

Biodiversity Net Gain



Guidance Note for Developers
What Does This Mean for Your Projects?



Guidance Note for Developers

Through The Environment Act 2021 and emerging secondary legislation, the delivery of Biodiversity Net Gain (BNG) is a mandatory requirement for most types of development in England. Formal commencement for major developments started on 12th February 2024 (The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024). Minor developments will follow on 2nd April 2024.

The Council is consulting on a BNG policy as part of the Pendle Local Plan Fourth Edition (the Local Plan), but this will not come into force until after the provisions of The Environment Act are in place.

This guidance note is provided to support the implementation of the Local Plan and the requirements of The Environment Act. It reflects our best understanding of developing BNG practice. The interpretation and implementation of the BNG requirements is evolving and the guide reflects best known practice to date. It will be updated from time to time to reflect national changes.

The Council's BNG process and this guidance have been prepared with the Government's core targets in mind and seeks to capitalise on the opportunities for delivering multiple benefits for people and wildlife, whilst enabling meaningful nature recovery.



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Contents

Section 1 – general introduction	2
Introduction	2
What is biodiversity net gain?	2
Delivering biodiversity net gain and exemptions	3
Exemptions	3
Underpinning legislation	4
Guidance	4
National planning policy framework (NPPF)	4
Government core targets for biodiversity net gain	4
Better places for local communities	5
Summary of BNG objectives	5
Section 2 – principles of BNG	6
Biodiversity net gain explained	6
The basics	6
How to apply the mitigation hierarchy	6
Mitigation hierarchy	6
Irreplaceable habitats	7
Avoidance and minimisation	7
Compensation	7
Habitat trading and creation	7
Biodiversity values	7
Baseline biodiversity values	7
Residential gardens	8
Post development biodiversity values	8
Strategic significance	8
Priority/habitat types	9
The metric toolkits	9
The Defra metrics	9
Biodiversity gains	9
On-site habitat gains	10
Off-site habitat gains	10
Stacking rules	10
Spatial risks and the metric calculations	11
Area and linear habitats	11
Watercourse habitats	11
Section 3 – planning applications	12
Planning applications	12
Validation requirements	12
Habitat mapping	12
Sites with no baseline unit value	12
Good practice principles for development	13
Summary	13
Section 4 – post planning permission	14
Biodiversity net gain plan	14
The information needed for the metrics	15
On site gains	16
Section 5 – delivery of BNG	17
How to deliver BNG in practice	17
Section 6 – pre-application	18
Pre-application stage	18
How to prepare a BNG management & monitoring plan	18

Section 7 – legal agreements	19
The use of legal agreements	19
How we will process your application	19
How BNG decisions will be made	19
Nature recovery	

Section 8 – sites in pendle	20
Sites in Pendle	20
Glossary	20
Appendices	22
Appendix 1 biodiversity gain information checklist	22
Appendix 2 biodiversity gain plan checklist	23
Useful resources	24

Acronyms Used in the Guide

AMR	Authority Monitoring Report
BGP	Biodiversity Gain Plan
BHS	Biological Heritage Sites
BM	Biodiversity Metric
BNG	Biodiversity Net Gain
BU	Biodiversity Units
CC	Conservation Covenant
CCNCS	Climate Change and Natural Capital Study
ClF	Climate Impact Framework
Defra	Department for Food and Rural Affairs
DLUHC	Department for Levelling Up, Housing and Communities
DWS	District Wildlife Sites
EOA	Environmental Opportunity Areas
GI / GBI	Green Infrastructure / Green and Blue Infrastructure (used interchangeably)
HBV	Habitat Banking Vehicle
HMMPP	Habitat Management and Monitoring Plan
LEN	Lancashire Ecological Network
LNR	Local Nature Reserve
LNRS	Local Nature Recovery Strategy
LPA	Local Planning Authority
MH	Mitigation Hierarchy
NE	Natural England
NPPF	National Planning Policy Framework
NRN	Nature Recovery Networks
OSR	Off-sites Register
PAN	Planning Advisory Note
PINS	Planning Inspectorate
PPG	Planning Practice Guidance
S106	Section 106 Agreement
Sis	Statutory Instruments
SM	Standard Metric
SMM	Small Sites Metric
SPD	Supplementary Planning Document
SPV	Specialist Delivery Vehicle
SUDS	Sustainable Urban Drainage System
UKHab	UK Habitat Classification Mapping



Section 1 – General Introduction

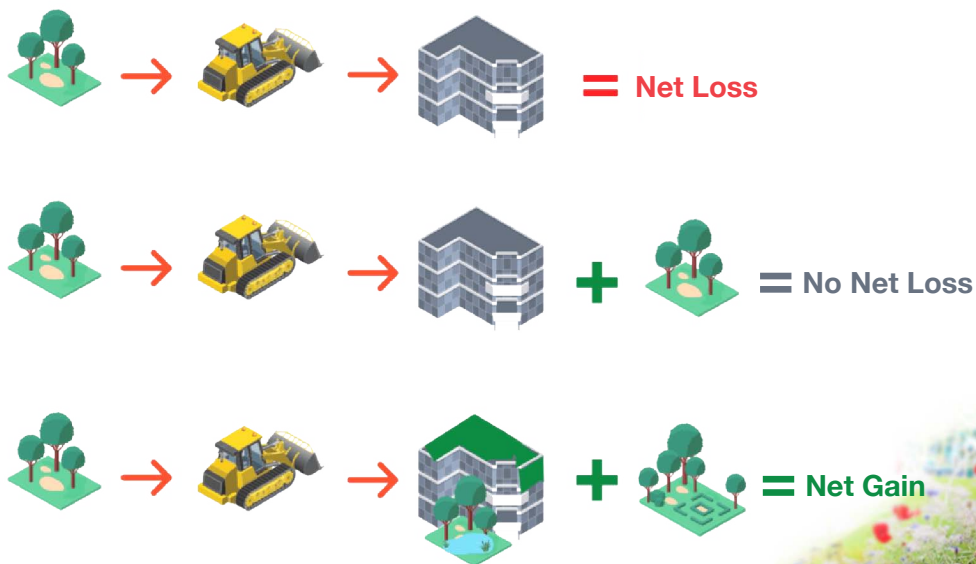
Introduction

What is Biodiversity Net Gain?

1.1 Biodiversity Net Gain (BNG) is defined as the achievement of measurable gains for biodiversity through new development i.e. biodiversity is left in a measurably better state than before development commenced. This approach will result in the extension and improvement of natural habitats as part of a development or project and enables new development to contribute to nature’s recovery.

1.2 Most new developments will now be required to enhance or create natural habitats to ensure that development contributes to nature’s recovery. New developments must consider habitats and provide a minimum of 10% measurable net gain on the pre-development value. All qualifying planning applications will need to consider BNG from their very earliest stages, at site selection stages, and in design.

Figure 1: Illustrating the concept of Biodiversity Net Gain



Delivering Biodiversity Net Gain and Exemptions

1.3 Biodiversity provides a range of environmental, social and economic benefits. Rather than seeing net gain requirements as an extra cost or burden within new development, there are real opportunities to benefit from the natural capital it can bring. Natural capital approaches nature as an asset, or multiple assets, which benefit people. For example, the creation of new areas of habitat on a development site will make the development a more attractive place to live, provide green infrastructure opportunities for its residents and their health, and, as a result of that increased appeal, likely command higher house prices.

1.4 Benefits include:

- Providing habitats for a range of wildlife, including food and shelter
- Supporting pollinators
- Providing flood protection and water management
- Maintaining healthy soil composition
- Improving air quality by absorbing pollutants and producing oxygen
- Providing shading to help reduce urban temperatures
- Providing character and a sense of place
- Providing 'green spaces' to support recreation and leisure opportunities
- Supporting access to nature to promote physical and mental health and wellbeing
- Absorbing urban noise
- Providing attractive places that people want to live in
- Providing areas for community
- Reducing incidence of flooding and associated costs like reduced insurance premiums
- Reducing NHS health costs
- Providing recreational benefits that can generate income

1.5 Qualifying developments must achieve a minimum of 10% net gain. There will be a phased implementation of the requirement with the requirement for major developments having come into effect on 12th February 2024 and the remaining in scope developments from 2nd April 2024.

Future Local Plan policies will be supplementary to the statutory requirements.

