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## Briefing 4232

# What price biodiversity?

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### Summary

Mandatory Biodiversity Net Gain for nearly all development in England takes effect from November 2023. Will this be a good deal for landowners who can provide the offsite biodiversity that will be essential in so many cases?

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This paper is from Charles Cowap's May article in [Estates Gazette](#)

### The Commitment

Local Planning Authorities must approve a Biodiversity Gain Plan before development work can start. This plan will have to compare onsite biodiversity before and afterwards. If the biodiversity value afterwards is not at least 10% higher than before, the developer will have to provide some more biodiversity gain elsewhere or buy statutory credits from the Secretary of State for the Environment (Defra). Defra has developed the Biodiversity Metric as the tool by which biodiversity value will be assessed, and version 4.0 has been released recently.

We are promised no more updates before 2025. Defra has not yet struck a price for biodiversity credits, but the Environment Act obliges the department to set the price at a level which is deliberately high: to encourage developers to provide physical biodiversity gain rather than opt out by buying credits instead.

The gains must be secured for 30 years. Heads are still being scratched over the mechanisms by which this will be achieved. In some cases, this may be the work of Section 106 Planning Agreements. There is also likely to be a role here for Conservation Covenants, the new positive covenant mechanism introduced by the Environment Act. This will rely on a designated Responsible Body under the Act being willing to take on the supervision responsibility.

There are already companies who will act as an intermediary, taking the developer's payment and undertaking to oversee land management through tenancy, licence and other management arrangements. Developers will also seek deals directly with landowners, in many cases the same landowners who have granted option agreements over development land itself.

## What does this mean for biodiversity providers?

The new biodiversity requirements may seem an attractive opportunity at a time when traditional farm support payments are steadily but surely disappearing. But the long-term commitment needs very careful consideration. Some of the risks are:

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- Biological risk, flora: newly-created habitat may die and fail. The onus and cost of replacement will fall on the provider.
  - Biological risk, fauna: newly-created habitat may be particularly sensitive to animal predators, from the largest herbivores like deer to the smallest insects.
  - Climate change: some types of habitat may be more vulnerable to even quite small changes in climate over the 30 year commitment.
  - Legislative and statutory risk: rules may change, successful habitat projects may end up designated as statutory Sites of Special Scientific Interest with further limitations on their management.
  - Financial risks: how secure are funds allocated for the 30 years? What happens if the money runs out to pay for ongoing management work?
  - Covenant risk: what happens if an intermediary, in particular a financial stakeholder, fails?
  - Economic risks: the erosive effects of inflation; potential changes in fiscal and tax policy with regard to key allowances like Agricultural and Business Property Relief from Inheritance Tax
  - Human and managerial risk: the quality of day to day management may seem obvious in managing several of these risks, but a commitment of 30 years may also raise intergenerational questions with the strong likelihood that there may be a death and inheritance within this period.
  - Capital risk: what effect if any will participation have on land values in the longer-term?
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There are also a number of uncertainties over current taxation treatment, and this is the subject of an ongoing consultation announced with this year's Budget.

## Doing the sums

In the simplest case a landowner may be able to negotiate terms directly with a developer in which a single payment is received at the outset for the entire 30 year commitment. There will be other payment terms of course, but the broad principles of assessing their adequacy will be similar. How should we assess the adequacy of a single payment at the outset?

A quick and simple test is to ask how long the initial payment will last. If it won't cover the full 30 years it is likely to be far from adequate.

In due course the market will probably find its own level and alignment with this may be reassurance enough for some landowners. Having said that some of the figures being quoted for a biodiversity unit seem worryingly low against the scale of the commitment.

A fuller individual appraisal will need the support of a DCF (Discounted Cash Flow) assessment.

But at what discount rate? Many economic appraisals fall back on the Treasury Green Book rate, currently 3.5% for the first 30 years of a long-term project. This may seem astonishingly low to developers who will be wanting to see much higher returns for the risks they are taking. The landowner-provider will however need to look down this telescope from the other end, using the chosen discount rate to mitigate some of the risks already outlined over the 30 years.

Rural estates will generally count themselves as fortunate if they are making a revenue return over capital of 2%, and figures below 1% are not uncommon. Given the extent of uncertainty there may even be a case here for the use of negative discount rates – an approach unknown in commercial appraisal but familiar to environmental economists.

## What price?

It depends! Some recent work has shown that a price of £10,000/unit fails at all discount rates from -1% to +5%; £20,000 fails at 0.5% and below whereas £30,000 is positive at all rates from -1% to +5%. Beware then offers which are too cheap, they may not last the course.

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Alan Spedding, 10<sup>th</sup> April 2022

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