals will result in the loss of -12.97 habitat units or -46.34%.'*

The local planning authority currently requires that biodiversity net gain proposals achieve at least a neutral net gain. When the Environment Act 2021<sup>2</sup> (EA 2021) comes into force, it will be 10%. This proposal fails to meet either of these criteria.

2. *The hedgerows on site are being retained and enhanced within the proposals. The baseline hedgerow units are 2.64 and will be 3.46 post development, a gain of 0.82 units or 30.91%.*

We have already commented on the special protected status of the hedge that borders Novers Hill - it is an ancient hedge that is part of the neighbouring Town and Village Green (TVG), so the prior approval of the secretary of State will be required even if this application is granted.

3. *Offsetting the impacts of development on site will be achieved through an offsite 'biodiversity gain site' situated within the Bristol Avon Valleys and Ridges National Character Area. This is compliant with the approach set out within section 100 of the Environment Act. For this project, this will comprise the purchase of biodiversity credits from the biodiversity gain site. The security of the biodiversity credits will be secured through a planning obligation which will be in place prior to commencement of development.*

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<sup>1</sup> Biodiversity Net Gain Results Report - Novers Hill, Bristol (January 2022) - 21\_05164\_F-NOVERS\_HILL\_BNG\_ASSESSMENT\_JANUARY\_22-3136313.pdf

<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2021/30/contents/enacted>

The Bristol, Avon Valleys and Ridges National Character Area (Bristol NCA) encompasses the City of Bristol and the surrounding area including the Chew and Yeo valleys, Keynsham, Clevedon, Portishead and parts of the Cotswolds and Mendip Hills Areas of Outstanding Natural Beauty (AONB).<sup>3</sup>