1.6 A range of development types are exempt from the requirements. Full details can be found at: <https://www.legislation.gov.uk/ukxi/2024/47/contents/made>

Exemptions

1.7 The exemptions are:

- Householder development
- Section 73 Applications for small development made before 2nd April 2024
- Development that does not impact on on site priority habitat
- It is less than 25 square metres of on site habitat that has a biodiversity value greater than zero
- Less than 5m of linear habitat
- Self & custom-build developments
- Local development orders
- Neighbourhood development orders
- Deemed planning permission
- Successful enforcement appeals

1.8 Householder development will be exempt from the full BNG requirements, but everyone is encouraged to deliver habitat and species enhancements. Enhancements could include the provision of integrated bird and bat boxes, and/or the use of native and nectar rich species within landscaping schemes. Other developments will be exempted where there is no ecological value on site.

1.9 All planning projects subject to BNG requirements should consider BNG from the very outset, prior to site design, and ideally at site selection stage to help minimise the need for providing replacement habitats. The mitigation hierarchy will expect a site selection process to consider these.

1.10 The mitigation hierarchy is therefore a critical element of the BNG process and should be used to avoid and minimise the impacts of new development through impact avoidance, minimisation and compensation. The avoidance of ecological impacts will result in less onerous BNG requirements. Please refer to section 2 on how to apply the Mitigation Hierarchy.

1.11 Biodiversity Gain Information, in the form of the appropriate Metric, will need to be submitted with a planning application and a final Biodiversity Gain Plan (see section 4) must be submitted and approved by the Local Planning Authority (LPA) prior to the commencement of the development. There will be requirements to retain the net gain over 30 years with legal agreements.

Underpinning Legislation

- 1.12 There is a range of legislation that underpin the requirements of the Environment Act. Key ones are:
- Biodiversity Gain Regulations 2024
 - The Biodiversity Gain Site Register (Financial Penalties and Fees) Regulations 2024
 - The Biodiversity Gain Site Register Regulations 2024
 - The Biodiversity Gain Requirements (Exemptions) Regulations 2024
 - The Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024
 - The Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024

Guidance

- 1.13 The Government has published BNG planning practice guidance, to support the legislation. Additional guidance can also be found through the DEFRA Understanding BNG webpage. A series of information links are provided below and throughout this document.
- National Planning Practice Guidance
 - Legal Agreement to Secure Gain
 - Making on-site biodiversity gains as a developer
 - Making off-site gains as a developer
 - Statutory Credits
 - Credit Prices
 - Using the Metric
 - Meeting the requirements: Steps for Developers
 - Meeting the requirements: Steps for Land Managers

National Planning Policy Framework (NPPF)

- 1.14 The NPPF (December 2023) sets The national planning policy, which must be considered in the determination of all planning applications (alongside local planning policy). Paragraph 180(d) of the NPPF requires planning policies and decisions to contribute to and enhance the natural and local environment by:

d) minimising impacts on and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilience to current and future pressures.

- 1.15 Paragraph 183(b) of the NPPF requires plans to:

b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

- 1.16 The National Planning Practice Guidance on the Natural Environment provides further information on Biodiversity Net Gain, including its aims to leave the natural environment in a measurably better state than it was before (paragraph 020), deliver measurable net gains through development (paragraph 022).

Government Core Targets for Biodiversity Net Gain

- 1.17 The Government's core targets for BNG are to secure positive outcomes for biodiversity; to improve the process for developers and to create better places for local communities.
- 1.18 This approach has been designed to enable the development sector to deliver positive outcomes for nature. Minimising and then offsetting the biodiversity impacts of development, ensuring that measurable and beneficial gains are achieved is integral to this approach. This approach to development incentivises the avoidance of damage and loss of highly valued habitats and aims to result in the creation and improvement of habitats in locations which will deliver the best outcomes for biodiversity.
- 1.19 Lancashire County Council will lead on the delivery of the Local Nature Recovery Strategy (LCC LNRS website) for the County to compliment and drive forward the net gain requirement. This process is just at its infancy in Lancashire, with work streams in place with an aim to produce a draft plan late in 2024.
- 1.20 BNG enables the development sector to implement the Lawton Principles for nature's recovery by creating bigger, better and more joined up spaces for nature.
- 1.21 The consideration of ecological impacts will be subject to additional scrutiny with new statutory requirements. The Government's intention is to achieve an improved process for developers, where expectations, requirements and processes are consistent, auditable and well understood. There is however still some way to go before this is achieved.
- 1.22 To help achieve this, the Council will clarify its expectations and requirements, provide continuous training for staff and involved members, consult with developers, and ensure supporting information is

easily accessible. Supporting information that will be made accessible includes:-

- Habitat mapping. A map showing areas of strategic BNG significance will be developed and placed online when available. This will link with developments of the LNRS
- Irreplaceable habitat – habitat types and known locations
- Areas of Strategic Significance are defined as areas falling within:
 - Strategic Nature Recovery Networks
 - Special Areas of Conservation (SAC) juvenile bat sustenance zones
 - Special Areas of Conservation (SPA)
 - Local Nature Recovery Strategy (LNRS) mapping (once completed)

Better Places for Local Communities

1.23 New development has the potential to impact and change local communities, especially when development happens at scale and at pace. The COVID-19 pandemic highlighted the importance of access to good green space and the health benefits associated with access to the natural environment. This is becoming increasingly well documented.

1.24 The process of securing BNG can help deliver much better, more resilient and well-integrated developments and in turn provide better places for local communities. This is particularly true for larger developments when the mitigation hierarchy is well utilised. The protection and enhancement of biodiversity will support more resilient natural systems that can provide societal benefits such as reduced flooding; improved air and water quality; better soil quality and carbon sequestration.

1.25 It is essential nonetheless that habitats to be retained, created or enhanced on-site are compatible with the type of development proposed. In many cases, developments which include green spaces and natural habitat for recreational use will not be able to sustain higher value natural habitats in good condition. On-site biodiversity gains and their links with green space provision must therefore be well considered and where significant gains are cited these must be clearly justified and supported with long term management plans. Ecological sites and leisure and recreation do not often readily mix.

Summary of BNG Objectives

This is a summary of some of the main issues in this document and should be read in conjunction with legal sections.

- Following the introduction of BNG, all new development (unless exempted or de-minimis) must provide measurable biodiversity net gains of at least 10% on the pre-development baseline level. All other development should provide some net gain in accordance with national planning policy.
- Habitat is a proxy for biodiversity; and where there are multiple habitats on site (e.g. land, hedgerows, trees, water) then a 10% gain will be required for each of those separate habitats. They cannot be interchanged or traded down (in terms of quality or condition).
- BNG does not change existing environmental and wildlife protections.
- All development must follow the mitigation hierarchy (and demonstrate how it has done so).
- Gains are measured using defined metrics. The appropriate metric must be completed by a competent person – usually an ecologist. They must be submitted at i) the planning application stage, and ii) prior to commencement of the development as part of a Biodiversity Gain Plan (BGP). Submission of a BGP will be a statutory condition of planning approval, and development cannot start until the plan has been submitted to, and discharged by, the Local Planning Authority.
- Net gains must be legally secured through planning condition, and/or legal agreement (typically a Section 106) for a period of 30 years.
- Net gains must be delivered on the development site, if possible, but where this cannot be achieved, gains can be delivered off-site. Off-site habitats will score more favourably in the metrics where they are located in areas of ‘strategic significance’.
- Any off-site habitats are expected to be delivered in the borough area, not outside of it. The Council want to ensure that the benefits of development are retained in the areas affected by development. This is explained in the metric which penalises net gains away from the site.
- Developers will be required to provide, manage and monitor habitat delivery (or pay money for a third party to provide it). The Council has a duty to monitor this and report back to Government annually.
- The Council will take enforcement action where BNG is not delivered as approved agreements or planning conditions specify.

- All off-site gains must be recorded by the developer on a national register, maintained by Natural England (NE). A fee is charged by NE to apply to the register.
- The Council will endeavour to make some public land available for off-site BNG, through the sale of biodiversity units.
- The Council must monitor all BNG delivery and regularly report on it under statutory legal duties.

How to Apply the Mitigation Hierarchy

- 2.4 Use of the mitigation hierarchy is a critical element of the BNG process and should be used effectively to minimise the gains required by a development.
- 2.5 The hierarchy follows the principles of impact avoidance, minimisation and compensation. This is one of the 10 nationally recognised good practice principles for BNG. Development resulting in significant harm to biodiversity will not be permitted.

