

GUIDANCE NOTE: PLANNING – A SIMPLE GUIDE TO BIODIVERSITY NET GAIN (BNG)

Introduction

Introduced in 2024, under the Environment Act 2021, the broad aim of Biodiversity Net Gain (BNG) is to ensure that habitats for wildlife are left in a measurably better state than they were before development took place.

It does this by requiring all new qualifying developments granted planning permission in England (there is a separate approach to biodiversity within the planning process in Wales) to deliver 10% BNG from April 2024. In certain special circumstances the Local Planning Authority ('LPA') can ask for more than 10% BNG; the developer can also offer more on a voluntary basis.

It applies to all planning applications except for very small households (household extensions etc.) and other specified exceptions. As a general rule, any planning application for a single dwelling or more; commercial development of 1,000 square metres or more than 1 hectare and minerals or waste related development is liable.

Nationally significant infrastructure projects, however, are not currently subject to the BNG, but are expected to be in November 2024.

It should be noted that BNG is still in its early days and some of the rules, regulations and learning are still emerging.

The Process

In broad terms:

- When submitting a planning application to the LPA, the applicant confirms whether the development is exempt from BNG or not.
- If not exempt, the developer calculates the biodiversity value of the site and applies a 10% uplift. There is a statutory tool which must be used to calculate a sites biodiversity value - 'biodiversity metric'¹.
- They must submit as part of the planning application their biodiversity metric calculation as well as a biodiversity gain plan setting how they will meet BNG.
- They may also be required to include a Habitat management and monitoring plan (HMMP) setting out who will be responsible for creating, maintaining and monitoring the BNG.

¹ This tool developed by Department for Environment, Food and Rural Affairs (DEFRA) as well as more information about it can be found at - [Statutory biodiversity metric tools and guides - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/statutory-biodiversity-metric-tools-and-guides)

- The LPA will consider and determine the biodiversity gain, metric calculations and any associated documents.
- The LPA must decide whether to approve the biodiversity gain plan within 8 weeks. Development cannot commence until this has approved.
- The BNG approval may be subject to a legal agreement most likely through a Section 106 agreement.
- The land owner is legally responsible for creating or enhancing habitat and managing it for at least 30 years to achieve the agreed BNG (often through the HMMP).
- BNG delivery will be monitored by the developer and to a lesser extent the LPA.
- Failure to meet BNG requirements may trigger enforcement action by the LPA.

Delivery of BNG

- Developers are expected to follow the biodiversity hierarchy of 'Avoid', 'Mitigate', 'Compensate'.
- Ideally all of the BNG should be met on the development site.
- If this is not feasible, BNG can be delivered offsite or a mixture of onsite and offsite provision.
- Any off-site BNG needs to be recorded by the developer on an official and publicly available register.
- Developers can either make off-site biodiversity gains on their own land outside the development site or buy off-site biodiversity credits on the market to be used to fund biodiversity enhancements elsewhere.
- If these credits cannot be secured on the local market, then statutory biodiversity credits must be purchased as a last resort. The government will use the revenue to invest in habitat creation in England.

What is the role of local councils in all of this?

All in all, this is not clear and much is still emerging.

There is no statutory requirement for them to be involved or notified when LPAs are entering into BNG negotiations and developing associated documents such as biodiversity gain plans or HMMPs, for example.

They may be able to put forward sites, or access biodiversity credits, to increase the biodiversity value of their land. More details about this are expected soon.

That does not mean that you should do nothing – points you may wish to check in planning applications are:

Planning application detail	Potential response
Confirmation that biodiversity net gain is applicable.	<i>If not, why not? See definitions above</i>
Calculation of the biodiversity value of the site	<i>Have they missed anything - including saying there is none? NB If unauthorised degradation has taken place, calculations can be based on a previous value as far back as January 30th 2020.</i>
Description of any irreplaceable habitat	<i>Is there really no alternative to destroying a habitat?</i>
A habitat plan of the whole site	<i>Is it accurate? See considerations below.</i>
To what extent the net gains are to be provided on-site and off-site	<i>It will be important for local councils to take a view on these points, as developers may be asking to buy “statutory biodiversity credits” rather than enhance local biodiversity.</i>
A draft habitat management plan for on-site biodiversity	
Plan for any off-site biodiversity gain	

Other things local councils may like to consider:

- Contacting local wildlife or conservation groups for their advice.
- Identifying local experts in either habitats or locations.
- Noting areas outside development sites that might benefit from enhancement, to potentially add to the local planning authority’s credit list.
- Building up over time a biodiversity map of the council area, adding in the details discovered for each development proposal.
- Including such site information in a Neighbourhood Development Plan.

Where can I find more information?

There are many other sources of useful information. These include:

- The Government’s guidance - Understanding biodiversity net gain - [Understanding biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/understanding-biodiversity-net-gain)
- Natural England’s - Biodiversity net gain: where to start - [Biodiversity net gain: where to start - Natural England \(blog.gov.uk\)](https://blog.gov.uk/biodiversity-net-gain-where-to-start/)
- The SLCC has produced guidance on responding to planning applications and a model biodiversity policy at www.slcc.co.uk/climate-action/ .
- Many local authorities have also prepared their own guidance.