

What is Biodiversity Net Gain?

Since 2nd April 2024, Biodiversity Net Gain (BNG) has become a mandatory requirement throughout England for all major and minor applications – subject to certain exemptions – and developments must now deliver an increase of at least 10% for better quality natural habitats than what is lost through their development. Put simply, BNG is an approach to development that makes sure that habitats for wildlife are left in a measurably better state than they were before the development.

What applications are exempt?

There are certain types of application that are exempt from BNG, which includes, amongst others:

- *Householder development*
- *De minimis* exemption. Development that does not impact a priority habitat and impacts less than 25 square metres of onsite habitat.
- *Self-build and custom-build development*. Development which consists of no more than 9 dwellings and on a site less than 0.5 hectares.

When providing reasons for the de minimis exemption, applicants and agents will be expected to provide sufficient evidence to support their justification.

What BNG information is required with relevant applications?

When a planning application **is** subject to mandatory BNG, national legislation requires applications to be submitted with the following items in addition to the normal requirement;

- the completed statutory metric calculation tool showing the calculations of the pre-development biodiversity value of the onsite habitat on the date of application.
- a plan drawn to an identified scale (including the direction of north), showing on-site habitat existing on the date of application.

If this information has not been provided, the Council is likely to refuse to validate the application.

Further information relating to BNG may be requested as part of the planning application, which may be to provide justification and assurance that the minimum 10% net gain can be achieved.

Unless exempt, a standard condition requiring BNG will be imposed automatically on all approved applications. This condition will require a Biodiversity Gain Plan to be submitted to and approved in writing by the Council before any works start on site.

Achieving BNG

For the purposes of BNG, biodiversity value is measured in standardised biodiversity units, with each habitat (grassland, woodland, ponds, hedges etc) containing a number of biodiversity units depending on its size, quality, location and type. Biodiversity units can be lost through development

or generated through creating and enhancing habitats. The statutory biodiversity metric is used to measure how many units a habitat contains before development as well as how many are needed to replace the units of habitat lost and to achieve 10% BNG.

The biodiversity gain objective of at least a 10% gain is measured against the pre-development biodiversity value of the onsite habitat for the development. The objective is met if the post-development biodiversity value is exceeded by at least 10%. The statutory biodiversity metric is used to calculate both the pre-development and post-development biodiversity value of the development's onsite habitat.

It is worth noting that developers cannot clear a site before applying for planning permission to avoid BNG, as the condition of the site on 30th January 2020 will be taken into account.

Through site selection and layout, developers should avoid or reduce any negative impact on biodiversity. There are 3 ways a developer can achieve BNG.

1. They can create biodiversity on-site (within the red line boundary of a development site).
2. If developers cannot achieve all of their BNG on-site, they can deliver through a mixture of on-site and off-site. Developers can either make off-site biodiversity gains on their own land outside the development site or buy off-site biodiversity units on the market.
3. If developers cannot achieve on-site or off-site BNG, they must buy statutory biodiversity credits from the government or other registered credit provider, but only as a last resort.

Developers can combine all 3 options but must follow the steps in order. This order of steps is called the biodiversity gain hierarchy.

1. **Avoid:**
Choose development sites/layouts that do not negatively impact biodiversity in the first place.
2. **Minimise:**
If impacts can't be avoided, focus on reducing the negative impacts of development on biodiversity through careful design and construction practices.
3. **Restore:**
This involves restoring damaged or lost habitats to their original state or improving their ecological quality.
4. **Offset:**
For any remaining unavoidable losses of biodiversity, this step requires creating new habitats or enhancing existing ones to compensate for the loss, typically off-site.

The Council may refuse to grant planning permission if it is of the opinion that the hierarchy has not been taken into consideration.

The proposed habitats achieving the biodiversity gain would then need to be managed and maintained for 30 years, which would start from when the development is completed. The Council can/is recover(ing) money for monitoring through entering into legal agreements.

If the BNG requirements are not met or the approved maintenance is not undertaken, a developer might be deemed in breach of planning condition or legal agreement and the Council may take appropriate enforcement action.