Section 2 – Principles of BNG

Biodiversity Net Gain Explained

The Basics

- 2.1 BNG is a controlled process designed to ensure that the impacts of a development on biodiversity will be measurably positive and beneficial. The process necessitates a step change of approach to development and is designed to incentivise ecologically sensitive site selection and site design to minimise impacts. The process requires the value of habitat protection and enhancement to be well understood and embraced as a matter of routine and as sound planning practice.
- 2.2 This formal approach uses carefully defined measures of habitat quantity and quality to approximate the biodiversity values of development sites (before and after development). All qualifying development must be planned and designed to first avoid and minimise impacts and then achieve a minimum of 10% net gain. The habitats retained and protected on-site, and habitat gains proposed must then be secured, managed and monitored for at least 30 years.
- 2.3 Environmental degradation of a site is not an option for a developer. Where a site is degraded assumptions are applied to ensure its pre-development value is accounted for.

Mitigation Hierarchy

“biodiversity gain hierarchy” means the following actions in the following order of priority—

- (a) avoiding adverse effects of the development to on-site habitat with a habitat distinctiveness score, applied in the biodiversity metric, equal to or higher than six
 - (b) so far as those adverse effects cannot be avoided, mitigating those effects
 - (c) so far as those adverse effects cannot be mitigated, habitat enhancement of onsite habitat
 - (d) so far as there cannot be that enhancement, creation of on-site habitat
 - (e) so far as there cannot be that creation, the availability of registered off-site biodiversity gain
- 2.6 Before considering Biodiversity Gains, the potential impacts of the development must be fully considered to ensure losses can be first avoided, minimised and then compensated for. This will ensure that the development can minimise its BNG requirements, and from the outset, reduce harm to nature and potentially lead to better place making.
 - 2.7 An annotated Ecological Mitigation Map should be produced illustrating the mitigation approach proposed. This should show habitats to be protected, enhanced and created to avoid minimise and compensate for residual impacts. This will form the basis of the Designed BNG Plan and so will reflect the information to be inputted into the Metric spreadsheet.



2.8 It should be noted that Biodiversity Net Gain cannot be achieved where a development impacts Irreplaceable Habitat. Such projects would be required to fully compensate for any impacts caused to the satisfaction of the Council and would be subject to other stringent policy requirements. BNG is also separate and additional to requirements relating to protected sites and species.

Irreplaceable Habitats

2.9 Development is expected to protect and enhance irreplaceable habitats, including (but not confined to) ancient woodlands; ancient and veteran trees; priority grasslands; Special Areas of Conservation & Special Protection Areas.

Avoidance and Minimisation

2.10 When selecting a development site, areas of high ecological value (such as protected wildlife sites, priority habitats and irreplaceable habitat) should be avoided.

2.11 The design of a project should then seek to avoid and minimise the loss and disturbance to valued ecological features on the site. These features include ponds, hedgerows, areas of scrub and woodland, as well as areas of semi-natural grasslands of value to invertebrates, birds and/or mammals. Valued features can be determined from the ecological surveys routinely required to support planning applications.

Compensation

2.12 Where valued ecological features will be lost or diminished, compensatory measures should be provided through replacing habitats or by enhancing habitats on site to compensate for the residual losses. At this point, the additional measures required to achieve biodiversity gains can be properly considered.

2.13 Biodiversity Net Gain off-setting is not to be used to compensate for the loss of habitats of high ecological value, such as irreplaceable habitats and statutory protected wildlife sites.

Habitat Trading and Creation

2.14 The biodiversity metric tools calculates the 'distinction' value of a habitat. Habitat trading down where pre-development habitats of higher distinction would be replaced by lower value habitats post development is not permitted. Habitat trading up to habitats of greater value (distinctiveness) may be

acceptable where appropriate to the site, its location and its future use.

2.15 For on-site gains, the creation or restoration of high distinctiveness habitats is unlikely to be acceptable as part of public open space due to the risks and uncertainties of habitat establishment and long-term management on such sites. Similarly, on-site proposals involving more than one level of improved habitat condition are unlikely to be acceptable.

2.16 Where irreplaceable or statutory protected habitat (such as SSSI habitat) are affected, biodiversity gains cannot be claimed and the BNG process is not appropriate for those sites. In such cases bespoke approaches to impact mitigation and compensation must be discussed and agreed with the LPA.

Biodiversity Values

2.17 For BNG to work, impacts and gains to biodiversity must be measurable. Biodiversity must therefore be valued and quantified in a systematic way. The Government has developed two specific metrics that are the statutory methods to calculate a site's biodiversity value pre-and post-development. The metrics combine habitat extent with specific measures of habitat value to approximate a site's biodiversity value. These are quantified into units.

2.18 It is important to note that three habitat categories are recognised and must be valued separately. These are: area-based habitats such as woodland and grasslands; linear habitats such as hedgerows and trees lines, and riverine habitats such as streams and rivers. This is needed to address the different ways habitat extent is measured for these different types of habitats. The BNG metrics are used to calculate the total biodiversity units for each habitat category present, and the required gain must be achieved for each.

Baseline Biodiversity Values

2.19 The pre-development or baseline biodiversity values of a site are calculated using a simple formula that combines habitat extent and three measures of habitat value: habitat distinctiveness, habitat condition and strategic significance. These measures calculate a proxy value of biodiversity measured in Biodiversity Units (BUs). *Distinctiveness x Condition x Area (ha) or length (km) x Strategic Significance = Baseline Biodiversity Units*

2.20 It is important to undertake ecological surveys at the right point in the year. For example, many plant

species die back over winter and so sites should be surveyed at optimal times to ensure that the survey can appropriately and fully assess the habitat. In addition, it is important not to disturb species, for example, birds nesting on the ground, or in hedges, trees or buildings. The timing of surveys also needs to be mindful of feeding, breeding and roosting patterns.

2.21 There should not be any pre-emptive clearance works of a site. Where this occurs, the Council will determine the quality/condition of the site pre-clearance, backdating it to 30 January 2020, and assuming a high condition.

Residential Gardens

2.22 Gardens can be included in the metric but their distinctiveness is set at low (vegetated) or very low (un-vegetated) and their condition set to no greater than 'poor'. The metric therefore assumes garden areas will be lost over time (e.g. seating areas or parking) but recognises that they can provide importance spaces for biodiversity and their provision should be encouraged.

2.23 Features like green roofs and walls can be included in metric calculations. You should refer to the latest Metric User Guidance for full details.

Post Development Biodiversity Values

2.24 The post-development biodiversity values of a site are calculated in a similar way but with additional measures related to the risks associated with habitat replacement or enhancement. These additional measures are related to the technical difficulty, and temporal and spatial risks, of the habitat creation or enhancement proposed. *Distinctiveness x Condition x Area (ha) or length (km) x Strategic Significance x Difficulty x Time to Condition x Spatial Risk = Baseline Biodiversity Units*

Strategic Significance

2.25 This is a score based on whether the location of the development or the habitats present/created have been identified as significant for nature. This is used to incentivise the avoidance of development within areas of high significance for nature, or, to incentivise the off set of impacts to areas of high significance for nature.

2.26 Scores should be given to each individual habitat rather than in a blanket fashion on a site wide basis, as significance will vary with habitats affected or proposed.

2.27 The definition of what is a strategically significant site is evolving with the production of more information. This is determined by the LPA using Local Plans and published strategies and relates to whether sites are located in areas of 'strategic significance'.

2.28 The biodiversity metrics include a multiplier for 'strategic significance', which is the local significance of the habitat based on its location and habitat type. 'Strategic significance' is determined by how biodiversity can link to other strategic objectives and the overall place-making strategy for an authority. The location of a BNG site can therefore affect its habitat value.

2.29 Where published, the relevant strategy is the Lancashire LNRS is in development. However, if an LNRS has not yet been published, the planning authority may specify alternative, plans, policies or strategies to use which can include Local Plan, Local Ecological Networks, Tree and Woodland Strategies, Green Infrastructure Strategies or Biodiversity Action Plans. By requiring developers to take account these local priorities and strategies ensures that BNG contributes to wider nature recovery plans alongside local objectives.



2.30 Linking biodiversity to wider strategies and place making also helps deliver multi-functional benefits - for example, planting new trees can help sequester (store) carbon, improve air quality, provide habitat, provide shading and cooling in increasing temperatures and improve drainage and reduce flood risk.

2.31 The metric guidance states that assessors should assign a strategic significance category (high, medium, low), based on the location and type of habitat. Assessors should use published plans, strategies or policies relevant to the habitat location, which identify a location or habitat as being ecologically, or locally ecologically, important. Assessors must provide evidence by referencing relevant documents.

