

Mandatory Biodiversity Net Gain

Interim Note April 2024



Background

This is an interim note to provide information on the newly published mandatory biodiversity net gain (BNG) regulations only. The BNG process introduces a quantitative framework for securing and demonstrating net gain. It does not replace the requirement to carry out other assessments of impacts on biodiversity, for example, submission of bat survey information. Where there is the potential for impacts on European sites, such as Special Areas of Conservation or Special Protection Areas, the authority will still need to undertake a Habitats Regulations Assessment.

Compliance with several other environmental planning policies will still need to be demonstrated by the developer. This includes requirements relating to:

- protected or important nature conservation sites
- protected or important species
- irreplaceable habitats

For those developments that fall outside the scope of mandatory BNG the Peak District National Park encourages proportionate biodiversity net gain as per policy L2 of the [Core Strategy](#) and policy DMC11 of the [DMP document](#). This approach aligns to the National Park's first purpose to conserve and enhance the natural beauty, wildlife and cultural heritage of the national park.

Both minor and major applications are encouraged to provide general enhancement measures in addition to and irrespective of their requirements to demonstrate mandatory biodiversity net gain.

This should be proportionate to the nature and scale of development proposed and the likely opportunities for biodiversity. This is notwithstanding any enhancement measure required due to presence of protected species on site. Examples of different enhancement measures include (not exhaustive):

- Bat boxes
- Bird boxes
- Swift nest bricks/boxes
- Hedgehog highways
- Bug hotels
- Bee bricks
- Pond creation
- Grassland creation

An Ecological Enhancement Plan is encouraged to be submitted to demonstrate how all sites irrespective of their requirements to demonstrate mandatory biodiversity net gain will deliver for nature.

Why have we produced this note?

This note provides an overview of mandatory BNG and the requirements for submission with planning applications. The principles of BNG were approved in 2021 through the Environment Act, and [further guidance](#) was released in November 2023. This is a working document, which will be continually revised as new information is made available. It is solely intended to provide clarification on the current requirements for mandatory BNG within the Peak District National Park.

What is mandatory Biodiversity Net Gain?

Biodiversity Net Gain is the practice of, when carrying out most new development (with some exceptions), leaving the natural environment in a measurably better state than it was before. This means ensuring that the biodiversity value of a site has increased post development. A metric must be used to convert the value of the habitat, pre and post development. This calculates how much habitat is lost through development and provides a numerical value as to how much needs to be provided to achieve a net gain.

Under the [Environment Act 2021](#), certain development in England must deliver at least 10% Biodiversity Net Gain, otherwise planning permission cannot be granted. This became mandatory from 12th February 2024 for major development sites, and from 2nd April 2024 for small scale sites.

Biodiversity Net Gain will be measured using a biodiversity metric and habitats may need to be secured for at least 30 years. A planning application should indicate generally how the Biodiversity Net Gain will be met with a pre-commencement condition attached to planning permissions requiring full details. This means that before development can take place the details of how a 10% net gain will be achieved must be submitted to and agreed by the National Park Authority.

You will need to understand the requirements of biodiversity net gain if you are a developer or a land manager.

How biodiversity net gain is measured?

There are two calculation tools, known as metrics, which have been developed by the Department for Environment Food and Rural Affairs. (DEFRA). These are the Biodiversity Metric, and the Small Sites Metric (SSM). Both are available as excel spreadsheets, and can be downloaded from the [Government website](#).

The metrics calculate Biodiversity Units based on the habitats present on site or proposed to be created. Achieving 10% net gain means fully compensating for losses of habitat on a development site, but then going further so that overall, there is a gain in Biodiversity Units of at least 10% as a result of the development process.

Biodiversity Metric

The Biodiversity Metric needs to be used for larger developments or more complex cases. It is important to use the most up-to-date version when calculating Biodiversity Net Gain.

For the purposes of mandatory biodiversity net gain, major development is defined as residential developments with 10 or more dwellings, or where the site area is greater than 0.5 hectares (as per the NPPF definition).

