

# Providing Biodiversity Net Gain



## Planning Guidance

August 2024



Derby City Council



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## 1. Introduction

- 1.1. England is widely considered to be one of the most nature-depleted countries in the world following historic and ongoing declines. The [State of Nature Report 2023](#) highlights the decline in habitats and species. Since 1970 terrestrial and freshwater species have declined by 32%; the distribution of flowering plant species, mosses and liverworts has decreased by 68% and 13% Red List Species are classified as threatened.
- 1.2. Against this backdrop, the Government has made legally binding commitments to end these declines and for nature to recover. The introduction of Biodiversity Net Gain into the planning system is one of these measures.
- 1.3. The purpose of this guidance is to outline how Biodiversity Net Gain is to be achieved by development within Derby. This guidance will be subject to review following any changes to legislation and national, or local policy.

## 2. What is Biodiversity Net Gain?

- 2.1. Biodiversity Net Gain is an approach to development that leaves the natural environment in a measurably better state than it was beforehand. Net gain is an umbrella term for both biodiversity net gain and wider environmental net gain.

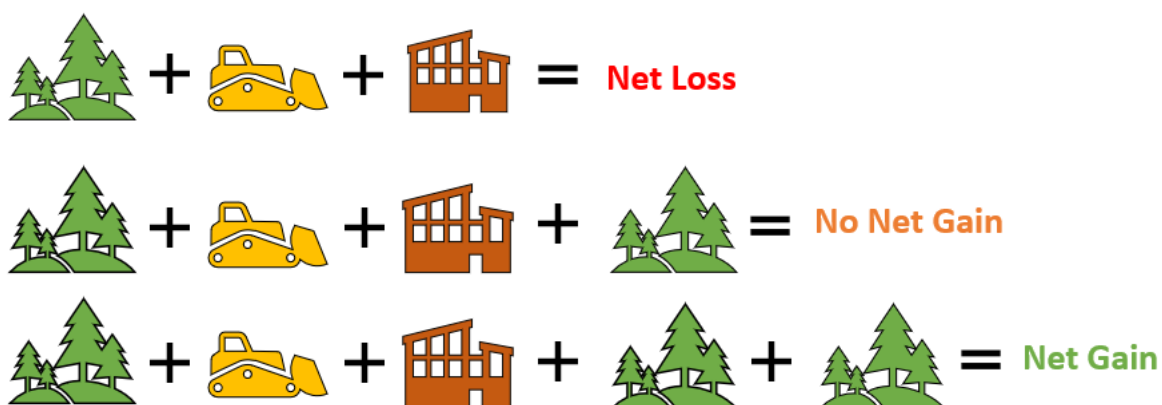


Figure 1. The Principle of Biodiversity Net Gain

## 3. Why is Biodiversity Net Gain Important?

- 3.1. BNG can provide multiple benefits for the city, including:
  - encouraging larger, better-quality habitats in which wildlife can flourish, even creating new habitats and contributing towards nature recovery.
  - creating more attractive places or enhance existing greenspaces which the public can utilise for socialising, working or general living. The importance of the natural environment to us all was highlighted during the Covid pandemic.
  - creating an attractive environment, making Derby an attractive option for new and existing employers.

- helping to mitigate the impacts of climate change through the restoration and protection of nature. BNG also helps urban areas to adapt to the extremes of weather. An increased amount of blue and green infrastructure results in additional shading and cooling while reducing the flood risk and impact in urban areas.

## 4. Policy Context

### National Planning Policy Framework

- 4.1. The National Planning Policy Framework (NPPF) 2023, paragraph 8, states that the planning system has three overarching objectives (social, economic and environmental) which need to be pursued in mutually supportive ways to help achieve sustainable development. This includes, in criterion (c) to protect and enhance the natural environment and biodiversity.
- 4.2. Paragraph 180 states 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, including by establishing coherent ecological networks that are more resilient to current and future pressures'*.