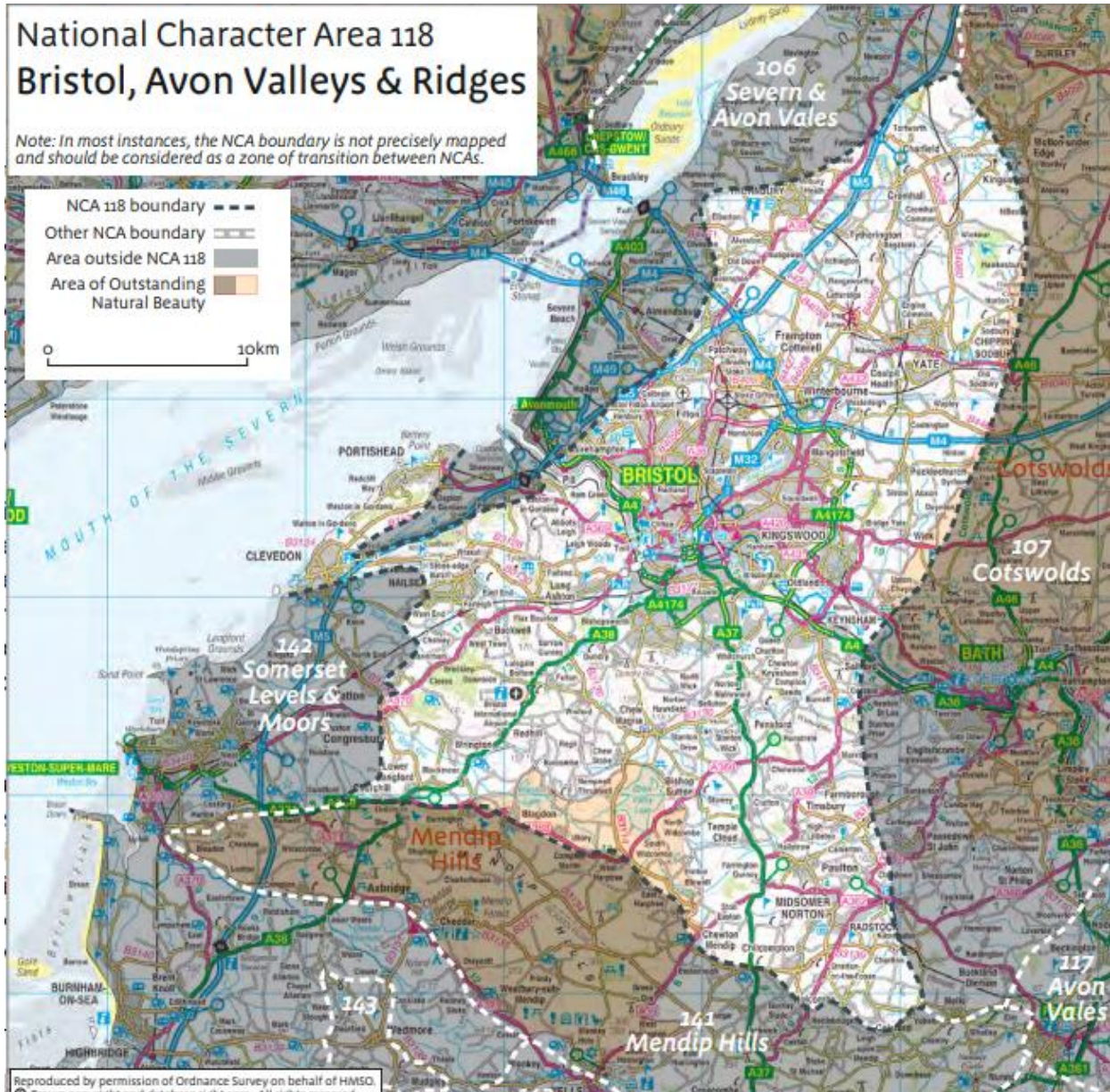


Figure 1 The Bristol, Avon Valleys and Ridges National Character Area

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[http://publications.naturalengland.org.uk/publication/4646942#:~:text=The%20Bristol%2C%20Avon%20Valleys%20and,Outstanding%20Natural%20Beauty%20\(AONB\).](http://publications.naturalengland.org.uk/publication/4646942#:~:text=The%20Bristol%2C%20Avon%20Valleys%20and,Outstanding%20Natural%20Beauty%20(AONB).)



Section 100<sup>4</sup> - a section within *PART 6 Nature and biodiversity* of the EA 2021 - has not yet come into force<sup>5</sup>, though Defra is currently consulting on how the regulations will be formulated.<sup>6</sup> These are their proposals as they relate to off-site biodiversity gains<sup>7</sup>:

## **Proposals**

### ***The use of off-site biodiversity gains***

*Developers will be able to deliver off-site biodiversity gains on other landholdings, or purchase biodiversity units on the market. Policy and guidance will encourage off-site biodiversity gains to be delivered locally to the development site, which is incentivised by the biodiversity metric's spatial risk multiplier.*

*Where the available local opportunities for off-site habitat creation or enhancement are insufficient for developers to meet their net gain requirements, off-site delivery outside of the local area will be allowed.*

*All off-site gains must be delivered within England. Spatial nature strategies, such as Local Nature Recovery Strategies, should be used to target delivery of off-site biodiversity gains, and habitat delivery in strategic areas will be incentivised by the biodiversity metric's strategic significance score<sup>42</sup>.*

*In determining whether to grant permission or approve the plan, whether the developer has adequately considered the on-site and local off-site options before looking further afield may be a relevant consideration. Further guidance will be published to support decision-making.*

*To count towards a development's net gain requirement, off-site biodiversity gains will need to be secured through a conservation covenant or planning obligation and registered prior to final approval of the biodiversity gain plan. The process and eligibility criteria for registering biodiversity gain sites are set out in Part 3 'the biodiversity gain site register'.*

*Off-site habitat creation or enhancement does not need to be completed prior to its registration or the sale and allocation of biodiversity units to a development. To minimise delays between development impacts and the delivery of compensatory habitat, we propose to require off-site works to commence as soon as is feasible, and no*

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<sup>4</sup> <https://www.legislation.gov.uk/ukpga/2021/30/section/100/enacted>

<sup>5</sup> We understand that regulations are unlikely to be published until 2024 at the earliest.

