

WOLVERHAMPTON INFORMAL GUIDANCE ON BIODIVERSITY NET GAIN (Mar 2024)

Key Online Resources:

[Biodiversity net gain](#) – DEFRA, including: [Biodiversity net gain: what local planning authorities should do](#)

[Biodiversity net gain planning practice guidance](#) - DLUCH

1. When do Biodiversity Net Gain (BNG) requirements start?

1.1 BNG is a national requirement which applies to all **major applications submitted** after 12 February 2024 and to all **minor applications submitted** after 2 April 2024.

2. Which sites / developments are exempt from BNG?

- All householder applications
- All permitted development
- Reserved matters applications where outline did not require BNG
- Developments which will have an impact on less than 25 sqm of habitat (gardens, grass, scrub, hedgerow, tree canopy, ponds, etc.) and less than 5m of linear habitat (hedgerows, open streams, etc.)
- Small scale self-build and custom house build sites

FAQ – How does the 25 sqm / 5m rule work in practice?

It doesn't matter how much habitat is within the redline boundary. What matters is how much habitat the development will "impact" - by decreasing biodiversity value. If the development will result in the loss or re-landscaping of more than 25 sqm of habitat or more than 5m of linear habitat then the development is not exempt and BNG requirements will apply.

3. What are the statutory BNG requirements?

3.1 BNG is a national requirement set out in the Environment Act and secondary legislation / guidance (see [Biodiversity net gain planning practice guidance](#)). The main requirements are:

- Developments must **deliver a 10% uplift in biodiversity value** compared to what is currently on site i.e. 110% in total (see FAQ below)
- BNG is **mandatory** and cannot be reduced or waived for financial viability reasons
- The 110% **can be delivered in three ways** (or a combination of these):
 - By creating or improving habitat on site (within the redline);
 - By creating or improving habitat off site - on land owned by the developer or on land owned by a third party through [buying off-site units](#) (cost set by market so can vary)
 - Buying [statutory biodiversity credits](#) from Natural England (at a set price; designed to be more expensive than units; c. 8 weeks processing time)
- The 110% **must be calculated using a national spreadsheet** called the [biodiversity metric](#) as explained here: [Calculate biodiversity value using the biodiversity metric](#)
The standard biodiversity metric must be completed by a qualified ecologist. There is a simpler "small sites metric" that can be used for minor applications in some circumstances (see FAQ below). This can be completed by a "competent person"

who does not need to be a qualified ecologist, and does not require a baseline habitat condition assessment;

- **Standard BNG conditions** are automatically applied to all non-exempt permissions (see 4.2 below);
- **How the 110% will be delivered must be set out in a [Biodiversity gain plan](#)** (BGP), to be approved by the Council before commencement of development (as required in the BNG conditions);
- Any “significant” on site BNG (see FAQ below) and all off site BNG units must be secured for at least 30 years

FAQ – Do bird boxes, bat boxes, etc. count as BNG?

No – “biodiversity value” means habitat area or habitat length (if linear habitat such as hedgerow). Area habitat can only be replaced by area habitat and linear habitat can only be replaced by linear habitat.

Green roofs do count as habitat in the metric but are likely to be an expensive option.

FAQ – Can BNG be delivered on site when the habitat area will be reduced?

If there is 1 ha of a particular habitat on a site before development there must be the equivalent of 1.1 ha of the same habitat post-development – either on site or off site, or a combination of both.

However, some habitat types have a higher biodiversity value than others - so if low / medium value habitat will be lost, BNG can sometimes be delivered on site by creating higher value habitat on a smaller area.

A good example is building on garden land (always low value) and delivering on site BNG by planting small trees (high value) on remaining land with secured long term management (i.e. not within a garden)

FAQ – When can the Small Sites Metric (SSM) be used?

The SSM can only be used where:

1. the application is not “major development” i.e:
 - <10 homes where site is <1 ha, or <0.5 ha where unknown no. of homes
 - < 1 ha non-residential use and <1,000 sqm of non-residential floorspace created
2. there are no high value habitats (e.g. pond) or protected species (e.g. badgers, bats)

Things to note:

- The “competent person” completing the SSM must be able to accurately identify habitats and understand what management is required to create / enhance habitats.
- Small sites with off site BNG are likely to need fractions of units – these may be proportionately more expensive to buy than whole units because of heavy admin costs.

FAQ – What counts as “significant” on site BNG?

The DEFRA definition of “significant” ([Make on-site biodiversity gains as a developer](#)) provides limited guidance: gardens are not significant, but a “wildlife pond” or “nature park” is significant. It is for each Council to decide what counts as “significant”.

