

# Mandatory Biodiversity Net Gain

Interim Note Feb 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 will be mandatory from 12<sup>th</sup> February 2024 for major development sites, and from 2<sup>nd</sup> April 2024 for small scale sites.

Biodiversity Net Gain will be measured using a biodiversity metric and habitats will 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?

The government has produced the biodiversity metric which developers must use to calculate a minimum 10% gain on the pre-development biodiversity value of the site. The metric calculates 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.

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

### How biodiversity net gain will affect your development?

From the **12<sup>th</sup> February 2024** major development must deliver mandatory 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).

BNG for small sites will have an extended transition period and will apply from **2 April 2024**. The definition of small sites is summarised below, with the full definition found in the regulations. Small site development includes:

- 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

### 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 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 and 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.

### Exemptions

The following types of developments are exempt from mandatory biodiversity net gain requirements<sup>1</sup>:

- Developments that fall below a 'de minimis'<sup>2</sup> threshold of 25m<sup>2</sup> for area habitats, or 5m of linear habitats (i.e. hedgerows)
- Householder applications
- Small scale custom or self-build housing<sup>3</sup>
- Developments undertaken for the purpose of fulfilling the Biodiversity Net Gain planning condition for another development
- High speed rail transport networks

### 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.

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<sup>1</sup> 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](#)

<sup>2</sup> The 'de minimis' threshold is only applicable if the habitat impacted is not a priority habitat.

<sup>3</sup> 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.

## 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.

### Further information:

[Understanding biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/understanding-biodiversity-net-gain)

[Natural England biodiversity net gain brochure](#)

[Natural England biodiversity net gain metric and user guide](#)

[CIEEM biodiversity net gain report and audit templates](#)

[Definitions for biodiversity net gain - UKGBC](#)

[DEFRA land use policies and framework blog](#)