

Biodiversity Net Gain Technical Advice Note

June 2023



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1. Summary

If you require planning permission then you should consider Biodiversity Net Gain (BNG). This document provides interim guidance on what is required to support a relevant planning application in the Winchester district in relation to BNG, in advance of this becoming mandatory in November 2023. Full guidance on the biodiversity metric is available via the Natural England website. This Technical Advice Note (TAN) provides a tool for applicants to demonstrate BNG and follow best practice through this process.

For a summary of what is needed for different types of development, Please refer to section 4.2 (table 1) and section 5.

In order to determine how much BNG is being achieved, a metric will be required to be submitted to the Local Planning Authority (refer to Table 1 in section 4.2). A minimum 10% BNG is expected by the council for a planning application to be acceptable, and this is what will become the mandatory level of BNG requirement from late 2023.

2. Introduction

2.1 Why is biodiversity important?

Biodiversity is the variety of life on Earth, it includes all species of plants and animals and their interrelationships. It provides essential components of life from oxygen and water to medicine and clothes. Biodiversity is intrinsically linked to climate stability and without it we would not have sustainably functioning ecosystem services.

Biodiversity is under threat, habitats are being damaged or disappearing and species are declining. This is bad news for nature and for our own health and well-being and that of future generations.

The biodiversity of Winchester district is therefore of the utmost importance. The City Council has a legal duty to protect and enhance biodiversity (NERC Act 2006) and a responsibility on behalf of its community. Find out more in the Winchester City Council Biodiversity Action Plan 2021 (Ref. 1).

2.2 What is Biodiversity Net Gain?

'Biodiversity Net Gain is an approach to development, and/or land management that aims to leave the natural environment in a measurably better state than it was beforehand' – Planning Advisory Service.

Current guidance and policy requires “no net loss” (Local Plan CP16) in terms of biodiversity and it is the move from “no net less” to “measurably better” that is changing how biodiversity is being assessed and delivered via planning following the Environment Act 2021.

This is a significant step-change, moving away from the requirement to simply mitigate the impact of a development. Instead there is a need to provide an increase in appropriate natural habitat and/or ecological features over and above that being affected.

The aim is to halt the current loss of biodiversity through development, enabling ecological networks to be restored and to be left in a better state than before.

The Environment Act (Ref. 2) became law in 2021, providing the Government with powers to set new binding targets, plans and policies for biodiversity. A key component of the Act, contained in Part 6, is the requirement for BNG and this will come in to force as a mandatory requirement in November 2023. This guidance applies in the meantime, based on current policy.

2.3 Purpose of this Technical Advice Note

The purpose of this TAN is to provide interim guidance for applicants and decision makers on how BNG can be achieved in Winchester district, in accordance with existing Local Plan Policy and to anticipate the requirements of the Environment Act 2021. This TAN has gone through the process of an officer-led decision and review with specific, relevant member involvement. Officers have been liaising with neighbouring authorities including South Downs National Park Authority (who have an interim document in place currently - Ref. 3) to ensure a consistent approach across the region.

This document has been through a test process with consultation with local agents and developers to gain full feedback on what will ensure this is a useable, useful and practical document.

This TAN supports the implementation of the Winchester District Local Plan, in particular **Local Plan Part 1 (LPP1) Policy CP16 Biodiversity** (Ref. 4). It meets the requirements of the:

- National Planning Policy Framework (NPPF) 2021 (Ref. 5)
- Natural Environment and Rural Communities Act 2006 (Ref. 6)
- Natural England guidance (Ref. 7)
- CIEEM guidance (Ref. 8)
- Environment Act 2021(Ref. 2)
- Winchester City Council Biodiversity Action Plan (BAP) (Ref. 1)
- Carbon Neutrality Action Plan (Ref. 9)
- WCC Green Infrastructure (Draft document)
- Planning Advisory Service (PAS) (Ref. 10)

Mandatory BNG under the EA2021 is due to come into force in November 2023 following a two-year transition period. This TAN provides interim guidance on how development proposals will be expected to address the LPP1 (Ref. 4) and Local Plan Part 2 (LPP2) (Ref. 11) policy requirement in the transition period prior to mandatory BNG under the Environment Act 2021. This interim guidance will be reviewed following any new government guidance or policy relating to BNG.