### Planning Practice Guidance

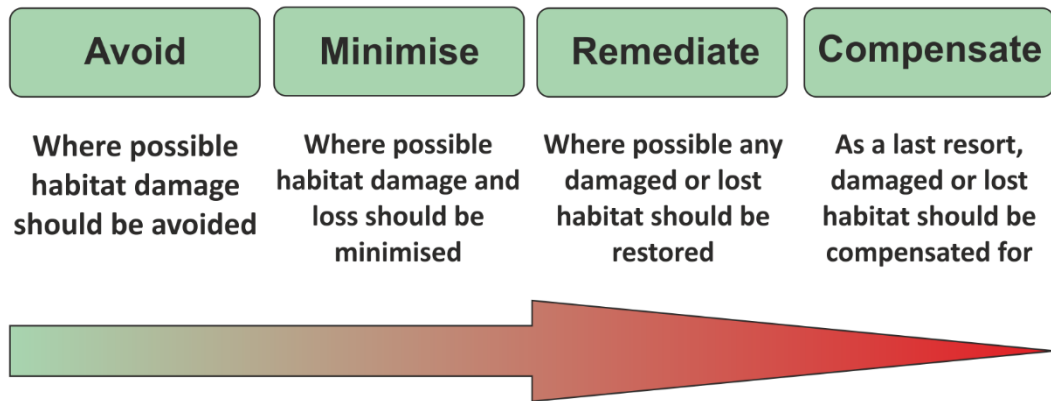
- 4.3. The [Planning Practice Guidance](#) (PPG) was updated on 14 February 2024 to include new guidance on how Biodiversity Net Gain should be approached.
- 4.4. The guidance sets out what information should be submitted as part of a planning application, how Biodiversity Net Gain is taken into account in the decision-making process; the submission, determination and appeals process for the Biodiversity Gain Plan and how BNG is delivered through phased development.
- 4.5. The Council's [Local List of Validation Requirements](#) also sets out our requirements.

### Derby City Local Plan Part 1

- 4.6. Spatial Objective 7 of the plan aspires to 'protect and improve Derby's natural environment by developing a network of green infrastructure based around our parks and other green open spaces, wildlife sites and open corridors such as the River Derwent, the Former Derby Canal, cycleways and walkways. These will improve biodiversity'.
- 4.7. Policy CP16: Green Infrastructure states that 'the Council will seek to maintain, enhance and manage Derby's green infrastructure to ensure that everyone has access to high quality natural and semi-natural habitats, green space and sport and recreation facilities. The Council will ensure that land is available and managed to assist in adapting to and mitigating against climate change'.
- 4.8. Policy CP19: Biodiversity states that 'nature is a sensitive, complex and interconnected system which is often taken for granted. The Council recognises the importance biodiversity plays in delivering an urban renaissance and plays an important part in creating safe and sustainable communities. It continues by stating that 'biodiversity and geodiversity assets across the City will be protected, enhanced, managed, restored, strengthened and created in a manner appropriate to their significance'.

## 5. How to Deliver BNG

- 5.1. From 12 February 2024 for major development and 2 April 2024 for minor development, there is a requirement to deliver a 10% gain as a minimum. However, the Council welcomes proposals which deliver a higher percentage.
- 5.2. [DEFRA's Biodiversity Metrics](#) are the only tools which can be used to assess the baseline ecological condition of a site and post-development impacts of the proposal. There are two Metrics available; the first is for major developments and the second is for minor development.
- 5.3. Each Metric is a means of calculating losses and gains resulting from a proposed development, or other land use changes. The metric incorporates separate modules for habitats measured in area (such as woodland and grassland), linear habitats measured in length (such as hedgerows) and riparian habitats such as rivers and streams. In addition to area or length, the metric uses distinctiveness, condition, strategic significance and connectivity of each habitat to calculate its value. The metric is accompanied by two [user guides](#) that describes in detail how each of these attributes are determined.
- 5.4. The simpler Small Sites Metric has also been produced for applications of fewer than 10 dwellings or a site area of under 0.5 hectares. This must be submitted as part of a planning application for minor development submitted to the Council on, or after, 2 April 2024.
- 5.5. Both Metrics provide results which are expressed as 'biodiversity units'. By comparing the biodiversity units on the site prior to development and the number of units post-development, we can determine if there has been a net loss or a net gain.
- 5.6. Biodiversity net gain will be achieved where a positive change occurs. If a positive change cannot be achieved within the application area, the net gain approach requires developers to secure offsite compensation. Habitat creation and enhancement also takes into account the difficulty, time and 'spatial risk' (such as the distance any off-site mitigation measures are from the application site and the time taken for these measures to successfully establish).
- 5.7. The use of the Biodiversity Metric does not remove the requirement to follow the mitigation hierarchy set out in the NPPF and the Local Plan, shown below in Figure 2. Through the hierarchy, significant harm should be avoided in the first instance, mitigated where impacts cannot be avoided and compensated for only as a last resort.