Priority/Habitat Types

2.32 Each BNG Metric will be required to identify the habitats on a proposed development and/or off-site BNG area. The Climate Change and Natural Capital Study (CC&NCS) (2021) identified the most extensive habitat types within the borough Improved grassland as:

- Suburban and urban areas
- Heather grassland and heather
- Acid grassland
- Bog
- Broadleaved woodland
- Coniferous woodland
- Freshwater

2.33 Section 41 of the NERC Act (2006) governs habitats of principal importance. These 'priority habitats' have been identified by National Government (initially through the UK Biodiversity Action Plan (UKBAP)). The list of habitats and species of principal importance in England includes 56 habitats and 943 species and can be found on the associated guidance pages of gov.uk.

2.34 A map of the habitat mapping for Northern England can be found at: Northern England Priority Habitat Mapping and specifically relating to Pendle at pages 71 -73 of PBC Green Infrastructure Strategy.

The Metric Toolkits

2.35 The formal BNG process requires use of specific calculation metrics provided by DEFRA and using the formulae outlined above to value biodiversity and to calculate gains and losses. DEFRA have developed and will maintain two standard metrics which are freely available from the Natural England website. These

toolkits are to be used for all eligible planning applications as appropriate. No other versions are allowed to be used.

2.36 The toolkits provide rule-based systems to guide how habitat loss should be replaced to achieve genuine benefits for nature and are designed to disincentivise the loss and damage to highly valued habitats.

2.37 The calculation metrics are designed to incentivise impact mitigation and so minimise the need for compensatory gains, and to deliver off-site gains which have the most strategic benefit for nature recovery. As such they include the "strategic significance" and "spatial risk" multipliers. Providing BNG locally reduces the amount of compensatory units a development may be required to provide.

The DEFRA Metrics

2.38 The basic calculations are the same for both metrics and they both use the measures of habitat value described above to determine proxy biodiversity values for each habitat parcel or feature present. The values assigned for each habitat measure are set within the metrics and minimal data entry is required.

Statutory Biodiversity Metric

2.39 The Statutory Biodiversity Metric is to be used for all major applications and whenever off-site habitat gains are calculated. The metric is quite complex and requires input from a suitably qualified ecologist. Who completes the metric will also be one of the requirements for applicants to complete.

Small Sites Metric

2.40 The second metric, called the Small Sites Metric, is intended for most minor applications. This is a simplified version of the main metric and is designed to be completed by a competent person (such as a land agent or architect). It can be used for minor applications where no UK priority habitat (other than hedgerow and arable margin habitat) occurs and where the site is less than 5000sqm. In circumstances where the use of the Small Sites Metric is appropriate, it might still prove advantageous to engage a professional ecologist.

Biodiversity Gains

2.41 Once development impacts have been thoroughly assessed, gains must be planned such that a minimum of 10% gain is achieved for each habitat category affected (area based; linear; riverine).

2.42 Biodiversity Gains can be achieved through new habitat creation, habitat enhancement and /or habitat restoration, and can be achieved on-site, off-site or through a combination of both approaches. Each approach will generate habitats that will require long term management. All approved off-site gain habitat, and all significant on-site gain habitat must be supported by long term management and monitoring plans. The details will be kept on a public register of gain sites. Significant habitats are those with a habitat distinctiveness defined by the metrics as moderate or above.

2.43 The balance of on-site/off-site provision will be guided by the ecological interests and sensitivities of the site prior to development, and the use of the site after development. The management requirements for some habitat outcomes may be incompatible with site occupation and use (e.g. public access and dog walking is not compatible with stock grazing and hay making required for some grassland habitats).

On-site Habitat Gains

2.44 All on-site habitat retention, and on-site creation, enhancement or restoration of significant habitat, i.e., those habitats classified as being of moderate distinctiveness or above must be maintained in perpetuity through a secured management plan. Usually this will be required to cover the establishment phase and long-term management phase of at least 30 years.

2.45 In many cases, the gains required for a development will be readily achieved within the development site and can help to deliver high quality placemaking and green spaces where people can have better access to nature. The policy approach for biodiversity net gain is to seek on-site BNG delivery as a priority before allowing off-site provision. However, on-site provision of habitat gains with public access will usually only be appropriate where low-moderate quality habitats are affected.

2.46 A development may be impacting reasonably moderate to good quality habitat and/or be too constrained for suitable on-site gains. In these circumstances, the gains required should be delivered off-site to support more strategic and viable measures for nature's recovery.

Off-site Habitat Gains

2.47 Off-site gains (also called off-sets) can be located on a developer's own land held adjacent to the site or elsewhere; can be secured on land held by a third party or can be secured through a commercial BNG

supplier or broker. The distance from the development site affects the final BNG requirement. The emphasis is to have the gain on site or as close as possible to the site.

2.48 Best practice is to achieve the gains as close to the site of loss as practicable and where ecologically appropriate. In some rare cases, more distant off set locations may be preferable, particularly at locations of strategic significance where habitat gains may achieve greater ecological value than if located elsewhere. Strategic locations are being identified in Pendle or Lancashire and will be developed through Local Nature Recovery Plans which Lancashire County Council have been tasked with producing. Spatial risk factors can come into play, which can reduce the gains generated from an off-set site.

2.49 Where off-site habitat gains (of any habitat distinctiveness) are proposed these must be maintained in perpetuity through an appropriate management and monitoring plan which must be secured through a legal agreement. The gains must be placed on a national register. Plans will be expected to cover at least 30 years. If the off-site gain is to be provided on a site with an existing section 106 agreement with a monitoring plan, evidence will need to be provided with the statutory monitoring plan of the arrangements.

2.50 Where there is no prospect of a development achieving the net gain required either on-site or off-site, there will be a national system of biodiversity credits which will be able to be purchased. The costs for these are now published.

2.51 In some instances, the habitat gains required can be planned to help deliver other policy requirements associated with species impact mitigation and green infrastructure provision. In such circumstances the additionality of gains must be clarified, justified and appropriate. Care is needed when combining public open space with the delivery of biodiversity gains to ensure the recreational function of the open space is compatible with the establishment and long-term management of the gains proposed.

2.52 Off-site gains must be registered as a local land charge and on the Government Register. <https://www.gov.uk/government/publications/local-land-charges-pg79-local-land-charges>

Stacking Rules

2.53 The principles of 'Additionality' guide that habitat enhancements can only be counted for the purpose of BNG if they genuinely create 'additions' to the

existing baseline and are not already counted towards the fulfilment of another obligation. For example, BNG could not be used to improve a designated feature of a Site of Special Scientific Interest (SSSI) into a favourable condition, because the landowner is already obliged to restore that SSSI feature into a favourable condition. ('Features' describe the special wildlife and or geological features, and conservation of those features may including controlling grazing, managing woodland, controlling water levels and clearing scrub). Biodiversity gains need to be additional to those measures that should be in place already.

- 2.54 However, biodiversity gains can be delivered within the 'fabric' of a designated site – there may be areas of a designated site that don't include habitats listed as 'features' – which a net gain plan may be able to deliver benefits to (without impacting other conservation objectives).
- 2.55 BNG can be designed to align with other development design features and benefits – for example, the use of Sustainable Urban Drainage Solutions (SuDS) features (swales, bio-retention, detention basins, ponds, tree planting etc.) can also provide habitat. Similarly Green Infrastructure can provide both opportunities to improve health, travel actively and provide habitats. Indeed, this multi-functional design is encouraged, where there is no detrimental impact to the habitats which are being created or enhanced.
- 2.56 However, there are detailed rules about combining different environmental payments, for example biodiversity units, nutrient credits, carbon credits and payments for flood alleviation. Stacking is when multiple credits or units from different markets are sold separately from the same activity on a piece of land. Land managers can sell biodiversity units and nutrient credits from the same nature-based intervention, for example the creation of a woodland, but they cannot sell credits for other ecosystem services, for example carbon credits. Guidance from national Government should be referred to in these instances.
- 2.57 Pendle is not in an area covered by nutrient neutrality requirements.

Spatial Risks and the Metric Calculations

- 2.58 The biodiversity metric states that compensation habitats should seek, where practical, to be local to the impact (development). Off-site habitats should seek to replicate the characteristics of the habitats that are to be lost, taking into account the type of habitat, species and importance of the original habitat site to local communities. Off-site habitat should be

located as close to the impact site as possible to prevent the depletion of biodiversity in a local area. The metric therefore penalises the location of off-site habitat away from the original development site.

