

Policy LE8: Securing Measurable Biodiversity Net Gain

POLICY LE8: SECURING MEASURABLE BIODIVERSITY NET GAIN

- 1. All developments are required to provide biodiversity net gain and contribute towards the wider network of green infrastructure and the Local Ecological Network (see Policy D4 and D5).**

In accordance with the latest Government requirements qualifying development will be required to provide a measurable biodiversity net gain of at least 10%.

- 2. Planning obligations or conservation covenants will be considered to provide appropriate enhancement and site management measures. Arrangements for the long-term management and monitoring of any measures required will need to be appropriately secured.**

EXPLANATION OF POLICY LE8

- 10.73 The NPPF states that planning policies and decisions should minimise impacts on, and secure measurable net gains for biodiversity. Section 40 of the Natural Environment and Rural Communities Act 2006 provides a statutory basis for planning to seek to minimise impacts on biodiversity and provide net gains in biodiversity where possible³³⁴. The Environment Act 2021 also introduced statutory Biodiversity Net Gain (BNG), as implemented through Schedule 7a of the Town and Country Planning Act 1990 (as updated).
- 10.74 The Government recognises that we need to improve our environment by more than just compensating for biodiversity loss where it cannot be avoided or mitigated. Greener development with access to local natural spaces are more pleasant and healthier places to live and work, and habitats and wildlife delivered through biodiversity net gain deliver wider social and economic benefits. The increase in biodiversity relates directly with the Council's overall health objectives as there is a growing body of evidence suggesting that living in greener environments is associated with reduced mortality³³⁵.

Delivering biodiversity (Point 1 of Policy LE8)

- 10.75 The Environment Act 2021 requires that all developments (except those that are exempt – see paragraph 10.81) provide a mandatory net gain in biodiversity of at least 10%, preferably on-site. Up-to-date guidance is set

³³⁴ www.gov.uk/guidance/natural-environment#biodiversity-geodiversity-and-ecosystems

³³⁵ Gascon et al. (2016), Residential green spaces and mortality: A systematic review, Environment International: 86, www.sciencedirect.com/science/article/pii/S0160412015300799 cited in the Government's consultation document, 'Net gain consultation proposals (December, 2018)

out on the Council's website³³⁶. Biodiversity Net Gain needs to be set out in the supporting material of a planning application, and should include as a minimum:

- a statement on whether the application would be subject to the biodiversity gain condition;
- a survey of the site's pre-development habitats calculated using the latest biodiversity metric;
- a scale plan showing the direction of north, onsite habitats and any irreplaceable habitats (for example Ancient woodland, Ancient and veteran trees, Spartina saltmarsh swards)³³⁷;
- confirmation if any onsite habitat has been 'degraded' by activities and evidence to support this;
- for major applications and those where BNG will be delivered onsite the submission of a draft Habitat Management and Monitoring Plan³³⁸ would be expected;
- for applications providing offsite BNG the submission of a draft Section 106 head of terms or conservation covenant³³⁹ is expected along with the mitigation site's reference number from the approved BNG register³⁴⁰;
- a draft Biodiversity Gain Plan is strongly encouraged.

10.76 Applicants will need to use the latest version of the DEFRA Biodiversity Metric to calculate the biodiversity net gain requirement and inform the relevant ecological assessment of what measures will be delivered. It is recommended such schemes submit a Habitat Management and Monitoring Plan and a Biodiversity Gain Plan with the planning application which covers mitigation and enhancement issues. It will be necessary for these documents to set out robust and ongoing management, maintenance and monitoring arrangements for the proposed ecological measures for a minimum of 30 years, as required by the Environment Act. It is recognised that as part of the long-term management of the development maintenance measures may be required for a period beyond 30 years.

10.77 Net gain for biodiversity is delivered by applying a sensitive design that avoids the loss of high quality habitats, minimises the impact of development on a site, enhances habitats in poor condition and delivers desirable places to live by creating new habitats on-site. Biodiversity net gain should follow the mitigation hierarchy and must not be applied to irreplaceable habitats, and any mitigation or compensation measures for designated sites must be dealt with separately.

³³⁶ www.gosport.gov.uk/BNG

³³⁷ <https://defraenvironment.blog.gov.uk/2023/10/05/irreplaceable-habitats-and-bng-what-you-need-to-know/>

³³⁸ <https://publications.naturalengland.org.uk/publication/5813530037846016>

³³⁹ www.gov.uk/guidance/getting-and-using-a-conservation-covenant-agreement

³⁴⁰ www.gov.uk/guidance/make-off-site-biodiversity-gains-as-a-developer#record-the-allocation-of-off-site-gains-to-your-development