**Figure 2. The Mitigation Hierarchy**

- 5.8. Where it has been demonstrated that net gain for biodiversity is not deliverable on-site (to be agreed with the Council), this may involve off-site compensation on nearby land owned by the developer, or on land owned by a third-party landowner. Where appropriate, this may be secured through conditions or Section 106 legal agreements. This will include the requirement for positive biodiversity management for a minimum period of 30 years, with appropriate regular monitoring and reporting as required in the Environment Act.

**Biodiversity Credit Scheme**

- 5.9. As a last resort, applicants can buy biodiversity credits which will be invested in habitat creation. Credits can only be purchased if all options for delivering BNG have been explored by the applicant.
- 5.10. The scheme allows the UK government to sell the credits to the developers if the BNG cannot be achieved on or off-site. The price of the credits will be higher than the prices for the equivalent biodiversity gain on the market. An accessible and user-friendly digital sales platform is currently being developed and tested.

**Protected Habitats and Species**

- 5.11. The requirement to provide Biodiversity Net Gain does not replace existing protection for habitats and species that exists within legislation and planning policy. This includes the legal protections afforded to species and sites, which are separate from the planning process, and the policy requirements that relate to priority habitats and species, irreplaceable habitats and protected sites, whether these be through direct or indirect impacts. Impacts to these features will continue to be considered in accordance with the policy requirements, and relevant legislation.
- 5.12. Losses to irreplaceable habitats, including habitats within Sites of Special Scientific Importance (SSSI) or Local Wildlife Sites, Ancient Woodland and other habitats considered to be of high distinctiveness cannot be accounted for within the metric.

**Site Degradation**

- 5.13. Applicants must not destroy or degrade on-site habitats prior to completing the metric or submitting a planning application. Where unauthorised degradation of the onsite habitat



has taken place on the land between 30 January 2020 and the date of the application being submitted, the Council will rely on aerial photographs from 2020 and assume that each habitat degraded will be of a medium to high distinctiveness.

## 6. What development is exempt from providing Biodiversity Net Gain?

6.1. Biodiversity Net Gain does not apply to the following types of development:

- Retrospective applications made under Section 73A;
- Section 73 permissions where the original permission, which the section 73 relates to, was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024
- Householder applications
- Permitted Development
- Development subject to the de minimis exemption. Development that does not impact a priority habitat and impacts less than 25 square metres (e.g. 5m by 5m) of onsite habitat, or 5 metres of linear habitats such as hedgerows.
- Self-build and custom development where the development:
  - consists of no more than 9 dwellings, and
  - is carried out on a site which has an area no larger than 0.5 hectares, and
  - consists exclusively of dwellings which are self-build or custom housebuilding as defined in [section 1\(A1\) of the Self-build and Custom Housebuilding Act 2015](#).
- Urgent Crown development
- Creation of BNG sites
- Development related to high-speed railways

### Viability

6.2. Research from DEFRA suggests that the 10% BNG requirement is not likely to significantly impact on the viability of a development proposal, the mandatory 10% is set out in legislation and there is no scope for LPAs to allow a reduction, or waiver the delivery of BNG on viability grounds.

## 7. What information do you need to supply?

7.1. Derby City Council advises that all applicants enter into pre-application discussions prior to submitting an application. These discussions will help to determine the potential impact of a development and help to determine the scope of surveys and assessments required to support an application. A schedule of costs associated with pre-application advice can be found on the [Council's website](#).