Small Sites Metric

The Small Sites Metric is a slightly simplified version of the Biodiversity Metric, designed to be used in smaller scale development. Small sites are defined as not major developments under the Town and Country Planning (Development Management Procedure) (England) Order 2015). This means:

- Residential development where the number of dwellings is between 1 and 9, or if unknown the site area is less than 0.5 hectares;
- Commercial development where floor space created is less than 1,000 square metres or the total site area is less than 1 hectare;
- development that is not the winning and working of minerals or the use of land for mineral-working deposits; or
- development that is not waste development.

The main difference is that this metric, unlike the main metric, does not factor in the condition of biodiversity habitats that are on-site before development. However, it is not appropriate to use the SSM on all small site developments. **If any of the following points apply to the development, the main metric must be used instead.**

- Habitats that are not available in the SSM are present on the development site, including riparian zones where relevant.
- Priority habitats¹ are present within the development site.
- Statutory protected sites² are within the development site.
- European Protected species² are present on the development site.
- Any off-site compensation is required.

Competency to use the Small Sites Metric

The SSM makes some ecological assumptions, which means that an ecologist does not necessarily need to complete it. Whilst it is not essential that the Small Sites Metric is completed by a suitably qualified ecologist, the base requirement is defined as someone who; “is confident in identifying habitats present on the site before the development AND identifying the management requirements for habitats which will be created or enhanced within the landscape design.”

See guidance about [using the biodiversity metric on the government website](#).

¹ As published under section 41 of the Natural Environment and Rural Communities (NERC) Act 2006

² As provided for in the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981

Exemptions

The following types of developments are **exempt** from mandatory biodiversity net gain requirements³:

- Developments that fall below a 'de minimis'⁴ threshold of 25m² for area habitats, or 5m of linear habitats (i.e. hedgerows)
- [Householder applications](#)
- Small scale custom or self-build housing⁵
- Developments undertaken for the purpose of fulfilling the Biodiversity Net Gain planning condition for another development
- High speed rail transport networks

How the process will work?

The Environment Act 2021 makes all planning permissions subject to a pre-commencement condition requiring the submission of a plan that demonstrates how 10% net gain will be achieved. The management of the habitat created to achieve this must then be secured by legal agreement for a minimum period of 30 years.

The habitat creation required to achieve 10% net gain should be undertaken on the development site itself. However, if space and circumstances do not allow this, provision on a separate site or a mixture of the two would be considered.

Offsite habitat creation can be undertaken on land owned by the developer, or on third party land where the landowner is willing to undertake such work and maintain it for at least 30 years in return for a payment from the developer.

The government will introduce a national biodiversity credits purchase system for developments unable to meet their biodiversity net gain requirements locally. National biodiversity credits are a last resort and will be much more expensive than securing biodiversity units more locally. We will need evidence that all reasonable efforts have been made to buy the additional habitat creation locally.

Information to submit with a planning application

The biodiversity net gain process is built around the pre-commencement condition, which is when the full details of the metric calculations and of the measures to be taken to secure 10% net gain are required.

Where development would be subject to the general biodiversity gain condition, the application must be accompanied by minimum information set out in Article 7 of The

³ Although, where appropriate, should still provide proportionate biodiversity net gain as per policy L2 of the [Core Strategy](#) and policy DMC11 of the [DMP document](#)

⁴ The 'de minimis' threshold is only applicable if the habitat impacted is not a [priority habitat](#).

⁵ Small scale custom or self-build housing are only exempt where there will be no more than nine dwellings, on a site no larger than 0.5 hectares, and consisting exclusively of dwellings that are self-build or custom housebuilding as defined in [Section 1\(A1\) of the Self-build and Custom Housebuilding Act 2015](#). In practice, the initial owner of the home will have primary input into its final design and layout.