Area and Linear Habitats

- 2.59 The metric guidance specifies that, for area habitats, spatial risk calculations will prioritise compensation inside the 'Local Planning Authority boundary' or the 'National Character Area' of the impact site. There are 29 National Character Areas within the North West, of which three cover the Pendle area.
- 2.60 The Council expects that the LPA boundary in almost all cases should take priority over NCAs. Due to the fact the NCAs cover much wider geographic areas, off-site habitat could be provided a significant distance away from the impact site and the Council is keen to ensure that the benefits of, or compensation measures required by, development within the borough are retained within the borough. The metric however will calculate this.
- 2.61 This also serves to support the Council in its legal duties to the conservation and enhancement of nature within its administrative area.
- 2.62 In some cases, a development may be located within the LPA boundary, but the off-site habitat may be proposed in an adjacent LPA. In these cases, please contact the Council at the earliest point in the application process to discuss.

Watercourse Habitats

- 2.63 The metric guidance should be referred to for watercourse habitats, which operate at a waterbody catchment level due to the flowing nature of water.
- 2.64 The metric guidance states that compensation should be prioritised within the waterbody catchment. Where this cannot be achieved, it should be delivered outside the waterbody catchment, but within the operational catchment. The final option is outside the operational catchment.
- 2.65 Catchments are the 'higher level' spatial areas and describe the area from which rainfall contributes to the flow from a borehole, spring, river or lake. For rivers and lakes, this includes tributaries and the areas they drain. The operational catchment then contains a series of water bodies, for example the Ribble operational catchment has 10 water bodies. The Environment Agency has then classified the ecological status of each water body. Most of the borough's water bodies have been assessed to be in poor or moderate condition.

Section 3 – Planning Applications

Planning Applications

- 3.1 BNG is required for planning applications, including:
- Outline / Reserved Matters
 - Full
 - Section 73 (that affect the biodiversity value of a previously approved BNG liable planning approval).

Non-major applications will commence on 2nd April 2024.

- 3.2 Permission in Principle (PiPs) are not a formal grant of planning permission and so are not within the scope of BNG. However, the subsequent technical details consent is a grant of planning permission and so will be subject to BNG.
- 3.3 As part of the transitional measures, BNG will only be required on reserved matters applications where the outline was granted after the introduction of mandatory BNG. BNG will not apply on reserved matters where the outline was granted pre-mandatory BNG, or on S73s where the original planning application was submitted pre-BNG. Further details on both of these are provided here: <https://www.legislation.gov.uk/uksi/2024/50/contents/made>

Validation Requirements

- 3.4 Regulations require information to be submitted as part of the application. These are:
- a statement as to whether the applicant believes that planning permission, if granted, would be subject to the biodiversity gain condition
 - where the applicant believes that planning permission, if granted, would not be subject to the biodiversity gain condition,
 - in cases where the applicant believes that planning permission, if granted, would be subject to the biodiversity gain condition
 - the biodiversity value of the on-site habitat on the relevant date
 - the publication date of the biodiversity metric used to calculate that value
 - the completed biodiversity metric calculation tool showing the calculation of the biodiversity value of the on-site habitat on the relevant date and, where the applicant proposes that the relevant date be a date before the date of the application, the biodiversity value of the onsite habitat on that earlier date

Additionally there will be a list of local requirements (Validation Requirements)

Habitat Mapping

- 3.5 Biodiversity Metrics, Biodiversity Statements and Biodiversity Gain Plans should be accompanied by UK Hab survey plans, showing the existing habitats. The BGP should also map the proposed habitats post completion (areas to be retained, enhanced, created).
- 3.6 Plans should be provided at an appropriate scale and show the habitats and their condition. When submitting the BGP, we may require that GIS files are also submitted so that the data for existing and proposed habitats can be uploaded into our GIS systems for monitoring. Your appointed ecologists should be able to provide this mapping in a standard format.

Sites With No Baseline Unit Value

- 3.7 Where a development site has been assessed as having zero baseline unit value, they will be exempt from mandatory 10% BNG (as 10% of zero is zero). However, the NPPF and Local Plan policy still require developments to deliver a net gain and so it would be expected that some new habitats will be created through the development.
- 3.8 Ideally, in these cases, the uplift in biodiversity units should be calculated as a numerical unit change, rather than a percentage change.
- 3.9 Schedule 12 of The Environment Act (2021) deters against site clearance ahead of a planning application by allowing planning authorities to recognise any habitat degradation since 30 January 2024 and to take the earlier habitat state as the baseline for BNG. Where sites have been cleared in advance of BNG baseline assessments, it will be necessary to make an informed assessment of the condition and distinctiveness of the habitat that would have been present prior to site clearance.
- 3.10 Baseline assessments should take into account seasonality of habitats, for example, if a grassland site were strimmed or ploughed in July, the planning authority would be able to seek compensation for the habitat as it was in June, rather than the degraded habitat.
- 3.11 Any relevant planning permission is required to have the standard conditions attached. This is:

The development may not be begun unless—

- (i) a biodiversity gain plan has been submitted to the planning authority and
- (ii) the planning authority has approved the plan

Phase plan

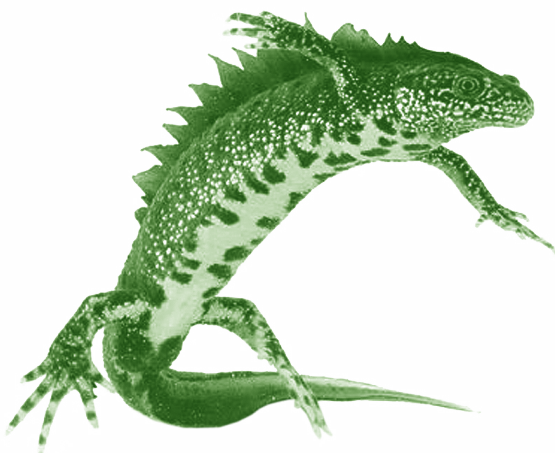
(b) the first and each subsequent phase of development may not be begun unless—

- (i) a biodiversity gain plan for that phase has been submitted to the planning authority and
- (ii) the planning authority has approved that plan

3.12 Then following approval and prior to commencement of any works a full Biodiversity Gain Plan must be approved: <https://www.gov.uk/guidance/submit-a-biodiversity-gain-plan>

3.13 The planning authority will approve the local Biodiversity Gain Plan once satisfied that:

1. The Mitigation Hierarchy has been used appropriately and reasonably to avoid and minimise ecological impacts on site
2. The Biodiversity Gain Plan and complete Biodiversity Metrics show a measurable net gain of a minimum of 10% across all unit types (area based, and where relevant, linear and riverine habitats) where affected
3. The information, including pre-development and post-development biodiversity values, presented in the Biodiversity Gain Plan is complete, including compliance with good practice principles
4. Any claimed gains (both on-site and off-site) are appropriately secured and allocated, including the point in the development process that these gains are to be delivered and a proportionate description of how enhancements will be managed and monitored



Good Practice Principles for Development

3.14 To guide the achievement of Biodiversity Net Gain CIRIA; CIEEM and IEMA have jointly produced good practice principles which the Government and the Council endorse. All qualifying planning applications should clarify how the principles have been applied. Biodiversity Net Gain – Principles and Guidance for UK Construction and Developments <https://cieem.net/biodiversity-net-gain-guidance-published/#:~:text=Biodiversity%20Net%20Gain%20is%20development,of%20economic%20and%20social%20benefits>

A summary of the ten principles for BNG in planning applications:

1. Apply the Mitigation Hierarchy
2. Avoid losing biodiversity that cannot be offset by gains elsewhere
3. Be inclusive and equitable
4. Address risks
5. Make a measurable Net Gain contribution
6. Achieve the best outcomes for biodiversity
7. Be additional
8. Create a Net Gain legacy
9. Optimise sustainability
10. Be transparent

Summary

- BNG requires new development to deliver more or better habitat than was present prior to the development, this must be measured using specific metrics, and amount to a minimum of 10% habitat gain
- The gains proposed must follow from a clear strategy of assessing, avoiding and then minimising ecological impacts (through use of Mitigation Hierarchy)
- The habitat gains proposed can be achieved on-site or off-site, through a combination of both measures, or as a last resort, through the national credit system
- The habitat gains must be calculated using the appropriate DEFRA Metric - currently Metric 4.0 for major applications, and the Small Sites Metric for most minor applications
- The metrics use a habitat-based approach to assess an area's value to wildlife and uses specific habitat measures to calculate a biodiversity value

