

# Biodiversity Net Gain and the Local Plan 2036

Technical Advice Note 18  
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# Biodiversity Net Gain requirements and the Local Plan 2036

February 2024

## 1. Wider context

1.1 The requirement of 10% biodiversity net gain (BNG) as part of the Environment Act legislation came into effect for new major planning applications on 12<sup>th</sup> February 2024. The requirement of 10% biodiversity net gain on small sites<sup>1</sup> is expected to come into effect from 2nd April 2024. There are a limited number of [exemptions](#) for certain types of development (e.g. householder applications).

1.2 Policy G2 of the adopted [Oxford Local Plan 2036](#) already required major development to provide for a minimum of 5% biodiversity net gain where it is proposed *on greenfield sites or brownfield sites that have become vegetated*. Policy G2 sets out that where this net gain cannot be provided onsite and offsetting measures are required, these should be *within the relevant Conservation Target Area if appropriate, or within the locality of the site*.

1.3 This note sets out where the requirements of local policy G2 are now superseded in light of the national BNG legislation coming into effect and also sets out helpful advice for applicants in order to meet BNG requirements going forward. More comprehensive information, on meeting the requirements of BNG on planning applications can be found in DEFRA's online guidance for developers [here](#) and the Planning Practice Guidance for BNG [here](#).

## 2. Updated requirements for Biodiversity Net Gain in Oxford

2.1 Whilst the current Policy G2 is largely aligned with the spirit of the Environment Act 2021, there are a couple of areas where its requirements will be superseded as the nationally legislated net gain requirements come into effect, these are as follows:

- Applicants will be expected to deliver **10% biodiversity net gain** for major development instead of the 5% net gain requirement under Policy G2.
- The 10% net gain target will be applicable to **all types of development**, instead of only greenfield and brownfield sites that have become vegetated which was the requirement under Policy G2, *unless the development is a type that has been exempted by the Environment Act legislation*.
- The 10% net gain target will also apply to **minor development from April 2024** (policy G2 previously did not apply to minor applications), again *unless the development is a type that has been exempted by the Environment Act legislation*. Note: householder applications remain exempt.
- The 10% net gain requirement is enforced on every planning permission via a new **general biodiversity gain condition** requiring that a Biodiversity Gain Plan is submitted to and approved by the Council prior to commencement demonstrating that at least a 10% net gain will be secured by the development.
- Off-site net gains should follow the additional considerations as set out later in this note.

2.2 *It should be noted that the Biodiversity Net Gain requirements of the Environment Act 2021 do not replace other biodiversity requirements that may be necessary to make an application acceptable on planning*

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<sup>1</sup> Small sites are defined as: residential applications of 1-9 dwellings on sites <1ha, or where the number of dwellings is unknown, a site area <0.5ha. And for non-residential applications, sites with an area of <1ha, or floor space to be created is <1,000 square metres.

terms, for example any mitigation or compensation measures required to comply with protected species legislation, or general enhancement measures like the provision of bird and bat boxes.

### 3. Baseline Information that should support an application

3.1 Applicants will need to submit enough baseline information as part of their planning application to allow the Council to determine that the requirements of Biodiversity Net Gain have been met in accordance with the Environment Act. Applicants should ensure these are clearly included as part of their submission to avoid delays at validation stage.

3.2 Para 009 of the [Biodiversity Net Gain PPG](#) sets out more detail about what this baseline Biodiversity Gain Information should contain. It will need to be supported by a copy of a completed **Biodiversity Metric** (current version is [Statutory Biodiversity Metric](#)) showing at least 10% net gain being delivered through the proposed development in all relevant sections of the metric (i.e. habitat, hedgerow, watercourses). The application should also include any other associated biodiversity information relevant to the application e.g. ecological surveys, landscaping plans and indicative planting species that detail onsite net gain to be provided.