Town and Country Planning (Development Management Procedure) (England) Order 2015:

- a statement as to whether the applicant believes that planning permission, if granted, would be subject to the biodiversity gain condition;
- the pre-development biodiversity value of the onsite habitat on the date of application (or an earlier date) including the completed metric calculation tool used showing the calculations, the publication date and version of the biodiversity metric used to calculate that value;
- where the applicant wishes to use an earlier date, the proposed earlier date and the reasons for proposing that date;
- a statement confirming whether the biodiversity value of the onsite habitat is lower on the date of application (or an earlier date) because of the carrying on of activities ('degradation') in which case the value is to be taken as immediately before the carrying on of the activities, and if degradation has taken place supporting evidence of this;
- a description of any irreplaceable habitat (as set out in column 1 of the Schedule to the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations [2024]) on the land to which the application relates, that exists on the date of application, (or an earlier date); and
- a plan, drawn to an identified scale which must show the direction of North, showing onsite habitat existing on the date of application (or an earlier date), including any irreplaceable habitat.

Biodiversity net gain maintains the mitigation hierarchy of avoiding impacts first, then mitigating and only compensating as a last resort. It cannot be used to bypass the mitigation hierarchy.

Preparing for biodiversity net gain early in your development planning

The biodiversity metric has been designed to discourage the loss of better-quality habitats to development, by making them significantly more expensive to provide net gain for compared to lower value habitats.

Consequently, it is important to establish the baseline value of a site as early as possible when considering its development potential. The loss of higher value habitats may make a scheme non-viable or may require that parts of the site are safeguarded from development to enable an economically viable scheme to be developed.

Clearing sites in advance

Where unauthorised degradation of the onsite habitat has taken place between 30 January 2020 and the date of the submission of the planning application, the biodiversity pre-development value of the onsite habitat is the biodiversity value of the habitat immediately before the carrying out of these degradation activities. The relevant date should therefore be set as a date immediately before these activities. Unauthorised degradation of onsite habitat is any degradation which is not in accordance with a previous planning permission.

If there has been unauthorised degradation and there is insufficient evidence about the biodiversity value of the onsite habitat immediately before the degradation, the pre-development biodiversity value of the onsite habitat must be taken to be the highest biodiversity value of the habitat which is reasonably supported by any available evidence relating to it. This requirement must be applied to the calculation of pre-development biodiversity value in the metric tool, and the Biodiversity Gain Plan template asks for information regarding whether there has been prior habitat degradation.

Post Consent

For all developments requiring biodiversity net gain a standard deemed condition will be included on all planning permissions, requiring the submission of a Biodiversity Gain Plan. A template for this is available on the [Government website](#).

Certain types of habitat creation and enhancement are required to be secured for 30 years:

- Any registered off-site biodiversity gain
- On-site habitat creation or enhancement that is considered to be “significant”. There is no legal definition for significant, but the concept of “significance” is detailed in government guidance [Make on-site biodiversity gains as a developer - GOV.UK \(www.gov.uk\)](#), but these are typically habitats which contribute significantly to the on-site post-development value, and which will require ongoing management using ecological techniques. The definition of what will constitute ‘significant’ will be assessed on a case-by-case basis.

The maintenance of these significant enhancements must be secured with a [legal agreement](#) (planning obligation or conservation covenant) or planning condition for 30 years in the same way as off-site gains. LPAs will consider the most appropriate mechanism and this will need to be agreed at the planning permission stage. Where significant Biodiversity Net Gain is proposed, a Habitat Management and Monitoring Plan will be required. This should include detailed information on how the habitat creation/enhancement will be undertaken, and how the habitats will be managed and monitored for the next 30 years. More details, including a template, can be found here [Creating a habitat management and monitoring plan for BNG - GOV.UK \(www.gov.uk\)](#).

Further information:

You can [view all of the BNG guidance in the BNG collection](#).

[Biodiversity Net Gain Report and Audit Templates | CIEEM](#)

[Statutory biodiversity metric tools and guides - GOV.UK \(www.gov.uk\)](#)

[Guidance on how to calculate biodiversity value using the statutory biodiversity metric](#)