

Biodiversity Net Gain – Frequently Asked Questions

Version control

Version	Date	Author	Notes
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V1	21.5.2024	Elizabeth Duberley, Service Manager Build and Natural Environment	Released

Introduction

Biodiversity Net Gain (BNG) is a new approach set out in the Environment Act (2021) which requires development to leave biodiversity in a measurably better state at the end of development compared to before it began.

Herefordshire Council has developed this set of Frequently Asked Questions to support members of the public, applicants, agents and developers in understanding BNG and as a place to provide clarification on issues which come up regularly.

These FAQs will be updated as required.

Questions

The Defra Metric

1. Which version of the metric should be used?

The Statutory Biodiversity Metric should be used, (see question 2 for alternatives and exemptions). The Statutory Metric can be found at [Statutory biodiversity metric tools and guides - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/statutory-biodiversity-metric-tools-and-guides)

2. When can the small sites metric be used?

The Defra guidance¹ sets out circumstances in which the Small Sites Metric can be used. These relate to 'minor development'. There is no requirement, even in these circumstances, to use the Small Sites Metric and the standard Statutory Metric can be used for site of minor development.

This means:

- Residential development where the number of dwellings is between 1 and 9 on a site of an area 1 hectare or less, or if the number of dwellings is unknown, the site area is less than 0.5 hectares, or

¹ [The Small Sites Metric Statutory Biodiversity Metric - User Guide.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/guidance/the-small-sites-metric-statutory-biodiversity-metric-user-guide)

- *Commercial development where floor space created is less than 1,000 square metres or total site area is less than 1 hectare, or 8*
- *Development that is not the winning and working of minerals or the use of land for mineral-working deposits, or*
- *Development that is not waste development.*

3. Can the small sites metric be used where a protected species or priority habitat is present or may be present?

The Small Sites Metric cannot be used where priority habitats are present or where statutory or European protected species are present. The Small Sites Metric also contains only a limited list of habitat types and condition options and cannot be used where other habitats are present. In cases where the criteria for the Small Sites Metric are not met the standard Statutory Metric must be used.

4. Who can fill in the Defra Statutory Metric?

A competent person to complete the Statutory Metric is defined in the Defra guidance² as someone who 'has the knowledge and skills to perform specified tasks to complete and review biodiversity metric calculations. You obtain this through training, qualifications, experience, or a combination of them. Competency is aligned with the British Standard 'Process for designing and implementing biodiversity net gain (BS 8683:202)'.'

In general terms this would be expected to be a professional ecologist with appropriate training and experience. The ecologist might require support and input from other professionals including landscape designers in completing the assessment.

Professional ecologists can be found in a number of ways and the Council does not recommend ecologists and requires that applicants ensure they employ an appropriately experienced and qualified professional. Nationally the Chartered Institute of Ecologists and Environmental Managers (CIEEM) is the national body for ecological professionals and the CIEEM website has a 'Find a Consultant' section at [Finding a Consultant | CIEEM](#) which may be of assistance.

5. Who is a competent person to fill in the small sites metric?

A competent person of the Small Sites Metric is described by Defra in the Defra guidance³:

Users of the SSM should be competent in identifying:

- *habitats present on site (pre-development)*
- *management requirements for habitats to be created or enhanced within the landscape design (post-development)*

This might be a professional ecologist but might also be other natural environment professionals including landscape and tree specialists provided that they can identify the habitats present on the site and make appropriate recommendations and decisions relating to habitat creation and management.

² [The Statutory Biodiversity Metric - User Guide .pdf \(publishing.service.gov.uk\)](#)

³ [The Small Sites Metric Statutory Biodiversity Metric - User Guide.pdf \(publishing.service.gov.uk\)](#)

6. Is the metric valid when it has red boxes or error messages within the spreadsheet?

The Statutory Metric is based on a number of Rules and Principals which are set out within the user guidance. When a rule is broken during the input of data into the metric red cells and error messages will highlight the failure to satisfy a particular rule and point the metric user towards correcting the error.

There are very limited circumstances in which a trading rule might not be satisfied and the approach to BNG still be valid. In the event that a metric with red boxes or error messages present within it is to be submitted to the Council it should be accompanied by a clear statement explaining the errors and setting out how the trading rules are, or will, be satisfied.

The Council will then determine whether the planning application can be validated or not.

7. If a site has no natural habitat present is it necessary to consider BNG or other ecological assessments?

If a site has no natural habitat on it, and no linear habitats on it or on the site boundaries, then a case for exemption for sites under the threshold should be made and supported with an annotated site plan or photographs. If the exemption criteria are met then no further consideration of BNG will be required. The application form contains questions around exemptions and boxes in which to provide a brief statement, supporting information such as plans should be provided as separate, clearly titled sheets.

