

BIODIVERSITY NET GAIN

An emerging perspective on local council response to planning applications April 2024

BACKGROUND

The Environment Act 2021 incorporated a broad principle of enhancing biodiversity. Proposals for biodiversity net gain of at least 10% on existing site levels in England are now required as part of the following:

- Generally, any planning applications for a single dwelling or more (but not housing extensions), submitted since 12th February 2024
- Commercial development of more than 1,000 square metres or 1 hectare
- Minerals or waste related development
- Nationally significant infrastructure projects (*thresholds are defined under Sections 15-30A of the Planning Act 2008*) – but not yet, date to be confirmed.

The Department for Environment, Food and Rural Affairs (DEFRA) has published a statutory biodiversity metric (see www.gov.uk/guidance/biodiversity-metric-calculate-the-biodiversity-net-gain-of-a-project-or-development) for calculating biodiversity value, as a baseline for a 10% increase.

(This requirement for biodiversity net gain applies to England only, there is a separate approach to biodiversity within the planning process in Wales.)

POINTS TO CHECK IN PLANNING APPLICATIONS

Further to Government guidance for planning authorities (which can be found at www.gov.uk/guidance/biodiversity-net-gain-what-local-planning-authorities-should-do) the following points in a developer's application may be looked for:

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	

There will also be a biodiversity net gain plan (the Government template for which is not mandatory), but this is usually only agreed AFTER planning permission has been given, and local councils are not asked to be involved in those discussions. It will be appropriate therefore to make any comments on that plan as soon as the planning application comes in.

The agreed and signed plan is intended to be enforceable by the planning authority for 30 years, so some points to review:

- If the plan includes a biodiversity credit for an area outside the planning authority's jurisdiction, that may make future monitoring difficult.
- If the plan includes biodiversity net gain within the gardens of new houses, that may prove difficult to enforce on future householders.
- The potential for using the same off-site location for biodiversity net gain for more than one development should be prevented by a planned national database of such locations.

CONSIDERATIONS

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.

See also guidance on responding to planning applications and a model biodiversity policy at www.slcc.co.uk/climate-action/