

Biodiversity Net Gain



Introduction

Biodiversity Net Gain (BNG) is a policy that has been mandated in England through the Environment Act 2021. It is 'an approach to development which means that habitats for wildlife must be left in a measurably better state than they were in before the development'.

Mandatory BNG will mean that all developments must achieve at least a 10% net gain in biodiversity levels compared to their pre-development value. This will come into effect for new planning applications from November 2023. Biodiversity uplift can be achieved through habitat creation or enhancement onsite and/or offsite, or through the purchase of statutory biodiversity credits from the government. The provision of offsite biodiversity units offers an opportunity for rural land managers to monetise habitat creation, with the market for offsite biodiversity units in England estimated to be worth between £135 million to £274 million per year (Eftec 2021).

The government has launched a consultation into the practical and legal implementation of BNG. This consultation document is critical in providing the detail that is needed to better understand what BNG might look like on the ground. This briefing note is based on the contents of the consultation document and is an update to our original [BNG briefing note](#).

How does BNG work?

The mitigation hierarchy

BNG works within the mitigation hierarchy set out in national planning policy. This means that developers are encouraged to follow these steps in order to:

1. Avoid or reduce biodiversity impacts through site selection and development layout
2. Enhance and restore biodiversity on-site
3. Create or enhance offsite habitats, either on the developers' own land or by purchasing biodiversity units
4. As a last resort, to prevent undue delays, purchase statutory biodiversity credits from the UK government (if they can demonstrate that they are unable to achieve biodiversity net gain through on-site or offsite measures).

This mitigation hierarchy promotes on-site biodiversity uplift before offsite habitat creation, however for some developers this may not be practical or economically viable. In Eftec's 2021 BNG market analysis study, it was assumed that at least 50% of BNG would be delivered offsite. This offsite biodiversity market has the potential to provide a significant funding source for sustainable land use change and biodiversity enhancement.

The Biodiversity Metric

Natural England's Biodiversity Metric is used to calculate the biodiversity value of both development and biodiversity uplift sites. The metric uses habitats as a proxy for biodiversity, considering the type, extent and condition of habitats. For habitat creation, the metric also takes account of how difficult the habitat is to create, the time taken to reach target condition and proximity to the development site. The metric is free to use and available online - [BNG Metric 3.0](#) is the current version. There has been some criticism over the metric's calculations, and the government plans to hold a formal consultation on the metric before its use for mandatory BNG assessments.

The planning process

The government is proposing that when developers are applying for planning permission, they will be legally required to include biodiversity gain information with their application. The core information will include:

- The pre-development biodiversity value
- The proposed approach to enhancing biodiversity on-site
- Any proposed offsite biodiversity enhancements (including the use of statutory credits) that have been planned or arranged for the development.

The BNG requirement will be framed as a pre-commencement planning condition, meaning that the biodiversity gain condition must be discharged before development can begin. To achieve this the planning authority must approve the development's biodiversity gain plan.