This TAN will be taken into account, when it is applicable, in the decision making processes of the council as the Local Planning Authority when determining planning applications that are within the scope of the BNG requirement. It will become a validation requirement to demonstrate how BNG has been incorporated into relevant proposals.

2.4 Is BNG required now?

Delivery of BNG is required via Winchester City Council's current policy *CP16 -Biodiversity*, which states..."The Local Planning Authority will support development which maintains, protects and enhances biodiversity across the District, delivering a net gain in biodiversity..."

National Planning Policy Framework (NPPF) (Ref. 5) paragraphs 170(d), 174(b) and 175(d) refer to policy requirement for planning to provide biodiversity net gains where possible.

The Environment Bill received Royal Assent on 9 November 2021, meaning it is now an Act of Parliament. There is a two-year implementation period and, following this implementation period, BNG will be mandatory with the use of a suitable metric to achieve a minimum of 10% BNG.

3. Existing biodiversity protections and best practice principles still apply

3.1 The mitigation hierarchy

Implementation of BNG does not take the place of the mitigation hierarchy, it is in addition to it. The mitigation hierarchy sets out that impacts on biodiversity must be firstly avoided, secondly mitigated, and as a last resort compensated. Enhancements should be proposed in addition to mitigation and compensation measures. As part of a planning application, the development proposals must set out how impact to biodiversity will be avoided.



3.2 Spatial hierarchy

The preferred delivery mechanism for BNG is on-site and only in exceptional circumstances will off-site provision be accepted in strategic local priority areas. As a last resort BNG can be delivered off-site elsewhere and/or via strategic payments. Through the strategic significance and spatial risk factors, the biodiversity metric places greater reward for habitat creation where it is strategically important and locally relevant.

There are both ecological and social drivers for off-site habitat to be provided close to where losses occur: e.g. to avoid depleting biodiversity in local areas or to recognise the cultural ecosystem services provided to a local community. For this reason, the closer off-site habitats are located to the site of impact, the better.

It is the responsibility of the applicant/developer to find suitable and sufficient BNG solutions. Developers should seek their own ecological and legal advice with regard to the suitability of particular off-site mitigation schemes. From November 2023, developers considering off-site biodiversity gains will need to apply to the Biodiversity Gain Site Register in consultation with Natural England.



3.3 Protected habitats and species

BNG does not replace existing legal protections for designated sites and protected species.

As the biodiversity metric is habitat-based, species (including rare, notable and protected species) are not considered as part of BNG. Therefore, a planning application will still be required to address how impacts on species have been considered. It should be noted that the two are not mutually exclusive; actions to consider and protect protected species are expected to influence decisions on habitat retention, enhancement and creation.

Mitigation or compensation actions for impacts to protected species should not be included in the metric because these are separate requirements to avoid harm following separate law and policy, including The Conservation of Habitats and Species Regulations 2017 (as amended), The Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006 (Ref. 6) and The Countryside and Rights of Way Act 2000.

Irreplaceable habitats are highly valued and protected, and any development proposals resulting in loss or deterioration of them should be refused unless there are exceptional circumstances. Irreplaceable habitat is defined in the NPPF 2021 (Ref. 5) as: “Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity (for example Ancient Woodland).” Irreplaceable habitats can’t be addressed via the biodiversity metric and potential impacts need to be separately dealt with and cannot count towards BNG.

3.4 Designing a scheme with BNG

It is highly encouraged that developers/applicants enter in to the PRE-Application advice service (<https://www.winchester.gov.uk/planning/pre-application-service>) to ensure design of BNG is part of the early design process. As BNG will be considered in many planning proposals, this TAN provides key considerations for applicants, and what is required for submission.

- Consider BNG at the earliest stages in the design process - the developer should liaise with a consultant ecologist at the earliest opportunity to inform design and options

appraisals (suitable consultants can be found on the CIEEM website - [Finding a Consultant | CIEEM](#)). The biodiversity metric can be used early to quantify and evaluate the impacts of different design options and measurably compare them.