- Three distinct habitat forms must be treated separately where they occur, and a minimum of 10% gain achieved for each – area-based habitats such as woodlands and grasslands, linear habitats such as hedgerows and lines of trees and riverine habitat such as rivers and streams
 - The gains proposed must be realistic and appropriate, they may need to be additional to other site requirements (e.g. if compensatory habitat required for great crested newts this shouldn't count towards net gain)
 - On-site gains must be well designed to achieve genuine wildlife benefits compatible with, and beneficial to, site users and sustainable places
 - All substantive gains must be secured, managed and monitored for at least 30 years (including all off-site gains)
 - All gain sites will be shown on a publicly accessible register
- i. How adverse impacts on habitats have been minimised
 - ii. The pre-development biodiversity value of the onsite habitat
 - iii. The post-development biodiversity value of the onsite habitat
 - iv. The biodiversity value of any offsite habitat provided in relation to the development
 - v. any statutory biodiversity credits purchased; plus
 - vi. Any further requirements as set out in secondary legislation
 - vii. Completed metric spreadsheets used to calculate the pre-development and post development biodiversity values
 - viii. Maps of baseline habitats, and post-development habitat proposals, including retained and proposed new features (usually required in GIS format)
 - ix. Completed DEFRA condition sheets to accompany the main metric
 - x. A 30-year management and monitoring plan (with contingency approach)

4.4 Regulations (The Biodiversity Gain Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024) add further clarity on what the BNG must contain. They state that the matters that must be covered are:

- (a) information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the on-site habitat and any other habitat
- (b) the pre-development biodiversity value of the on-site habitat
- (c) any registered off-site biodiversity gain proposed to be allocated to the development and the biodiversity value of that gain in relation to the development,
- (d) any biodiversity credits proposed to be purchased for the development,
- (e) except in a Section 73 case
 - (i) the post-development biodiversity value of the on-site habitat of the development
 - (ii) the post-development biodiversity value of the on-site habitat of each phase of development
 - (ii) the strategy for meeting the biodiversity gain objective if at any time after the development has begun there is a change in the information provided under paragraph (c), (d) or (e)(ii)

4.5 The Council can only approve a NGP if they are satisfied that:

- the pre-development biodiversity value of the on-site habitat is as specified in the plan
- where the on-site habitat of any part of a development

Section 4

– Post Planning Permission

Biodiversity Net Gain Plan

- 4.1 The Local Planning Authority will expect Biodiversity Gain Information to include a report, completed metric spreadsheet and GIS imagery. Please refer to Appendix 3 for a Biodiversity Gain Information Checklist that you can use to ensure you cover the points listed above within your submission. A minimum of 10% must be provided within a reasonable timeframe of any retrospective permission being granted.
- 4.2 The Biodiversity Gain Plan is referred to in The Environment Act 2021 and must be agreed prior to commencement of the development. Planning applications subject to BNG will be required to submit a Biodiversity Gain Plan for planning authority approval. <https://www.gov.uk/government/publications/biodiversity-gain-plan>
- 4.3 This cannot be formally submitted until the day after the planning permission has been granted. It would also help all parties to submit a draft plan at the planning application stage. The Act sets out that the Biodiversity Gain Plan should cover:

is irreplaceable habitat, that the adverse effect of the development on the biodiversity of the on-site habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact

- except in a Section 73 case, and subject to sub paragraph (3), that the biodiversity gain objective will be met, taking into account—
 - (i) the post-development biodiversity value of the on-site habitat
 - (ii) the biodiversity value in relation to the development of any registered off-site biodiversity gain proposed to be allocated to the development
 - (iii) any biodiversity credits proposed to be purchased for the development
 - (iv) the strategy for meeting the biodiversity gain objective if at any time after the development has begun there is a change in the information provided under paragraph 14(2)(b), (c) or (e)(ii)
- in a Section 73 case, and subject to sub-paragraph (3), that the biodiversity gain objective will be met, taking into account in particular—
 - (i) the post-development biodiversity value of the on-site habitat of any phases that have begun

is at least the value specified in the plan approved for that phase

- (ii) any registered off-site biodiversity gain allocated to the development and the biodiversity value of that gain in relation to the development is as specified in the overall plan
- (iii) any biodiversity credits purchased for the development as specified in the overall plan have been purchased
- (iv) the strategy for meeting the biodiversity gain objective if at any time after the development has begun there is a change in the information provided under paragraph 14(2)(b), (c), (d), (ea)(i) or (ea)(ii), and the reasons for any departure from the strategy specified in the overall plan approved in respect of the previous planning permission

The information needed for the metrics

4.6 Please refer to the Biodiversity Metric Supporting Documents for more comprehensive guidance and top tips. To download and use the metrics please refer to guidance at: <https://publications.naturalengland.org.uk/publication/6049804846366720>

Figure 2 Information Requirements for the Metrics

Statutory Biodiversity Metric	Small Sites Metric
<ul style="list-style-type: none"> • the types of habitat - on-site (and off-site when applicable). The size of each habitat parcel in hectares – or for linear or riverine features in kilometres 	<ul style="list-style-type: none"> • the types of habitat – on-site (and off-site when applicable)
<ul style="list-style-type: none"> • the condition of each habitat parcel or feature as determined using DEFRA condition sheets 	<ul style="list-style-type: none"> • the size of each habitat parcel in hectares - or for linear or riverine features, in kilometres
<ul style="list-style-type: none"> • whether the habitat feature affected are in locations identified as local nature priorities and so would trigger Strategic Significance 	<ul style="list-style-type: none"> • whether the habitat features affected are in locations identified as local nature priorities and so would trigger Strategic Significance
<ul style="list-style-type: none"> • whether any off-site gains would trigger spatial penalties (Spatial Risk) 	<ul style="list-style-type: none"> • whether any off-site gains would trigger spatial penalties



On-site gains

4.7 The habitat type, distinctiveness and condition proposed for on-site gains must be appropriate and realistic. Proposing unachievable habitats will not be accepted and could cause delays to planning decisions. Habitat gains should be planned and designed to maximise ecological and societal benefits. They will be dependent upon a number of site-specific issues. Key considerations are set out in the table below.

Section 5 – Delivery of BNG

Figure 3 Key Considerations for Habitat on-site Gains

Consideration	Explanation
Context of habitat lost	Gains should be mindful of the local context of the habitat types lost – was the habitat typical for the location or more unusual – was it locally valuable
Retained features & key species interests	Gains should be compatible and complimentary to any habitats retained, and support their resilience (e.g. flower rich buffers to new hedgerows)
Habitat trading	Trading down in habitat type (i.e. distinctiveness) is not acceptable. Replacement habitats should be like for like, or ideally, like for better. Low distinctiveness habitats can be replaced by any higher distinctiveness habitats that are ecologically suited to the site. Medium distinctiveness habitats should be replaced with similar habitats in better condition, or with higher distinctiveness habitats suited to the site and location
Site use & green space requirements	The choice and condition of habitats proposed must be realistic to the location and future site use. Where habitat gains are proposed on site as part of, or alongside green space requirements with public access, the habitat type and planned condition must be appropriate to that use, and associated management options. The development of high-quality grassland habitats will rarely be compatible with public access
Local habitat connectivity & strategic significance	Habitats retained or created should seek to support local habitat connectivity and areas of strategic significance by making new or enhanced habitat links
Multi-functionality	Habitat gains should be planned from the outset as an integral part of the green infrastructure requirements for the site. Where appropriate new habitats should be multi-functional providing flood relief, water quality improvements, carbon sequestration etc. Where multi-functionality reduces the wildlife value of the habitat, this must be taken into account when planning habitat distinctiveness and condition (e.g. public access and dog walking is not compatible with the establishment and long-term management of flower-rich meadows)
Size	The cost and operational logistics of maintaining small areas of habitat may be higher and more difficult than for larger unconstrained locations
Urban impacts	Urban impacts will all effect habitat condition (e.g. disturbance, nutrient enrichment from dog fouling, predation by cats, lighting, vandalism, fires and noise)
Management requirements	Practicalities such as landform, grazing, access, water and cutting regimes will influence the type and condition of habitats that can be achieved
Long-term maintenance	For the majority of on-site BNG consider relatively simple, robust habitats that will be resilient to low-maintenance schedules, climate change and public access

How to Deliver BNG in Practice

- 5.1 Six key things are required for development projects:
- i. Early consideration of biodiversity issues within any development project
 - ii. Implementation of the 10 BNG Good Practice Principles
 - iii. Implementation of the mitigation hierarchy
 - iv. Use of the appropriate DEFRA BNG Metric and toolkit
 - v. Realistic approach to habitat measures proposed in terms of habitat quality and condition for all retained; created, enhanced or restored habitats.
 - vi. Realistic approach to long term habitat management and monitoring
- 5.2 In practical terms, the approach requires specific Biodiversity Gain Information as part of any qualifying planning application at the stage of application submission, and the subsequent submission of a full Biodiversity Gain Plan for approval prior to the commencement of any development.
- 5.3 Table 5 summarises key elements to adhere to when planning for BNG.

