

Walsall Council

Biodiversity Net Gain Guidance Note

Biodiversity Net Gain (BNG) is a national approach to development, planning and land management that aims to leave the natural environment in a better state than it was beforehand, by delivering measurable improvements for biodiversity, by creating or enhancing habitat.

Why is BNG necessary?

Over the last century, the state of nature in our country has declined dramatically as the pressure of our demands has made our habitat increasingly degraded and fragmented. With a report completed by the Natural History Museum, in collaboration with the RSPB, stating that the UK has lost nearly half of its biodiversity ([UK has 'led the world' in destroying the natural environment | Natural History Museum \(nhm.ac.uk\)](#)), while the 2019 State of Nature report revealed that 56% of our species are in decline and 15% threatened with extinction ([State-of-Nature-2019-UK-full-report.pdf \(nbn.org.uk\)](#)).

Biodiversity Net Gain alongside other duties within the Environment Act 2021, will enable nature to recover by committing to halt species decline by 2030 and increase species abundance by the end of 2042.

At a local level, Walsall are committed to protecting and conserving the natural environment and see the statutory requirement as a pursuant to that aim.

You can find more information on the BNG on [Understanding biodiversity net gain - GOV.UK \(www.gov.uk\)](#) website.

National Policy

Amendments made to the National Planning Policy Framework (2023) in 2022 included revisions to para 174 and 180 to stipulate that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. As this is currently in affect between now and November 2023, Walsall are requesting that planning proposals demonstrate at least a net gain in biodiversity.

The Environment Act (2021) contains a statutory BNG condition for planning permission that will enforce the delivery of mandatory 10% BNG with development. This is set to come into effect for most major applications in November 2023, while small sites will be brought in from April 2024. This will directly affect any application submitted after these dates. The exact date for both commencements has yet to be confirmed.

The Government will be providing secondary legislation, guidance, and tools to support its implementation of this policy.

BNG and your application

After November or April, respectively, any development covered by the Town and Country Planning Act, will be required to demonstrate, and deliver a measurable minimum 10% uplift for biodiversity, which cannot be avoided.

This uplift needs to be secured via a legally binding agreement with the applicant demonstrating how the biodiversity uplift is managed and monitored over the 30-year period.

This new requirement will not alter existing protections for the natural environment including protections for sites, priority habitats and species. These will still be required by all developments and should be achieved alongside this new requirement.

A major application is any application that involves:

- Mineral extraction
- Waste development
- Residential development of between 10 or dwellings
- Residential development on a site area of 0.5ha or more and the number of dwellings is unknown.
- Development of floorspace of 1,000 square metres or more
- Development on sites over 1 ha or more
- Change of use over 1,000 square metres or more

A small site is defined as:

- Residential development of fewer than 10 residential units with an area less than 1 hectare
- Residential development of an unknown number of residential units with an area less than 0.5 hectare
- Non-residential development of less than 1 hectare
- Non-residential development with a floor space of less than 1,000 square metres.

There are number of exemptions to the requirement for mandatory BNG. These including:

- Permitted development;
- Urgent crown development;
- Temporary impacts that can be restored within 2 years;
- Existing sealed surfaces (such as tarmac or existing buildings) a zero score;
- Development impacting habitat of an area below a 'de minimis' threshold of 25 metre squared, or 5m for linear habitats such as hedgerows;
- Householder applications;
- Biodiversity gain sites (where habitats are being enhanced for wildlife); and
- Small scale self-build and custom housebuilding.

Developments exempt from BNG are still covered by local natural environment policies, as such we would seek for biodiversity to be considered within the proposals to deliver habitat and species enhancements. This could include protected species features such as bird and bat boxes or hedgehog highways or the integration of native species within landscape proposals.

How it will be implemented?

The statutory requirement will be implemented through a planning condition. Therefore, once an application is approved a statutory condition will be automatically attached to the approval, requiring the submission of a Biodiversity Gain Plan. This will describe how the 10% BNG will be achieved and secured and must include the following information:

1. Information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat.
2. The pre-development biodiversity value of the onsite habitat.
3. The post-development biodiversity value of the onsite habitat.
4. Any registered offsite biodiversity gain allocated to the development and the biodiversity value of that gain in relation to the development.
5. Any biodiversity credits purchased for the development.
6. Such other matters as the Secretary of State may by regulations specify.

To achieve mandatory BNG, should the development undertake 'significant' onsite habitat creation or enhancement and or utilise offsite land, there will be an additional pre-commencement condition to produce a Habitat Management and Monitoring Plan (HMMP). This will detail the 30 years management prescription proposed, how it will be secured, and the monitoring requirement agreed upon by the Local Planning Authority / Responsible Body. The monitoring requirement and schedule will include the submission of monitoring report to the LPA / Responsible body at intervals, likely 1, 3, 5, 10, 15, 20, 25 30 years.

Both reports and BNG will be secured under legal agreements or planning obligations.

Walsall will monitor commitments within the documentation, any conditions attached from assessment stage and the purchase of any credits.

Please note that while the statutory requirement will be met at discharge of condition stage, development will still need to provide sufficient supporting documentation within the application to provide evidence on how the statutory measures will be met on site and or offsite at determination stage. While not confirmed by national guidance at this stage, it is highly likely that a Biodiversity Gain Statement with a completed up to date DEFRA metric will be required at validation stage to provide this evidence.

How will BNG be measured?

Measurable BNG is calculated using a biodiversity metric spreadsheet, devised by DEFRA, which assigns a proxy value to habitats called 'biodiversity units'.