- Respond to site specific evidence – Habitat/ecological survey is required to support BNG. Consideration of past land uses and past habitat types on the site may provide opportunities for habitat restoration, for example, restoration of lost hedgerow.
- Respond to the local landscape and ecological context of the site – the developer should look at local ecological network opportunity areas and pending Local Nature Recovery Areas (LNRA). Questions to consider include; *what are the ecological patterns and elements of the area and how can BNG assist in the enhancing and restoration of the sites?*
- Schemes should be informed by strategic evidence and guidance. The council’s BAP and the Landscape Character Assessment should be considered.
- “Bigger, better and more joined up” - maximising connectivity/buffering/expanding existing key wildlife habitats. These key Lawton’s principles* should be employed through actions such as buffering key habitats, expanding habitats and restoring environmental links such as hedgerows and watercourses. Re-naturalisation of habitats, especially rivers and watercourses is encouraged and designs of a scheme should avoid creating islands that are disconnected from other ecological networks.
- Well designed for functionality – Developers must consider size, nature and location of habitats being retained, enhanced and created and the ecological function of the habitats must be key.

The biodiversity metric and its outputs should be interpreted, with expert ecological input, as an element of the evidence that informs plans and decisions. The metric is not a total solution to biodiversity decisions but can be an important and useful tool in the overall ecological assessment and project design.

**Professor John Lawton presented a report to the UK Government, called ‘Making Space for Nature’. The report called for the creation of a healthy ecological network operating across the landscape as a whole, not in isolated reservoirs. This approach is now being taken forward widely across the UK, and elsewhere in the World, and is integral to the Environment Act 2021.*

4. Scope of the Biodiversity Net Gain Requirements

4.1 How much BNG and how is this measured?

Once in force, Schedule 14 of the Environment Act 2021 (Ref. 2) will make provision for BNG to be a condition of planning permission. **The biodiversity value attributed to the development should exceed the pre-development biodiversity value of the onsite habitat by at least 10%.** This interim guidance is seeking to anticipate this requirement for 10% BNG, and the specific stipulations are outlined in the Table 1 below.

The biodiversity value attributable to the development is the total of:

- The post-development biodiversity value of the onsite habitat,
- The biodiversity value, in relation to the development, of any registered offsite biodiversity gain allocated to the development, and
- The biodiversity value of any biodiversity credits purchased for the development.

The biodiversity value of a habitat is calculated using the latest revision of the Defra biodiversity metric:

<http://publications.naturalengland.org.uk/publication/6049804846366720>

Table 1 below provides further details.

Pre-development biodiversity value – the value of the onsite habitat on the relevant date (either on application or on the date planning permission is granted).

However, if a person carries out activities on or after 30 January 2020 (other than in accordance with planning permission) which result in the biodiversity value of the onsite habitat being lower than it would otherwise have been, the biodiversity value of the habitats immediately prior to these activities is to be taken instead.

Post-development biodiversity value – the projected value of the onsite habitat at the time the development is completed.

Any habitat enhancement resulting from the works will have to be maintained for a minimum of 30 years after the development is completed (by virtue of a condition, planning obligation or conservation covenant). Management arrangements for the 30-year period should be considered, including suitable monitoring.

For Nationally Significant Infrastructure Projects (NSIPs) a Biodiversity Gain Statement will set out specific objectives for development where BNG applies. These developments must then meet these objectives and achieve BNG by the percentage specified in the statement (at least 10%). This requirement is expected to be in place no later than November 2025. NSIP projects are encouraged to adopt BNG earlier on a voluntary basis wherever possible.

