


BNG update for CEP 27/02/24




**Biodiversity Net Gain Update**  
**Climate and Environment Panel 27/02/24**

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**The Basics**

- The 10% net gain requirement applies to all relevant areas of the metric separately: **habitats, hedgerows, watercourses**. Units cannot be summed or converted.
- The percentage change is determined by the following:
  - On-site biodiversity gains achieved through the development.
  - Registered offsite biodiversity gains allocated to the development.
  - Purchase of biodiversity credits for the development (when available).
- Each application should be accompanied by:
  - A completed Statutory Biodiversity Metric (excel spreadsheet).
  - A separate document containing justifications for habitat classifications and condition assessments.
  - Baseline and post-development plans.

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## Watercourses: A Unique Challenge

Table 10 sets out riparian zone widths for different habitat types and figure 2 illustrates how to determine if a length of watercourse should be included or excluded from an assessment.

**Table 10 Riparian zone widths**

Habitat Type	Riparian Zone Width
<b>Priority rivers</b>	10 metres from the top of each bank
<b>Other rivers and streams</b>	10 metres from the top of each bank
<b>Canals</b>	10 metres from the top of each bank
<b>Ditches</b>	5 metres from the top of each bank
<b>Culverts</b>	Not applicable

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## On-site vs Off-site

- Developers will try and deliver as much BNG on possible...
- ...but pressures for high-density development undermine this.
  - After houses, roads, drainage, open space requirements met, not much left for BNG.
  - In urban environments this can put emphasis on well-designed green roofs.
- There are other ecological and political considerations if biodiversity is effectively exported from urban environments through offsetting being delivered at a landscape scale.
- Slow and patchy development of offsetting market is also reducing the ability of LPAs to meaningfully influence the location and nature of offsetting.

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## Guidance: November 2023 Highlights

- The draft biodiversity planning practice guidance (PPG) introduces a 'biodiversity hierarchy' that aims to limit impacts on, and retain on-site, high and very high distinctiveness habitat. **Distinct from mitigation hierarchy.**
- What information is required in support of a planning application will depend on what habitats are present, and how the applicant plans to deliver net gain.
  - Significant on-site gains? Details will be required prior to determination, and applicants encouraged to provide draft Habitat Management and Monitoring Plan (HMMP).
  - Off-site gains? Applicants encouraged to provide draft heads of terms where S106 used.
- Inappropriate for LPAs to give weight to local policies that are inconsistent with the new framework (but this does not mean they are discarded).

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## Securing BNG

- Paragraph 9 of Schedule 7A of the Town and Country Planning Act 1990 requires that:
- Where an applicant relies upon a significant increase in onsite habitat biodiversity value, this must be subject to a planning condition, section 106 agreement, or conservation covenant requiring the habitat enhancement to be maintained for at least 30 years after the development is completed.
- Where off-site gains are relied upon, these should be secured via S106 agreement or conservation covenant. This should specify what actions the LPA can take if BNG obligations are not met.

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## Biodiversity Gain Plan

- DEFRA have released a Biodiversity Gain Plan (BGP) document which applicant must fill out to show how development will meet net gain.
- Once planning permission has been granted, this must be submitted to and approved by the LPA.
- This must be approved prior to commencement of any works, even if they are carried out in phases.
- Once this is submitted and approved, LPA can then discharge general biodiversity condition.
- Developer can submit a draft BGP and consult with LPA, but this is not mandatory.
- Important: whilst the full BGP does not need to be submitted prior to determination, most of the information contained within it must be.

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## Offsetting Availability

- Applicants have previously sought to deliver biodiversity offsetting via third parties, such as the Trust for Oxfordshire's Environment (TOE).
- TOE initially did not specify where money would be spent at the point of accepting it, a model that would not comply with the Environment Act 2021 requirements.
- Council aware of a small number of other habitat banks emerging in Oxfordshire, but no knowledge of any selling units at present. Expectation is that some will have crystallised at point of demand.

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## Council Land

- Project proposed to identify OCC-owned land with a potential for use to provide biodiversity units for OCC developments.
- This would keep council money within the city, rather than having buy units farther afield, and could contribute to the improvement of spaces.
- A cross-departmental team would carry out a feasibility review of land owned by OCC with a view to identifying those sites with the potential to use for generating Biodiversity Units. This would include both land and waterways.

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## Statutory Credits

- Statutory credits can be purchased as a **last resort**. Applicants must show LPAs evidence of approach three offsetting providers before credits can be accepted.
- These can vary in price from £42,000 each to £650,000 each, depending on habitat type (exc. VAT). Two credits required for every one units needed.
- These must be included within the Biodiversity Gain Plan (If applicable) and secured via S106 or conservation covenant.
- Watercourse units are a standard £230,000 each.

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## HMMP

- Management and monitoring must be undertaken for at least 30 years in line with whatever specifications are agreed in the HMMP.
- Generally, best practice measures are well known for common habitats created within developments (e.g. other neutral grassland, urban trees, green roofs) and on land dedicated to ecological enhancements (e.g. meadows, woodland, wetland).
- Monitoring requirements less well established, and Defra and NE are deliberately avoiding being prescriptive; a great deal will be left to LPA discretion.
- The draft HMMP includes an example of monitoring other neutral grassland, with monitoring undertaken in Years 1, 2, 3, 4, 5, 10, 15, 20, 25, and 30.
- Monitoring reports would need to be submitted to the LPA for approval; where habitat work not progressing as agreed, remedial measures will be required.