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Developers urged to act now to hit new biodiversity targets

■ Almost half the delegates at RESi360 were unaware of their responsibilities regarding biodiversity net gain

Adam Branson

In November, the Environment Act 2021 gained royal assent. The much-delayed legislation is wide-ranging and contains a raft of policies for which environmental groups have long campaigned. For developers, not least housebuilders, the act is most significant for the inclusion of biodiversity net gain (BNG).

BNG is a big deal. From November next year, developers will have to ensure that their projects result in a net gain in biodiversity of at least 10%. Moreover, the legislation places an obligation on companies to ensure that gain is maintained for a minimum of 30 years.

Given the importance of the new responsibilities, last week *Property Week's* RESi360 conference dedicated a large chunk of time to discussing BNG and its implications. After all, as the conference moderator, the BBC's Mark Easton, put it: "The clock is ticking." So, what insights did the speakers have for audience members?

There was little evidence of advanced preparation among delegates. Asked about their awareness of their obligations under the new regime, some 41% of the audience said that they were unaware of their



RESi360: biodiversity net gain was a hot topic at the conference



Nina Pindham
No5 Chambers

“If you think you might not be affected, that’s probably wrong

responsibilities. Just 11%, meanwhile, said they were “prepared for the mandate”.

In response, Nina Pindham, a planning barrister at No5 Chambers, said that the result was a little concerning “because we are looking at a trajectory of this coming into force on 23 November 2023”. She added: “All

of you should be aware of it.”

To push home her point, Pindham explained that the scope of the new regime really was extremely wide, with very few exclusions. From next year, every planning permission will come with a condition stating that work on site can only begin once a credible plan for BNG has been signed off.

This will apply to projects involving hundreds of new homes right down to single units. Retrospective applications to vary the conditions of an existing permission will also be included.

“If you think you might not be affected, I’m afraid that’s probably wrong,” said Pindham.

“Before you can put a digger into the ground, you’ll have to have the plan approved by the local planning authority.”

On-site incentive

On the face of it, the fact that a proportion of BNG can be provided off site offers a level of flexibility. However, Pindham made clear that the system had been set up to encourage on-site delivery. She said: “The metric incentivises on-site delivery, but then if you can’t provide it all on site, you can purchase biodiversity units from off-site providers.”

Pindham added: “If that doesn’t work, then the seller of last resort is the secretary of state, so the government. They will have a statutory credit scheme, but those are going to be designed to be prohibitively expensive.”

One of those off-site providers will be the Environment Bank, which is setting up a network of biodiversity sites for which developers will be able to buy credits. Alexis Perry, commercial director at the bank, was at the conference and encouraged developers to engage as early as possible.

“Developers will contact us hopefully when they have completed an initial