Developments which fall below the BNG threshold may still have value for protected species including bats, nesting birds and barn owls which may be found in buildings even on sites with no natural habitats present. The relevant species assessments will be sought by the Council in these circumstances.

Retrospective Planning Applications and Backdating the Baseline

8. Is evidence relating to BNG required when a retrospective planning application is made?

No. Retrospective planning applications under Section 73(A) of the Town and Country Planning Act are currently exempt from BNG.

9. What is the approach to BNG where a site has previously been cleared of vegetation?

The Environment Act (2021) sets out the process for making BNG assessments of sites where BNG would apply but which have been cleared of vegetation prior to planning application being made. The BNG baseline should be taken at the point prior to clearance and can be rolled back as far as January 2020 for this purpose. Evidence to support the backdated baseline can be taken from previous ecological assessments of the site and/or aerial photographs and other evidence. A precautionary approach should be taken and estimates should assume that habitats were in good condition prior to removal unless evidence can be provided to support another approach.

10. What land is identified as being of 'strategic significance' in Herefordshire in the absence of an adopted Local Nature Recovery Strategy (LNRS)?

Herefordshire has adopted an interim definition of local strategic significance as required by the Environment Act (2020) for us within the Statutory Metric. Strategic significance is considered to include designated SAC's, SSSI's, Local Wildlife Sites and Ancient Woodlands. This accords with the baseline for LNRS and avoids relying on any data of uncertain quality. This interim definition will be used until the LNRS is formally adopted.

BNG and Validation

11. When is a development exempt from BNG?

A list of development types and other circumstances in which a development would be exempt from BNG can be found at [Biodiversity net gain: exempt developments - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments)

12. What evidence is required to demonstrate that a development is exempt from BNG?

Supporting evidence should be provided to demonstrate that the development meets the exemption criteria it is seeking to use. This should be in the form of a clear statement or plan showing how the criteria is met. For sites below the BNG threshold, for example, this might include a site plan or aerial photograph with measurements demonstrating that habitats present are below 25 square metres or 5 metres of linear habitat. For other criteria such as the self-build exemption, a clear statement should set out how the development meets the criteria set out for this development type in the relevant legislation.

In the event that the evidence supporting an exemption claim is not clear the Council's validation team will seek additional information before validating a planning application.

13. What supporting information is required when a development is subject to BNG?

The Council has set out the information required to support an application which is subject to BNG on its website: [Biodiversity net gain – Herefordshire Council](https://www.herefordshire.gov.uk/biodiversity-net-gain)

14. What level of BNG is required in Herefordshire?

Development to which BNG applies in Herefordshire is required to deliver the mandatory 10% net gain across all habitat types (area habitats and linear habitats).

Biodiversity Credits

15. Under what circumstances is it necessary or appropriate to purchase biodiversity credits?

Development proposals must provide a 10% gain in biodiversity across all habitat types. This can be provided on-site, off-site or a mixture of the two.

The biodiversity hierarchy, avoid-mitigate-compensate, should be applied so that delivery of biodiversity off-site is only considered once all on-site opportunities have been exhausted.

Where the delivery of off-site biodiversity units is proposed this may be achieved through:

- Forming a specific legal agreement with a landowner relating to this development only – a bespoke approach.
- Purchasing the required credits from a local habitat bank.

- Purchasing statutory biodiversity credits.

Under all options biodiversity units (including on-site units) will be secured through legal agreements for a period not less than 30 years and the trading rules within the Biodiversity Metric must be satisfied.

Off-site credits purchased from habitat banks outside of Herefordshire Council will be subject to the appropriate multiplier within the Biodiversity Metric.

Statutory Credits are subject to a multiplier within the metric, are only available where all other options have been explored and cannot be delivered – Further information can be found at [Statutory biodiversity credits - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Purchasing credits locally will usually be cheaper

16. How many credits and of what type are required?

The Metric will calculate the unit requirement for the proposed development and will, once the proposed on-site and off-site units are inputted, tell the user whether the trading rules have been satisfied across area and linear habitat types.

The Metric sets some parameters around the types of units which can be used in certain circumstances. Habitat loss of high distinctiveness habitats cannot be mitigated by creation of lower distinctiveness habitat types. Area habitat losses cannot be mitigated by creation of linear habitat types etc.

17. When in the process of a planning application do biodiversity credits need to be secured or purchased?

All BNG will be secured for a period of at least 30 years. For on-site and off-site units this will be through a Section 106 legal agreement relating to the development.

For on-site units the Section 106 agreement will set out elements including, but not limited to:

- The provision of on-site units of varying types and conditions including a site plan.
- The mechanisms which control creation, establishment, maintenance and monitoring of the units.
- The monitoring schedule setting out when the developer will need to provide monitoring reports to the Council.
- The BNG monitoring fee payable by the developer to the Council.