4.2 What types of development do the BNG requirements apply to?

Table 1 – Interim BNG requirements for different types of development based on current Natural England guidance. **When the Environment Act 2021 provisions become a legal requirement then these will supersede the requirements within this TAN.**

	Type of Development	BNG Requirement
1	<ul style="list-style-type: none"> Householder applications Application sites that do not contain <i>habitats</i>* 	<p>A BNG metric is <u>not</u> required</p> <p>A Householder Biodiversity Mitigation & Enhancement Plan (BMEP) (Appendix 2) is desirable for all applicable applications in accordance with Policy CP16 to demonstrate how biodiversity will be retained, protected and enhanced through its design and implementation. Appendix 2 outlines the options to achieve satisfactory biodiversity enhancement for householder applications.</p>
2	<ul style="list-style-type: none"> Residential development of 1-9 dwellings on a site less than 1ha with no <i>priority habitats</i>** present (excluding hedgerows and arable margins). Developments with a site area less than 0.5ha or floorspace less than 5000m² with no *priority habitats present (excluding hedgerows and arable margins). 	<p>Small Sites Metric (or the latest version of the Biodiversity Metric if preferred) – maximise opportunities on site with a minimum 10% BNG.</p> <p>[Small Sites Metric must not be used if offsite BNG is proposed. In this case the latest version of the Biodiversity Metric must be used instead.]</p> <p>Can be completed by a ***competent person.</p> <p>A BMEP as outlined in Appendix 3.</p>
3	<ul style="list-style-type: none"> Residential development where 10 or more dwellings will be provided or the site has an area of 0.5 hectares or more. Non-residential development with an additional floorspace of 1,000m² or more, or a site of 1ha or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015. Developments on a site where one or more priority habitats are present (excluding hedgerows and arable margins). 	<p>Biodiversity Metric 4.0 (or latest) - maximise opportunities on site with a minimum 10% BNG.</p> <p>Must be undertaken by a suitably qualified ecologist, who is able to confidently identify the positive and negative indicator species for the range of habitats likely to occur in a given geographic location at the time of year the survey is undertaken.</p> <p>A BMEP as outlined in Appendix 3.</p>

Table 1 – Interim BNG requirements for different types of development based on current Natural England guidance.

*Habitat is defined as the place or type of site where an organism or population naturally occurs. It is often used in the wider sense referring to major assemblages of plants and animals found together (CIEEM, 2018)

***Priority Habitats* are categorised under the UK BAP identification of areas being most threatened and requiring conservation action and a list of UK Biodiversity Action Plan (BAP) Priority Habitats is found here: <https://jncc.gov.uk/our-work/uk-bap-priority-habitats/#list-of-uk-bap-priority-habitats>

**** Competency is aligned with the British Standard 'Process for designing and implementing biodiversity net gain: BS 8683:2021'. A competent person is someone who can demonstrate they have acquired through training, qualifications or experience, or a combination of these, the knowledge and skills enabling that person to perform specified tasks in completing and reviewing metric calculations.*

This TAN applies to outline and reserved matters applications where proposals should demonstrate that BNG will be achieved. Considerations of BNG at Pre-app stage will be important and can make the planning process more efficient. Information on the council's Pre-App advice service can be found here - [Planning - Winchester City Council](#).

As described in section 3.2, options for delivering biodiversity net gain should be explored on site in the first instance. Only when this is not possible should options for delivery offsite be explored.

5. What is required to support a planning application?

To ensure biodiversity will be retained, protected and enhanced the following documents will be desirable for validation of the planning application:

1. Planning Portal Biodiversity Checklist at validation stage – this may indicate the requirement for further specific ecological surveys and/or avoidance/mitigation measures.
2. Phase 1 Ecology Assessment or baseline habitat assessment (dependant on the checklist, habitats present and the requirements for any relevant metric).
3. Any necessary Phase 2 Ecological Survey Reports (as recommended within the checklist or Phase 1 Report)
4. The BNG checklist (Appendix 1) (*** 4 & 5 only required for applications where the small sites metric or biodiversity metric are required**)
5. **BNG Plan**
 - How adverse effects have been avoided or minimised
 - Pre-development value of onsite habitats
 - Post-development value of onsite habitats
 - Any offsite BNG and its value
 - Any credits purchased
 - a) Relevant completed biodiversity metric (in Excel and Pdf format)
 - b) Plans showing:
 - Pre-development habitat (baseline habitat units)
 - Post-development habitat (retained, enhanced and created habitat units)
 - c) How habitats will be created, managed and monitored for a minimum of 30 years. For relevant proposals a Landscape and Ecological Management plan (LEMP) is likely to be required.
 - d) An explanation as to how this makes a meaningful contribution to nature recovery (in accordance with section “*Designing a Scheme with BNG*”).
6. Biodiversity Mitigation & Enhancement Plan (BMEP) – species based planning requirement not related to net gain. In accordance with Appendix 2 and Appendix 3.