### Major Applications

7.2. Applications must include:

- a) A Planning Statement confirming that the application will deliver BNG or a reasoned justification why it is exempt

- b) Photographs of the application site showing the baseline habitats. Even if you consider that the application is exempt
- c) A completed [Biodiversity Metric](#) with the on-site baseline habitat. While you may consider that your proposal is exempt under the self and custom build rule, the Council still requires the submission of a metric with the baseline information.
  - The Main Metric should be completed by a competent person 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)
  - If a river condition assessment is required as part of completing the Metric, this must be completed by a qualified assessor
- d) A statement confirming whether the site has been degraded after 30 January 2020.
- e) A description of any [irreplaceable habitats](#)
- f) A plan to an identified scale with a north point showing on-site habitat on the date of application, including Irreplaceable habitat. Each individual habitat must be notated to allow cross-referencing with the Metric. Similar, smaller habitats must not be combined into one large area.
- g) The baseline habitat survey sheets
- h) A draft [Habitat Management and Monitoring Plan](#)

### **Minor Applications**

- 7.3. A proportionate approach will be taken for minor planning applications, based on the ecological sensitivity of the application site. But all minor applications should as a minimum use the [DEFRA Small Sites Metric](#) to identify the level of impact from the development on ecology and to determine biodiversity net gain required.
- 7.4. For minor applications, we require:
  - a) A Planning Statement confirming that the application will deliver BNG or a reasoned justification why it is exempt
  - b) Photographs of the application site showing the baseline habitats. Even if you consider that the application is exempt
  - c) A completed Biodiversity Metric with the on-site baseline habitat. While you may consider that your proposal is exempt under the self and custom build rule, the Council still requires the submission of a metric with the baseline information.
    - The Small Sites Metric must be completed by a competent person who is competent in identifying habitats present on-site and able to identify the management requirements for habitats to be created or enhanced within the landscape design (post-development)
    - If a river condition assessment is required as part of completing the Metric, this must be completed by a qualified assessor

- d) A statement confirming whether the site has been degraded after 30 January 2020.
- e) A description of any [irreplaceable habitats](#)
- f) A plan to an identified scale with a north point showing on-site habitat on the date of application, including Irreplaceable habitat.
- g) You may wish to submit a draft [Habitat Management and Monitoring Plan](#).

### **How will Biodiversity Net Gain be considered in decision-making?**

- 7.5. Broadly, we will consider whether the biodiversity gain condition is capable of being successfully discharged. We will also consider the following (but this is not an exhaustive list):
- a) The appropriate balance expected between on-site gains, off-site gains and the use of statutory biodiversity credits for the development, taking account of the Biodiversity Gain Hierarchy;
  - b) Whether the type and location of any significant on-site habitat enhancements proposed for on-site gains are appropriate, taking into account other policies to support biodiversity (including local nature recovery strategies) and other wider objectives (for example policies for design, open space and recreation, and retention of trees); and
  - c) Any planning conditions which need to be imposed to secure any significant onsite habitat enhancements, including any conditions requiring the maintenance of the enhancement for at least 30 years after the completion of the development.

### **Off-site Mitigation**

- 7.6. In the event a development proposal is unable to demonstrate a biodiversity net gain within the application site, following the correct application of the mitigation hierarchy and justification using the metric, it will be necessary to secure biodiversity net gain off-site. In these circumstances applicants will need to demonstrate that sufficient offsite habitat creation or enhancement has been secured to achieve a minimum 10% biodiversity net gain.
- 7.7. Details of off-site compensation must be demonstrated in a measurable way, following the same methodology as for on-site creation and enhancement. There may be instances where some net gain can be secured on-site, and some may need to be delivered offsite.

## **8. Ongoing Management, Maintenance and Monitoring**

- 8.1. In line with Government proposals, habitat creation and enhancement will need to be secured for a period of at least 30 years. This will allow habitats to mature and contribute to Derby's natural capital.
- 8.2. The metric calculation, whether undertaken for on-site or off-site areas, will specify a habitat type and target condition for each habitat parcel. To ensure these targets are met, and that a genuine net gain is achieved, periodic monitoring and reporting will be necessary. This reporting will be secured through conditions and Section 106 agreements.
- 8.3. Reporting to the Council will be undertaken at set periods agreed with the Council up to year 30 and will include a survey of the relevant areas using the [UK Hab classification](#), together with an assessment of the condition of all habitat parcels entered into the metric

calculation for the post development site. Condition will be defined with reference to the technical guidance supporting the Biodiversity Metric.



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### **Slovak**

Túto informáciu vám môžeme poskytnúť iným spôsobom, štýlom alebo v inom jazyku, ktorý vám pomôže k jej sprístupneniu. Prosím, kontaktujte nás na tel. č.: **01332 640807** alebo na stránke **[derby.gov.uk/signing-service/](http://derby.gov.uk/signing-service/)**

### **Urdu**

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