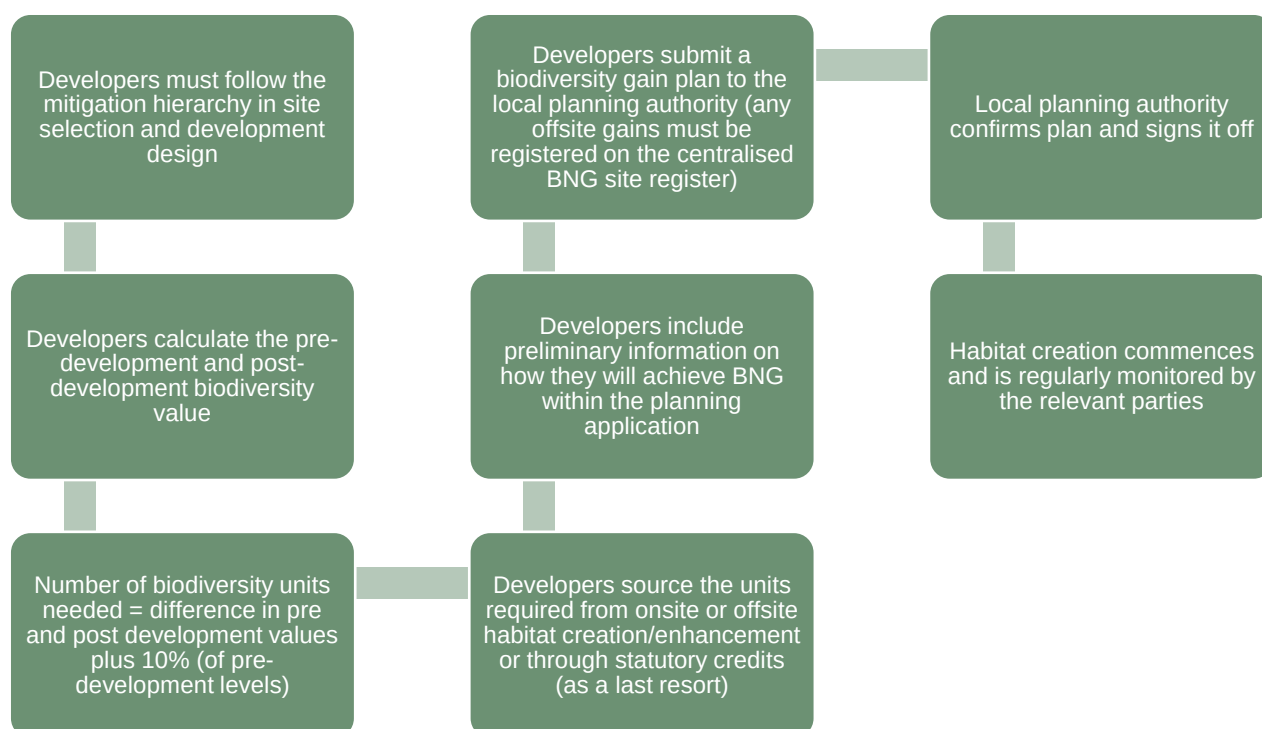
Biodiversity gain plans

A biodiversity gain plan is intended to be a clear and nationally consistent document with which the developer can demonstrate their BNG, and a planning authority can check whether the proposals meet the BNG obligation. The biodiversity gain plan can be submitted after the planning application but must be submitted before the development starts.

Local planning authorities

A potential barrier to the implementation of BNG lies in the capacity of local planning authorities to take on additional responsibilities. Planning authorities will be key in requiring, approving and monitoring BNG. The government has confirmed that it intends to fund local authorities to be able to carry this out. Local planning authorities will be able to set BNG goals of higher than 10%, and they will also be able to sell biodiversity units from their own land, or act as a broker for third party units. They are expected to manage any associated conflicts of interest.

The BNG process:



What about offsite biodiversity gain?

If developers are unable to provide biodiversity gain onsite, developers may create or enhance habitat themselves offsite, or may purchase biodiversity units from land managers. Market analysis (2021) estimated that there will be annual demand for around 6,200 offsite biodiversity units in England, with a market value in the region of £135 million. The study concluded that the market has the potential to meet the predicted demand for offsite biodiversity gains. However, shortages of supply are a risk in the early years of the market and for highly urban areas, islands, and some habitat types.

Below we outline some of the key principles for how offsite biodiversity gain will function:

Local bias - the biodiversity metric's spatial risk multiplier means that there is a bias towards offsite gains delivered locally to the development site, however where local opportunities for offsite biodiversity unit provision are insufficient, offsite delivery outside of the local area will be allowed.

Local Nature Recovery Strategies - will be used to target the delivery of offsite biodiversity gains and habitat delivery within strategic areas.

Securing offsite gains - in order to count towards a development's net gain requirement, offsite biodiversity gains will need to be secured through either a conservation covenant or planning obligation.

Start date - offsite biodiversity gain will not need to be completed prior to its registration or sale of units. Instead offsite works must be commenced as soon as is feasible, and no more than 12 months after the discharge of the mandatory pre-commencement biodiversity net gain condition. Habitat created or enhanced after 30 January 2020 will be eligible for registration and sale of the associated biodiversity gains, provided it meets the other criteria. Habitat created or enhanced before this date will not be eligible. This date has been selected to ensure the outcomes from the policy are additional, while avoiding penalising landowners and managers that have taken the initiative since the government's intention to mandate BNG was confirmed in 2019.

Timescales - the Environment Act states that offsite biodiversity gain sites must be maintained for at least 30 years after the completion of the works to create or enhance the habitat. The government wants to encourage developers and landowners to secure sites for longer (possibly in perpetuity) and may increase this minimum duration. However, to avoid disrupting the establishment of the market, any increase in minimum duration would not take place in the first three years of mandatory BNG.