6. About the biodiversity metrics

6.1 Introduction to the biodiversity metrics

The metric can be used to inform and improve planning, design, land management and decision-making. The metric uses habitat as a proxy for wider biodiversity with different habitat types scored according to their relative biodiversity potential (Ref. 12). This score is then adjusted, depending on the size, condition and location of the habitat, to calculate 'biodiversity units' for that specific project or development.

It is a simple assessment tool and only considers direct impacts on habitats, within the footprint of a development, estate or project. The metric can:

- assess or audit the biodiversity unit value of an area of land
- calculate the losses and forecast gains in biodiversity unit value resulting from interventions which affect habitats
- compare different proposals for a site, allowing more objective assessments of potential biodiversity changes
- be used to calculate biodiversity units and percentage biodiversity change

The Defra biodiversity metric:

<http://publications.naturalengland.org.uk/publication/6049804846366720>

It can be used to calculate the losses and gains in biodiversity unit value resulting from changes or actions which affect biodiversity, such as from development or changing the management of a land holding. In addition to this it can be used to predict the likely effectiveness of creating new or enhancing existing habitats.

To assess the quality of a habitat, the biodiversity metric scores:

- a. Distinctiveness – considers species richness, habitat rarity, the extent to which a habitat is protected by designations and the degree to which a habitat supports species rarely found in other habitats.
- b. Condition – a measure of the habitat against its ecological optimum state. Condition is a way of measuring variation in the quality of patches of the same habitat type.
- c. Strategic significance – 'better' and 'more joined-up' is important. Is the habitat in a location of strategic significance for nature (such as a Local Nature Recovery Area LNRA).

Biodiversity metric includes separate calculations for area habitats (such as a woodland) and linear habitats (such as a hedgerow or stream). This is because habitat length is a more meaningful measure of linear habitats than their area due to their function as ecological corridors.

To determine if the development will result in a BNG:

1. Calculate the baseline of a site in biodiversity units before any development or management change has occurred (i.e. pre-intervention).

2. Repeat calculation for the post-intervention scenario. This calculation should include any retained or enhanced existing habitats and newly created habitats. This measures the predicted changes therefore additional factors to account for the risk associated with creating, restoring or enhancing habitats are also considered (including difficulty of creating/restoring habitats, temporal risk and spatial risk). The metric can be used to measure off-site habitat changes, where this is required to achieve a net gain. For this there is an additional 'spatial risk' multiplier which is applied to reflect the proximity of the off-site changes to the project site where the biodiversity loss is occurring.

Trading down' must be avoided. Losses of habitat are to be compensated for on a 'like for like' or 'like for better' basis according to the metric trading rules. New or restored habitats should aim to achieve a higher distinctiveness and/or condition than those lost. Losses of irreplaceable or very high distinctiveness habitat cannot adequately be accounted for through the metric (Ref. 12).

6.2 Small Sites Metric (SSM)

- This metric is specifically designed for small development sites as set out in Table 1. This is a simplified version of the metric which autocompletes some sections and where condition information and habitat surveys are not required.
- This metric and the associated baseline habitat assessment must be undertaken by a 'competent person' who is able to confidently identify habitats present and identify land management requirements for habitats which will be created or enhanced.
- Applicants can still use the Biodiversity Metric 4.0 (or latest) if preferred.

6.3 Biodiversity Metric 4.0 ('full metric')

- This metric requires full habitat surveys including assessments of habitat condition.
- These surveys and the metric must be undertaken by a suitably qualified ecologist – as a member of the Chartered Institute of Ecology and Environmental Management (CIEEM).

7. References

1. Winchester City Council 2021. Biodiversity Action Plan
<https://www.winchester.gov.uk/planning/landscape-countryside/biodiversity>
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3. South Downs National Park Authority 2022. Biodiversity Net Gain Interim Guidance Technical Advice Note
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