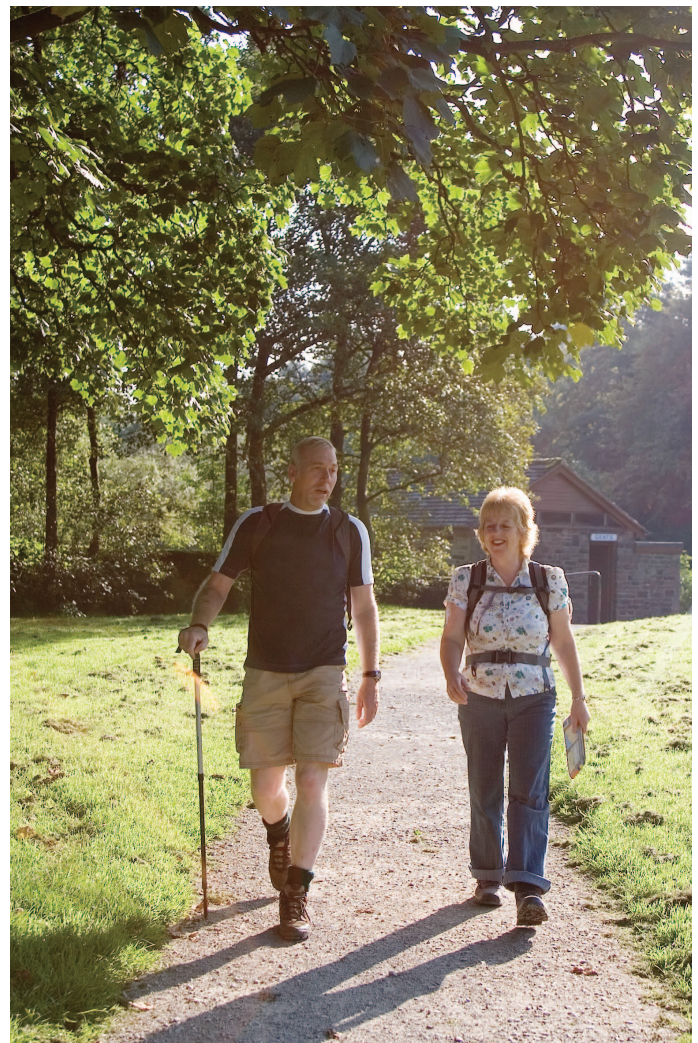
Figure 4 Key Elements in Planning for Gain

BNG Rules		
Context of habitat lost	Loss of irreplaceable habitat cannot be offset through habitat replacement due to the time and difficulty of establishing similar quality habitat	DEFRA Guidance & Metric Wildlife and Countryside Act 1981
Habitat trading	Measures to achieve BNG gains through the restorative management or enhancement of irreplaceable habitat may be considered	DEFRA Guidance & Metric
On-site gains through enhanced condition	Unless clearly justified and agreed with the LPA, an on-site uplift in condition of more than one level would not be accepted (i.e. poor to moderate is acceptable but not poor to good)	Emerging best practice and SPDs
On-site gains through enhanced distinctiveness	Unless clearly justified and agreed with the LPA, an on-site uplift in distinctiveness of more than one level would not be acceptable (i.e. low to moderate would be acceptable, but not low to high) The creation or retention of high distinctiveness habitats (other than arable margins or hedgerows) within areas of public open space and subject to public access would not be acceptable	Emerging best practice
On-site gains to be controlled by a management plan.	On-site gains that are not included as part of a management plan cannot form part of the proposed gains	Environment Act 2021 In the absence of a management plan there is no assurance the habitat will endure for 30yrs

Section 6 – Pre-Application

Pre-application Stage

- 6.1 Key steps during the pre-application stage include:
- a. Clarifying the type of application you will be making and understanding the associated BNG requirements.
 - b. Choosing your site wisely to avoid habitats and habitat features of high value.
 - c. Reviewing BNG data to check potential issues (Priority Habitat; Irreplaceable Habitat; BNG sites).
 - d. Undertaking routine Ecological Impact Assessments through site surveys proportionate to the type of application being made. When the main BNG metric is to be used, ensure the site surveys record habitat condition through use of the DEFRA condition sheets.
 - e. Applying the mitigation hierarchy and designing your development to minimise habitat loss and disturbance.
 - f. Mapping and recording baseline features that could be retained, protected and enhanced. Using the appropriate BNG metric to assess baseline biodiversity values of your application site
 - g. Ideally seek pre-app advice from the Local Planning Authority to clarify the approach to BNG and agree the options and requirements for your application.



How to prepare a BNG Management & Monitoring Plan

- 6.2 The BNG Management and Monitoring Plan must be fit for purpose. In most cases, it must set out the management and monitoring required over a minimum of 30 years to achieve and check the delivery of the approved BNG proposals.
- 6.3 The monitoring details should be clearly set out to enable specific management targets to be clearly identified and monitored to meet agreed objectives. The proposed timeline for target habitat condition agreed should be identified with guidance of what to look for and check. The plan should also set out the process for agreeing any remediation or amendments to management prescriptions if monitoring indicates that agreed targets are not on track or will not be met.
- 6.4 Reference to the Natural England Habitat Condition sheets should be made when designing the management and monitoring plans. These should

detail the precise methods that will be used to achieve the agreed habitat types and condition.

- 6.5 The use of pesticides or weedkiller; disposing of grass cuttings / arisings in “compost” heaps on site or in hedgerows (or other on-site waste disposal); routinely cutting ivy where there is no specific arboricultural justification are considered detrimental to achieving the BNG objective and should not be carried out. Where there is a requirement to undertake any potentially damaging actions, a justification should be provided within the BNG Management and Monitoring Plan.
- 6.6 There will typically be two stages of management to detail for each habitat type to be retained, enhanced, restored or created.

Stage 1

- 6.7 The establishment/restoration phase must be described with all establishment phase or restoration phase management prescriptions set out. This should include details of management tasks, methods, their frequency, duration and timing. The BNG Management & Monitoring Plan should also detail whether specialist tools / machinery / personnel and expertise are required for implementation.

Stage 2

- 6.8 The longer-term routine management measures required to achieve and then sustain the target condition must be set out. This should include details of management tasks, methods their frequency, duration and timing. The BNG Management & Monitoring Plan should also detail whether specialist tools / machinery / personnel and expertise are required.



Section 7 – Legal Agreements

The use of legal agreements

- 7.1 It is anticipated that most applications that trigger BNG requirements and which retain, create, enhance or restore habitats of medium distinctiveness or above will require use of a legal agreement or unilateral undertaking to secure the Management and Monitoring Plan. <https://www.gov.uk/guidance/legal-agreements-to-secure-your-biodiversity-net-gain>
- 7.2 The Council will work to minimise the costs and time implications of this by preparing generic agreement templates that can be adapted for individual applications.
- 7.3 Section 106 agreements will have to contain provision for funding, as appropriate to the case and the monitoring of the plan over the 30 year period.

How we will process your application

- 7.4 When you submit your application, it will be checked to determine if the right information is included and whether the minimum biodiversity gain percentage required is provided in the BNG Metric headline result. This will help to ensure any unnecessary delays are avoided.
- 7.5 The application will be registered and if valid, passed onto a case officer who will review the application in terms of its policy compliance. The Council’s ecologists/consultants will be consulted on applications requiring the full metric BNG to review and check the BNG proposals and any ecological sensitives at the site.
- 7.6 If the application is acceptable on policy grounds it will be approved subject to a pre-commencement condition which will require the submission and approval of a Biodiversity Net Gain Plan. No development can be started unless the Biodiversity Gain Plan is approved in writing by the LPA and any necessary Section 106 agreements signed.