4. What is the process for all applications?

4.1 Information to be submitted with all planning applications

If the development is exempt from BNG:

- a statement: I believe the development is **exempt** from BNG because
(or a tick box on householder planning application form)

If the development is not exempt from BNG:

- an accurately completed [biodiversity metric](#) spreadsheet showing the biodiversity value of the site on the date of application (or earlier, where reasons are given)
- a plan (with scale and north arrow) showing on site habitats
- a description of any irreplaceable habitat ([The Biodiversity Gain Requirements \(Irreplaceable Habitat\) Regulations 2024](#))

If the development will provide “significant” on site BNG (see FAQ above), the following information is also required:

- detailed plans of the significant on site BNG habitat
- a [Biodiversity gain plan](#)
- a [Habitat Management and Monitoring Plan](#)
- a S106 agreement securing creation of the habitat as soon as possible and regular maintenance and management interventions to maintain its value for at least 30 years, enforced through submission of regular monitoring reports (e.g. years 2, 5, 10, 20 and 30) to the Council.

FAQ – Do details of the BNG to be provided (e.g. on site/off site, type of habitat, how it will be maintained) have to be agreed before permission can be granted?

No – BNG details are agreed through the Biodiversity Gain Plan submitted before commencement.

The only exception to this is where the developer proposes “significant” on site BNG and the provision and maintenance of these areas is secured through a S106 agreement attached to the permission. In some cases these areas will also be public open space, so this would tie in with management company or Council adoption clauses.

4.2 Information to be provided on all decision notices

- 4.2.1 If the development is not exempt from BNG, the BNG conditions set out under paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended in 2024 through [The Biodiversity Gain \(Town and Country Planning\) \(Modifications and Amendments\) \(England\) Regulations 2024](#)) automatically apply to the permission.

4.2.2 These conditions effectively state that the development may not be begun unless a Biodiversity Gain Plan has been submitted to the planning authority and the planning authority has approved the plan.

4.2.3 The BNG conditions will not be listed in the decision notice, however [Biodiversity net gain planning practice guidance](#) requires various statements to be added for information. National model paragraphs for this information will be provided “in due course” (PPG para’s 024;025;026). In the meantime, **the following information will be added to all decision notices:**

If the development is exempt from BNG:

“This development is exempt from biodiversity net gain, therefore the biodiversity gain conditions set out under paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended in 2024) do not apply to this permission.”

If the development is not exempt from BNG:

“This development is not exempt from biodiversity net gain, therefore the biodiversity gain conditions set out under paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended in 2024) apply to this permission. Wolverhampton City Council is the planning authority for the purposes of the biodiversity gain plan. Section 73(2D) of the Town and Country Planning Act 1990 applies (that an earlier biodiversity gain plan in relation to a previous planning permission is regarded as approved).”

Please note: Further information will be provided if the development will be phased or if there is irreplaceable habitat on site.

4.3 At discharge of condition / before commencement

4.3.1 If the development is not exempt from BNG, the developer must submit a [Biodiversity gain plan \(biodiversity gain plan guidance\)](#) in the national format including enough information to prove that the 110% has been legally secured and will be delivered. This must be approved by the Council within 8 weeks (unless otherwise agreed) as set out in [The Biodiversity Gain \(Town and Country Planning\) \(Modifications and Amendments\) \(England\) Regulations 2024](#).

4.3.2 Where there is “significant” on site BNG the BNG conditions should already have been met (see above). Where the development is phased there will be a separate Biodiversity Gain Plan for each phase.

4.4 Use of Ecologists

4.4.1 Where the standard biodiversity metric is used, this will need to be completed by a qualified ecologist. Where the Small Sites Metric can be used this can be completed by a “competent person” (see FAQ above). The Council may use an independent ecologist to advise on any information submitted.

4.5 Procedure for On Site BNG

- 4.5.1 On site BNG can cover the same areas / works as public open space and SUDs requirements. If the BNG is to be adopted by the Council, the S106 will be used to secure at least 10 years maintenance costs.
- 4.5.2 Where on site BNG is “significant” (see FAQ above) a S106 agreement will be required securing creation of the habitat as soon as possible and regular maintenance and management interventions to maintain its value for at least 30 years, enforced through submission of regular monitoring reports (e.g. years 2, 5, 10, 20 and 30) to the Council. Details of this should also be set out in the [Habitat Management and Monitoring Plan](#) submitted alongside the Biodiversity Gain Plan.

4.6 Procedure for Off Site BNG

- 4.6.1 The Biodiversity Gain Plan (BGP) will quote a valid [national register](#) reference. This proves that the developer has reached an agreement with a third party to deliver the off site BNG for their development on a particular site (site A). The third party will have either: (1) made a [conservation covenant](#) to deliver BNG on site A with a [responsible body](#) (e.g. environmental organisation, local authority); or (2) made a legal agreement to deliver BNG on site A with the Council where site A is located. Natural England will then have approved the addition of site A to the [national register](#) and created the reference. The register must link BNG delivery on site A to the discharge of BNG obligations for the specific development. The conservation covenant / legal agreement will be added to the land charges register for site A.
- 4.6.2 Following approval of the BGP, the third party maintains and monitors BNG on site A and the responsible body / relevant Council checks monitoring reports.
- 4.6.3 It is not currently possible to provide off site BNG on land owned by Wolverhampton City Council. The Council is investigating the possibility of offering developers this opportunity in future.