Biodiversity gain site register - the gain sites will have to be registered on a centralised, publicly available biodiversity gain site register prior to final approval of the biodiversity gain plan. The register will also detail which specific development the biodiversity units are allocated to. Registration will involve an online application to the register operator. The government intends to charge a fee to administer the register. It will take up to 28 days for the register operator to assess the application. If a biodiversity gain site is rejected by the operator, there will be an appeals process available.

Habitat banking - the government wants to encourage habitat banking to allow enhancements to be delivered before the development takes place, and to smooth out the supply and demand within the biodiversity unit market. Habitat banking also provides larger, more strategic sites for nature. Access to finance is critical for habitat banking, and the government is in the process of developing the minimum requirements for habitat banks so that investment plans for habitat banks can be developed. One site may provide biodiversity units to more than one development. Habitat banking enables land managers to set up their own private or collaborative habitat bank and therefore sell BNG units reactively.

Developers - will be able to use any excess biodiversity units that are created at a site for another development as offsite units.

Brokers - the government is not proposing to establish a centralised trading platform for biodiversity units and is intending that the private sector or other third parties will take on the role of brokerage of offsite agreements.

Pricing - the pricing of biodiversity units is to be agreed between buyers and sellers, ensuring it is sufficient to cover the cost of habitat management for a minimum of 30 years. It will be for the buyer, seller and other parties to agree payment terms, for example whether there will be a lump-sum payment, staged payments, or payment by results. Forecast biodiversity unit prices vary widely. Initial forecasts were in the range of £9,000 to £15,000 per unit. However, based on modelling of habitat delivery and transactions costs, revised forecasts indicate that prices could go as high as £15,000 to £25,000 per unit.

Taxation - the government is aware that rural land managers need to understand how committing land for habitat creation or enhancement will affect their eligibility for Agricultural Property Relief and Business Property Relief. It has stated that there will be clear guidance on this in future. Whether funds received from the sale of units are subject to income or capital gains taxation will also influence landowner's decision making. There appears to be considerable flexibility in the nature of the contractual arrangements that landowners could reach with developers, this suggests agreements and the profile of sales receipts could vary with some arrangements more income or capital in character than others.

Stacking of payments for environmental services - there is an understanding that the market for biodiversity units will need to work alongside other environmental markets such as nature-based carbon, nutrient trading and markets for agricultural and forestry products, as well as future Environmental Land Management schemes. The government wants to allow land managers to combine payments for biodiversity units with other payments for environmental services derived from the same parcel of land, provided they are paying for distinct, additional outcomes.

Monitoring and verification - planning authorities will set specific monitoring requirements as part of the planning conditions and obligations used to secure offsite habitat enhancements. It will be the landowner's or developer's responsibility to ensure monitoring and reporting obligations are fulfilled. Monitoring reports will be submitted to the planning authority, the register operator and the relevant responsible body (if a conservation covenant is used). Natural England is currently scoping whether accreditation would help to focus enforcement. The number of

monitoring assessments will depend on the habitat type and extent, but it is proposed that a medium sized habitat creation project might report in years 2, 5, 10, 20 and 30. Natural England is working on developing a standardised process for habitat management and monitoring.

So what?

BNG sits within a wider policy context of rural land use change across England, but ultimately, it presents a potential opportunity for rural land managers to monetise environmental land management. Savills Rural Research has been commenting on the development of the policy for over two years; the latest information from government means landowners and developers now have more detail about how BNG might be implemented on the ground and can begin to plan their approach to meeting BNG requirements or demand for units.

This is a compliance market created by regulation and therefore its performance will be dependent on the detail of those regulations. This consultation demonstrates that the government is aware of the need for clear regulation and guidance around BNG and it has committed to prioritising clarity and consistency as it creates the frameworks for the market. At the same time there appears to be considerable flexibility with regards to the types of contractual arrangements that landowners could reach with developers. We must remember that the proposals within the consultation are not finalised, and they may change after the consultation period.

All rural land managers should be aware of the opportunity BNG presents, how it will work, and which stakeholders are key. Understanding this and deciding whether to take a reactive or proactive approach towards the BNG market is an important first step.

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