How BNG decisions will be made

- 7.7 The BNG decision making process should proceed without problems or difficulties when the mitigation hierarchy is used well, good information is used to plan and design a development, and when adequate Biodiversity Gain information is submitted with an application. There should be an agreement about

the habitat type, quantity and condition on site prior to development, and what is to be created, retained and enhanced, and how much gain will be achieved on site and off. In such cases, the BNG approach should be straight forward and there should be confidence that the final BNG Plan will be approved.

- 7.8 However, it is possible that BNG proposals are not found to be adequate or satisfactory. This would mean a BNG Plan could not be approved and would cause delays to any development starting on site. This may occur because the initial site design and planning failed to minimise or avoid impacts, or if the metrics are not properly used, or if claims about habitat creation or enhancement are unrealistic or undeliverable. Conflicts with other elements of the scheme may also mean a BNG Plan could not be approved. In most cases such issues could be identified early in the planning process through the use of the Council's pre-application process.

Nature Recovery

- 7.9 The Council is committed to support and promote Nature Recovery and, where appropriate, will encourage off-site BNG provision to contribute to Strategic Nature Recovery Projects as they emerge.

Registering your Net Gain Site

- 7.10 Sites that are subject to a S106 agreement or a conservation covenant should be registered on the Biodiversity Net Gains site register. These can be found at: <https://defralanduse.blog.gov.uk/2023/11/29/the-biodiversity-net-gain-statutory-instruments-explained/#:~:text=The%20Biodiversity%20Gain%20Site%20Register%20Regulations%202023,that%20have%20been%20entered%20into.>
- 7.11 The developer is the person responsible for registering their land on the statutory register. Natural England is the body responsible for maintaining that. The regulations require specific information to be provided as part of the registration process.

Section 8 – Sites in Pendle

Sites In Pendle

- 8.1 Pendle currently does not have any sites set aside for Biodiversity Net Gains. The Council has however commissioned a study to consider the possibility of creating net gain sites on some of its own land. The results of that indicate that there is potential for that to happen. Further work is needed to understand if that is feasible financially and practically.

Glossary

Appropriate Net Gain

Appropriate Net Gain means that that no net loss and a measurable gain is achieved. This must be reasonable for the type and scale of application and be readily justified based upon the quality and status of the habitats impacted. The figures will be agreed through the planning process.

Biodiversity Gain Information

All qualifying applications are required to submit a defined set of Biodiversity Gain Information at the planning application stage. This must fulfil minimum requirements and may include further information towards a complete Biodiversity Gain Plan should such information be available. Biodiversity Gain Information can help aid decision-making by providing planning authorities, and consultees, with an understanding of how proposed development intends to meet the biodiversity gain objective. The Biodiversity Gain Information would usually form part of a Biodiversity Gain Plan.

Biodiversity Gain Plan

The purpose of the Biodiversity Gain Plan is to enable the developer to demonstrate their Biodiversity Net Gain and allow the planning authority to check whether the proposals meet the biodiversity gain objective. The Biodiversity Gain Information would usually form part of a Biodiversity Gain Plan. A Biodiversity Gain Plan must be approved prior to the commencement of any works on site. It is at the applicant's discretion whether to provide this at the submission of an application.

Major Development

A major development is any application that involves mineral extraction; waste development; the provision of 10 dwellings or more; a site area of over 0.5 hectare and the number of dwellings is not known; a floorspace of over 1,000sqm or a site area of one hectare.

Minor Development

A minor development is anything smaller than the criteria for major developments. For example: the number of dwellings is between one and nine; the floorspace is less than 1,000sqm or the site area less than one hectare; gypsy and traveller sites - up to nine pitches.

Small Sites Metric

The Small Sites Metric (SSM) is a simplified version of the statutory Biodiversity Metric. This has been designed for use on small development sites providing there is no priority habitat (other than hedgerow or arable margins) present on site. Metric 4.0 or latest equivalent should be used to calculate losses and gains off-site.

Statutory Biodiversity Metric

A way of measuring biodiversity value for the purposes of BNG. It measures all types of habitat, including grassland, hedgerows, lakes, woodland and watercourses through standards 'biodiversity units.' The statutory Biodiversity Metric measures the biodiversity value of habitats by calculating the number of biodiversity units, calculating how many habitats a unit contains before a development takes place, and how many units are needed to replace the units of habitats lost and to achieve 10% BNG. The statutory Biodiversity Metric calculation tool must be used in order to demonstrate compliance with BNG requirements.

Appendices

Appendix 1 Biodiversity Gain Information Checklist

Requirement	Information Required	Document	Explanation	Has this been submitted?
1	Pre-development Biodiversity Value	Report	Pre-development biodiversity value of the site as calculated using the relevant DEFRA metric Any habitats damaged or destroyed post 30th Jan 2020 will need to be included within the calculations based on their former condition	Yes or no
2	Project Design Steps to Avoid and Minimise Impacts	Report	Project design steps taken to avoid and minimise adverse biodiversity impacts	Yes or no
3	Approach to Enhancing Biodiversity On-site	Report	Approach to enhancing biodiversity on-site	Yes or no
4	Off-site Biodiversity Enhancements	Report	Any proposed off-site biodiversity enhancements (including the use of credits) that have been planned or arranged for the development	Yes or no
5	Working Assessment of The Expected Biodiversity Net Gain	Report	Working assessment of the expected Biodiversity Net Gain	Yes or no
6	Habitat Condition Sheets	Report	Habitat condition sheet assessment with justifications	Yes or no
7	Metric Spreadsheets	Excel Spreadsheet	Completed metric spreadsheets used to calculate the pre-development biodiversity value and the post development value	Yes or no
8	GIS Imagery	GIS Imagery / Maps	Maps of baseline habitats, an annotated Ecological Mitigation Map and illustrative post-development habitat proposals including retained and proposed new features (required as separate document with imagery produced using GIS software)	Yes or no

Appendix 2 Biodiversity Gain Plan Checklist

Requirement	Information Required	Document	Explanation	Has this been submitted?
1	Pre-development Biodiversity Value	Report	Pre-development biodiversity value of the site as calculated using the relevant DEFRA metric. Any habitats damaged or destroyed post 30th Jan 2020 will need to be included within the calculations based on their former condition	Yes or no
2	Project Design Steps to Avoid and Minimise Impacts	Report	Project design steps taken to avoid and minimise adverse biodiversity impacts	Yes or no
3	Approach to Enhancing Biodiversity On-Site	Report	Approach to enhancing biodiversity on-site	Yes or no
4	Post-development Biodiversity Value (site)	Report	Post-development biodiversity value of the site as calculated using the relevant DEFRA metric	Yes or no
5	Off-site Biodiversity Enhancements	Report	Any proposed off-site biodiversity enhancements (including the use of credits) that have been planned or arranged for the development	Yes or no
6	Post-development Biodiversity Value (off-site)	Report	The biodiversity value of any offsite habitat provided in relation to the development	Yes or no
7	Working Assessment of the Expected Biodiversity Net Gain	Excel Spreadsheet	Working assessment of the expected Biodiversity Net Gain	Yes or no
8	Timeframe	GIS Imagery / Maps	Details concerning the point in the development process that gains (both on-site and off-site) are to be delivered	Yes or no
9	Habitat Condition Sheets		Habitat condition sheet assessment with justifications	Yes or no
10	Evidence		Evidence that claimed gains have been secured and allocated (both on-site and off-site) and that the 10 Good Practice principles (© CIEEM, CIRIA, IEMA, 2016) (as set out in Section 2 of the Interim Guidance Note) have been satisfied	Yes or no
11	Metric Spreadsheets		Completed metric spreadsheets used to calculate the pre-development biodiversity value and the post development value	Yes or no
12	GIS Imagery		Maps of baseline habitats, an annotated Ecological Mitigation Map and illustrative post-development habitat proposals including retained and proposed new features (required as separate document with imagery produced using GIS software)	Yes or no

Useful Resources

DEFRA:

<https://www.gov.uk/government/collections/biodiversity-net-gain>

Planning Advisory Service General advice:

<https://www.gov.uk/government/collections/biodiversity-net-gain>

Natural England Advice:

<https://naturalengland.blog.gov.uk/2023/02/22/what-landowners-can-do-now-to-gear-up-for-the-biodiversity-net-gain-market/>

Chartered Institute of Ecology – General Advice:

<https://cieem.net/i-am/current-projects/biodiversity-net-gain/>

Metric 4.0 download:

<https://www.gov.uk/government/publications/statutory-biodiversity-metric-tools-and-guides>

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