For off-site units the Section 106 agreement will set out:

- The proposed mechanism for securing, or purchasing off-site credits
 - o From a registered bank; or
 - o Via a bespoke solution which is appropriately secure
- The BNG monitoring fee payable by the developer to the Council

18. What are off-site credits and how can they be purchased?

When options for delivering BNG on-site are have been fully explored and built into the proposed development then off-site credits can be used to bring the development up to the mandatory 10% gain in biodiversity value.

Off-site credits will be available to purchase from established habitat banks. Prices will include creation, management and administration costs set by individual banks and units will be secured for a period of at least 30 years from the point of purchase.

The Council is working to establish banks in Herefordshire and will provide information to support developers in identifying an appropriate banks on its website in due course [Biodiversity net gain – Herefordshire Council](#)

19. What are statutory credits and how can they be purchased?

Statutory biodiversity credits are biodiversity credits being sold by Natural England on behalf of Defra. Funds from the sale of statutory credits will be invested in habitat creation or enhancement, as set out in the Environment Act.

Statutory biodiversity credits can only be used when all other options for on-site and off-site delivery have been exhausted. They can only be purchased as a last resort and a multiplier is applied within the Metric when this method of mitigation is proposed.

Further information on using and purchasing Statutory Credits can be found here: [Statutory biodiversity credits - GOV.UK \(www.gov.uk\)](#)

The Provision of BNG On-site and Off-site

20. How should on-site and off-site biodiversity provision be balanced?

The biodiversity hierarchy, avoid-mitigate-compensate, should be applied so that delivery of biodiversity off-site is only considered once all on-site opportunities have been exhausted.

21. Can land providing BNG also provide other functions within development sites?

Land providing biodiversity value can be multi-functional e.g. it can provide other functions within the development potentially including informal open space or sustainable urban drainage. The Council will need to be satisfied that the land can provide the non-biodiversity functions to the required standard while still achieving the habitat type and condition which have been identified for it. The Ecology Team will work with other specialist consultees in the planning system to ensure that the proposed multi-functionality is both feasible and sustainable in the long term.

BNG and the Determination of Applications

22. What is the general net gain condition?

Part 2 of the Environment Act (2021) sets out the general condition for biodiversity gain. This condition applies to every qualifying development but, because it is a general condition, will not appear on the decision notice.

13

- (1) Every planning permission granted for the development of land in England shall be deemed to have been granted subject to the condition in sub-paragraph (2).
- (2) The condition is that the development may not be begun unless—

(a) a biodiversity gain plan has been submitted to the planning authority (see paragraph 14), and

(b) the planning authority has approved the plan (see paragraph 15).

The full text of the Environment Act (2021) can be found at [Environment Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2021/24/contents)

23. What is a Biodiversity Gain Plan?

A Biodiversity Gain Plan is the standard document submitted to discharge the general condition. Further information on the Gain Plan, including standard templates and associated guidance, can be found here [Submit a biodiversity gain plan - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/submit-a-biodiversity-gain-plan)

24. What is a Habitat Management and Monitoring Plan?

A Habitat Management and Monitoring Plan (HMMP) sets out how habitats will be created, established, managed and monitored over the 30 year period.

A development will use an HMMP in several ways:

- A version of the HMMP should be submitted with the planning application to support the BNG proposals for the site.
- The finalised HMMP should be submitted with the Biodiversity Gain Plan in discharge of the general condition.

Habitat banks will use an HMMP to demonstrate the quantum and types of units they will be able to offer, how they will be created, established, managed and monitored.

Further information on HMMP's including template documents can be found at [Creating a habitat management and monitoring plan for BNG - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/creating-a-habitat-management-and-monitoring-plan-for-bng)

25. How will BNG be secured through the planning process?

All BNG will be secured for a period of at least 30 years.

The primary mechanism for securing BNG is the general net gain condition (see above).

For on-site and off-site units this will be accompanied in many circumstances by a Section 106 agreement relating to the development. In some cases planning conditions may support the provision and management of BNG onsite e.g. landscape maintenance conditions etc.

26. Why are 'hard' biodiversity enhancements required in addition to BNG?

BNG considers habitats only, it does not take account of the presence of, or needs of, species. For that reason species assessments will still be sought as appropriate and hard biodiversity enhancements (bat, bird, insect, hedgehog boxes, hedgehog gaps in hedgerows and other features) will still be sought where they will enhance the value of the site for wildlife.

27. Why are additional ecological surveys required in addition to a BNG assessment?

BNG considers habitats only, it does not take account of the presence of species. For that reason species assessments will still be sought as appropriate where there is potential for protected and priority species to be present and to be impacted by development proposals.