<sup>6</sup> <https://consult.defra.gov.uk/defra-net-gain-consultation-team/consultation-on-biodiversity-net-gain-regulations/>

<sup>7</sup> [https://consult.defra.gov.uk/defra-net-gain-consultation-team/consultation-on-biodiversity-net-gain-regulations/supporting\\_documents/Consultation%20on%20Biodiversity%20Net%20Gain%20Regulations%20and%20Implementation\\_January2022.pdf](https://consult.defra.gov.uk/defra-net-gain-consultation-team/consultation-on-biodiversity-net-gain-regulations/supporting_documents/Consultation%20on%20Biodiversity%20Net%20Gain%20Regulations%20and%20Implementation_January2022.pdf) - page 55.





*more than 12 months after the discharge of the mandatory pre-commencement biodiversity net gain condition. We are considering whether to set this requirement through off-site eligibility criteria or as a consideration for biodiversity gain plan approval. This should be reflected in the conservation covenants or planning obligations used to secure the gains and will be considered in the approval of the biodiversity gain plan.*

*Where possible, we will encourage habitat banking to allow enhancements to be delivered before the development takes place (see Part 3 ‘habitat banking’). Any delay in enhancement (relative to the loss of on-site habitats) must be reflected in the biodiversity metric calculation, meaning that a lower number of biodiversity units is generated. This will mean that long delays to the delivery of habitats would require more enhancement to be done, usually at greater cost.*

*The Environment Act states that biodiversity gain sites (off site) must be maintained for at least 30 years after the completion of the works to create or enhance the habitat. We will encourage and enable developers and landowners to secure sites for a longer period (or in perpetuity) where possible through policy and guidance.*

*Biodiversity gain site enhancements will be secured through conservation covenants or planning obligations which can ensure that habitats are maintained even if the land is sold.*

*The UK Government has amended the Environment Act to enable future increases to the 30-year minimum period (for on-site and off-site gains). The UK Government will consider increasing this minimum for new developments and registrations after evaluating mandatory biodiversity net gain practice.*

*Any increase in the minimum duration would be made after consideration of the impacts on the supply of potential gain sites and, to avoid disrupting establishment of the market, would not take place in the first 3 years after commencement of mandatory biodiversity net gain. Any increase would not retrospectively change pre-existing agreements at that time.*

Whilst the Secretary of State has yet to publish any regulations, Defra’s proposals carry weight and are indicative of the likely approach which will be taken. It is therefore notable that off-site biodiversity gains will be expected to be ‘*delivered locally to the development site*’. It is not enough to state that ‘*Offsetting the impacts of development on site will be achieved through an offsite ‘biodiversity gain site’ situated within the Bristol Avon Valleys and Ridges National Character Area.*’ This is too vague. The Bristol NCA is very unlikely all to be designated as ‘*biodiversity gain site*’.



Defra also proposes that *'Where possible, we will encourage habitat banking to allow enhancements to be delivered before the development takes place...'* [our emphasis] The applicant has made no such proposals. Setting aside how *'locally to the development site'* might yet be defined, this makes it is clear that a specific site is expected to have been identified and enhanced before planning approval is granted.

Section 100 of the EA 2021 states that *'The Secretary of State may by regulations make provision for and in relation to a register of biodiversity gain sites.'* As yet there is no register of biodiversity sites and no guarantee that any such sites within the Bristol NCA will be identified.

At best the applicant's proposal is a hope without any certainty. It cannot form the basis of the proposals that the LPA will need to approve before this application can be granted. As no site has been identified, it is not possible even to calculate the likely net gain to be created, let alone allow the applicant to enter into a *'a conservation covenant or planning obligation'* which will need to be *'registered prior to final approval of the biodiversity gain plan.'* In our view, this is not an issue that can be Conditioned for the time being. It is too vague and uncertain and needs to be addressed before this application is decided, especially because the site is an SNCI, an **Important Open Space**, a **Valuable Urban Landscape** and includes part of the **Novers Common TVG**.

As currently formulated, the applicant's biodiversity net gain proposals do not meet even the minimum, neutral net gain requirements that the LPA will accept, let alone the 10% net gain which will be required under the EA 2021, so the application must be rejected.

**Bristol Tree Forum**  
**7 February 2022**