This allows a calculation to be made of the existing habitat present within an application and the habitats proposed as part of the development or management. The comparison of these scores can then be used to determine whether there is a 10% uplift in biodiversity from the existing site value. When utilised as part of the design process of a development it can be used to help design, place make and determine land management decisions to support biodiversity and other wide ecosystem benefits.

The proxy value for each habitat is determined based on four factors:

- Condition,
- Distinctiveness
- Size,
- Strategic significance

Walsall will be releasing guidance on the strategic significance shortly. This will be initially based on the interim Black Country Local Nature Recovery Map and Strategy from November 2023. However, this will be altered to align with the future Walsall Local Plan and the formal West Midlands Local Nature Recovery Strategy.

Download the latest version of the DEFRA biodiversity metric, for both a major applications and small sites, and guidance document here: [LINK](#)

The BNG reports and assessment requirements should only be undertaken by a Suitably Qualified Ecologist and utilised the current up to date Metric spreadsheet. Walsall recommends that BNG calculation are brought in a site selection stage of any development through to post development.

How to achieve Biodiversity Net Gain

Any application should look to achieve BNG onsite and this should be a key consideration at the early stages of a development and the design process. As per the mitigation hierarchy that is embedded in the national planning policy, where the impact on biodiversity must first be:

- Avoided, then
- Minimised, then
- Compensated for on-site

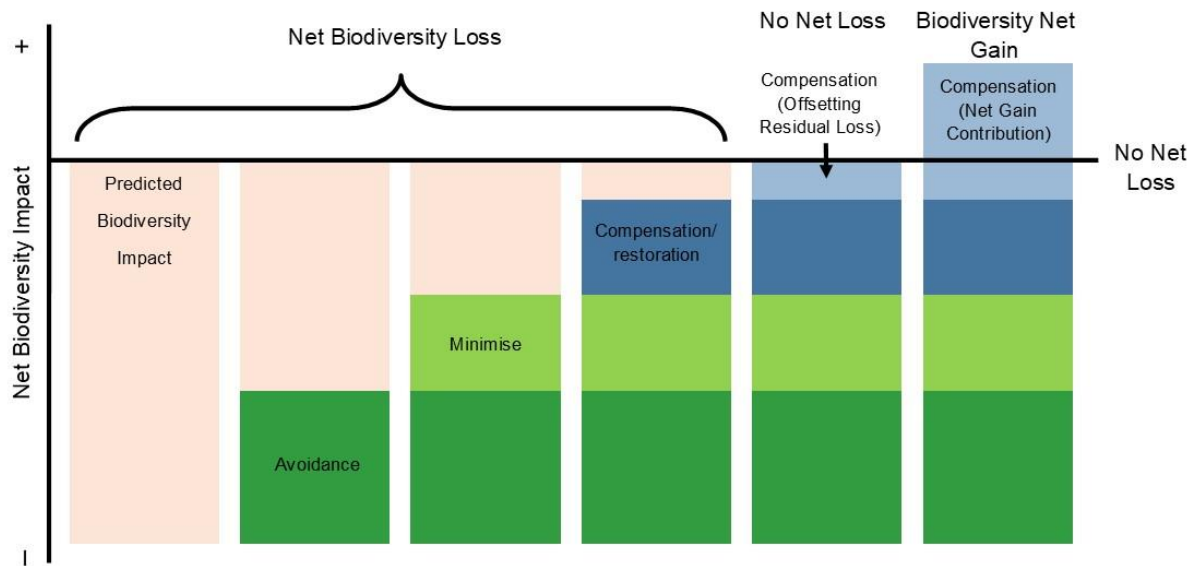


Figure 1. Mitigation hierarchy and Biodiversity Net Gain

In the event, that a completed biodiversity metric indicates that the development will not achieve 10% uplift, consideration of the following options should be undertaken:

- a) Review the proposed site layout and landscape proposals to assess whether further biodiversity improvement could be undertaken to achieve 10% uplift;
- b) Look to secure offsite land to undertake habitat enhancement or creation works to meet the 10% requirement.
 - i. This area can be owned by the same developer / landowner or a third party however, it would need to be secured and a planning obligation or conservation covenant.
 - ii. These offsite areas should be in close proximity to the application site, with local weighting towards sites with high strategic significance / within the core landscape and priority network restoration zones as identified within the Black Country Local Nature Recovery map and Strategy.
- c) Purchase statutory biodiversity credits through a national government scheme. Any applicant looking to go down this route should get in contact with LPA to discuss. This will be hosted by Natural England and further information available: <https://www.gov.uk/guidance/statutory-biodiversity-credit-prices>.

Please note that very high distinctiveness habitat are habitats, such as Ancient woodland, which are classified as high threatened and internationally scarce. Any loss of these habitat from development should be avoided. However, development could choose to enhance this areas.

Bespoke compensation would be required for any loss and would need to be agreed on a case by case basis with the planning authority.

Offsite compensation in Walsall

Within Walsall, applicants will have the option to offset their biodiversity losses within their application utilising their own land or through a third party, should the management be legally secured for a minimum of 30 years.

We are unable to recommend third part offset providers and at this stage as a local list of such providers is not available. All applicants, however, may wish to approach BNG brokers, habitat banks, local landowners or nature conservation trust to help you achieve your BNG requirements.

We're currently looking to the potential to utilise Council owned land towards offsetting. The option will be informed by government advice. Further information on this option will be provided on the planning page when available.

You can contact us if you are a provider of biodiversity offsets or would like more information on the options available.