- 10.78 Biodiversity net gain should be secured on-site unless there are mitigating circumstances which mean this is not possible. Where off-site provision is appropriate the developer should consider enhancements in the immediate locality and then the neighbourhood, and use an approved site from the BNG register³⁴¹. In certain circumstances due to the type of biodiversity net gain required it may be necessary to secure enhancements further afield including at a sub-regional or national level utilising habitat land banks agreed by the Council.
- 10.79 Specific measures³⁴² to be considered include:
- **On-site:** a range of measures depending on the scale and characteristics of the site including the enhancement and creation of open spaces, wildflower amenity areas, soft landscaping including street trees and hedges, wildlife corridors to and from and within developments, Sustainable Drainage Systems, green roofs and walls, private garden spaces designed for wildlife, beetle banks and hedgehog highways, and integrating bird and bat nesting sites within buildings (such as swift bricks). The Council will also consider working with the developer on innovative community initiatives which engage local residents in biodiversity projects.
 - **Neighbourhood:** in Gosport this could include working with major landowners such as the Council, Hampshire County Council and the Ministry of Defence to enhance local spaces such as parks, verges, and other land holdings for biodiversity.
 - **Strategic:** the use of agreed land banks for off-site local and strategic compensatory habitat creation and enhancement schemes. This could include a tariff approach.
- 10.80 Developers should seek early advice from HCC's Ecology Team and give consideration to how the biodiversity net gain will support the Local Ecological Network (see Policy D5), which also includes details regarding ecological opportunities. Opportunities may also exist to combine biodiversity net gain with the requirements of Policy D4 to contribute towards enhancing the Borough's Green Infrastructure Network. Proposals should also support the delivery of the Nature Recovery Network and Local Nature Recovery Strategy, where applicable.
- 10.81 Developments which are exempt from providing the mandatory 10% BNG include:
- Householder applications;
 - Permitted development rights;

³⁴¹ www.gov.uk/guidance/make-off-site-biodiversity-gains-as-a-developer#record-the-allocation-of-off-site-gains-to-your-development

³⁴² Note – Some of the measures outlined below may not qualify for the mandatory 10% BNG metric, however they may be useful to integrate with both qualifying developments as well as non-qualifying sites that still require some form on net gain in biodiversity.

- De minimis development that does not impact a priority habitat and impacts less than 25 sqm of habitat, or 5 metres of linear habitats such as hedgerows;
- Self-build and custom housebuilding developments of no more than 9 dwellings, and on a site no larger than 0.5 hectares;
- Urgent Crown development;
- Development of a biodiversity gain site.

10.82 In these cases whilst it is not a Government requirement to achieve at least 10% net gain in biodiversity applicants are required to incorporate some form of net gain biodiversity on-site in a way appropriate for the development. This could include some of the measures highlighted above and needs to be included in the application submission.

Planning obligation or conservation covenants (Point 2 of Policy LE8)

10.83 To secure biodiversity net gain the Council will use planning obligations and/or conservation covenants for a period of at least 30 years. The Council will require regular reporting from developers on their biodiversity net gain commitments, and where necessary, the Council will carry out enforcement.

Further information

Biodiversity Net Gain guidance (GBC)
www.gosport.gov.uk/BNG

Environment Act 2021 (UK Parliament, 2021)
www.legislation.gov.uk/ukpga/2021/30/contents/enacted

Biodiversity Metric 4.0 (Natural England, 2021)
<https://publications.naturalengland.org.uk/publication/6049804846366720>

Biodiversity in Planning (RTPI, 2019)
www.biodiversityinplanning.org/wp-content/uploads/2020/03/biodiversityinplanningpracticeadvice2019-15.11.19.pdf

Biodiversity net gain: Good practice principles for development (CIEEM, 2019)
<https://cieem.net/wp-content/uploads/2019/02/C776a-Biodiversity-net-gain.-Good-practice-principles-for-development.-A-practical-guide-web.pdf>

Fact sheet: Green infrastructure and biodiversity (TCPA)
www.tcpa.org.uk/fact-sheet-green-infrastructure-and-biodiversity

Residential developments and trees (TWT, 2019)
www.woodlandtrust.org.uk/media/1688/residential-developments-and-trees.pdf

Building with Nature: Standards Framework 2.0 (BwN, 2021)
www.buildingwithnature.org.uk

Policy LE9: Pollution Control

POLICY LE9: POLLUTION CONTROL

- 1. Planning permission will be granted for proposals where the projected levels of pollution generated by the development, including air, odour, noise and light pollution, do not have a significant adverse impact upon existing and future occupiers, neighbouring occupiers, and the wider built and natural environment.**
- 2. Where pollution is a material consideration proposals should submit an appropriate impact assessment. Where impacts are likely to occur during the construction phase a Construction and Environmental Management Plan should be submitted.**
- 3. Development proposals which include provisions to reduce or mitigate existing pollution will be supported.**

Air pollution

- 4. Development proposals will not be permitted when they are likely to:**
 - a) exceed current national or local standards or objectives (individually or in-combination) with other land uses; and/or**
 - b) be adversely affected by existing poor air quality.**

Noise pollution

- 5. Development proposals which are noise-sensitive will not be permitted if the users would be significantly adversely affected by noise from existing or permitted noise-generating uses within the local area.**
- 6. Development proposals which are noise-generating will not be permitted if the noise arising would have a significant adverse impact upon local amenity or sensitive habitats.**

Light pollution

- 7. Development proposals which include external lighting will be**