3.3 *If it is considered that the proposal is exempt from the requirements of biodiversity net gain, the application must include a statement setting out why this is deemed to be the case. There is space for this in the updated planning application form.*

#### Other BNG Information that may be necessary to support an application

3.4 As discussed earlier, the Environment Act legislation includes a requirement for applicants to submit a **Biodiversity Gain Plan** to the Council, which will need to be approved by the Council before any development can commence<sup>2</sup>. Whilst the final Biodiversity Gain Plan must be submitted after gaining planning permission, in many instances the information contained in the Biodiversity Gain Plan will also be required in support of the planning application itself, prior to determination. This may include:

- Information related to significant onsite biodiversity gains that will be delivered as part of the proposed development.
- Information related to off-site biodiversity gains that will be delivered as part of the proposed development.
- Where applicable, a draft [Habitat Management and Monitoring Plan](#) (HMMP) showing how you will create and enhance habitat for BNG and how you'll manage and monitor the habitat for at least 30 years<sup>3</sup>. Please note monitoring intervals will be agreed on a case-by-case basis and a monitoring fee will be charged as part of an S106 contribution.

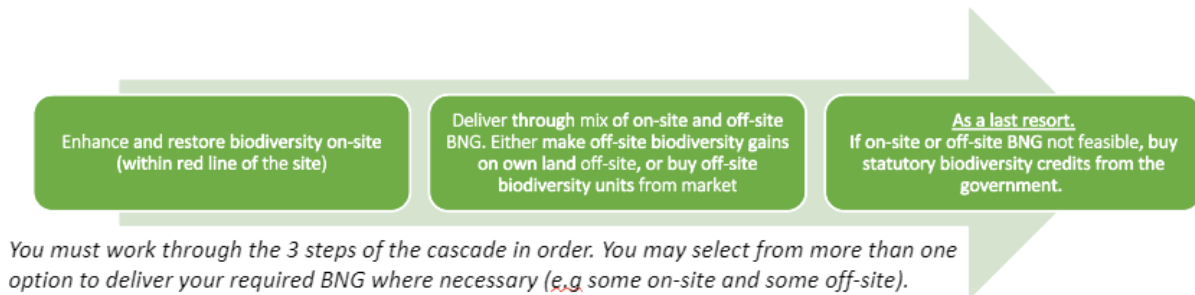
The final Biodiversity Gain Plan needs to be submitted after planning permission and should build on what has already been provided so as to give sufficient certainty on how BNG associated with the proposal will be delivered. Failure to comply with this requirement by commencing development without approval of the Biodiversity Gain Plan will be a breach of planning control and subject to enforcement action.

<sup>2</sup> A template for the Biodiversity Gain Plan has been published by central government here: <https://www.gov.uk/government/publications/biodiversity-gain-plan>

<sup>3</sup> A template for the Habitat Management and Monitoring Plan has been published by Natural England here: <https://publications.naturalengland.org.uk/publication/5813530037846016>

#### 4. Situations where onsite biodiversity net gain is not feasible

4.1 Where applicants cannot meet BNG requirements on-site, applicants have the option of delivering all or part of their net gain via a registered off-site location in accordance with the cascade approach set out in the government's Biodiversity Net Gain guidance, as is illustrated below:



4.2 Off-site BNG is expected to be:

- Secured through an appropriate legal mechanism to be created, managed and monitored for at least 30 years as defined in the legislation (e.g. via S106 obligation or a conservation covenant).
- Recorded on the national biodiversity gain register.

4.3 The Local Plan 2036 Policy G2 currently sets out that: *“Offsetting measures are likely to include identification of appropriate off- site locations/projects for improvement, which should be within the relevant Conservation Target Area if appropriate, or within the locality of the site.”*

4.4 The above will continue to be the preference where possible. The DEFRA Metric used to calculate net gain incentivises off-site locations that are more local to the site, as well as in locations that have been identified in strategic plans.

4.5 Where off-site provision cannot be directly organised by the applicant there are alternatives allowed for through the Environment Act legislation. In this regard, it is important to understand the difference between **biodiversity units** and **statutory biodiversity credits**.

- **Biodiversity units:** Applicants requiring off-site solutions to meet their net gain requirements could purchase tradable biodiversity units from another organisation delivering these on independent land. These units should accord to the relevant sections of the metric (i.e. habitat, hedgerow, watercourses) as required.

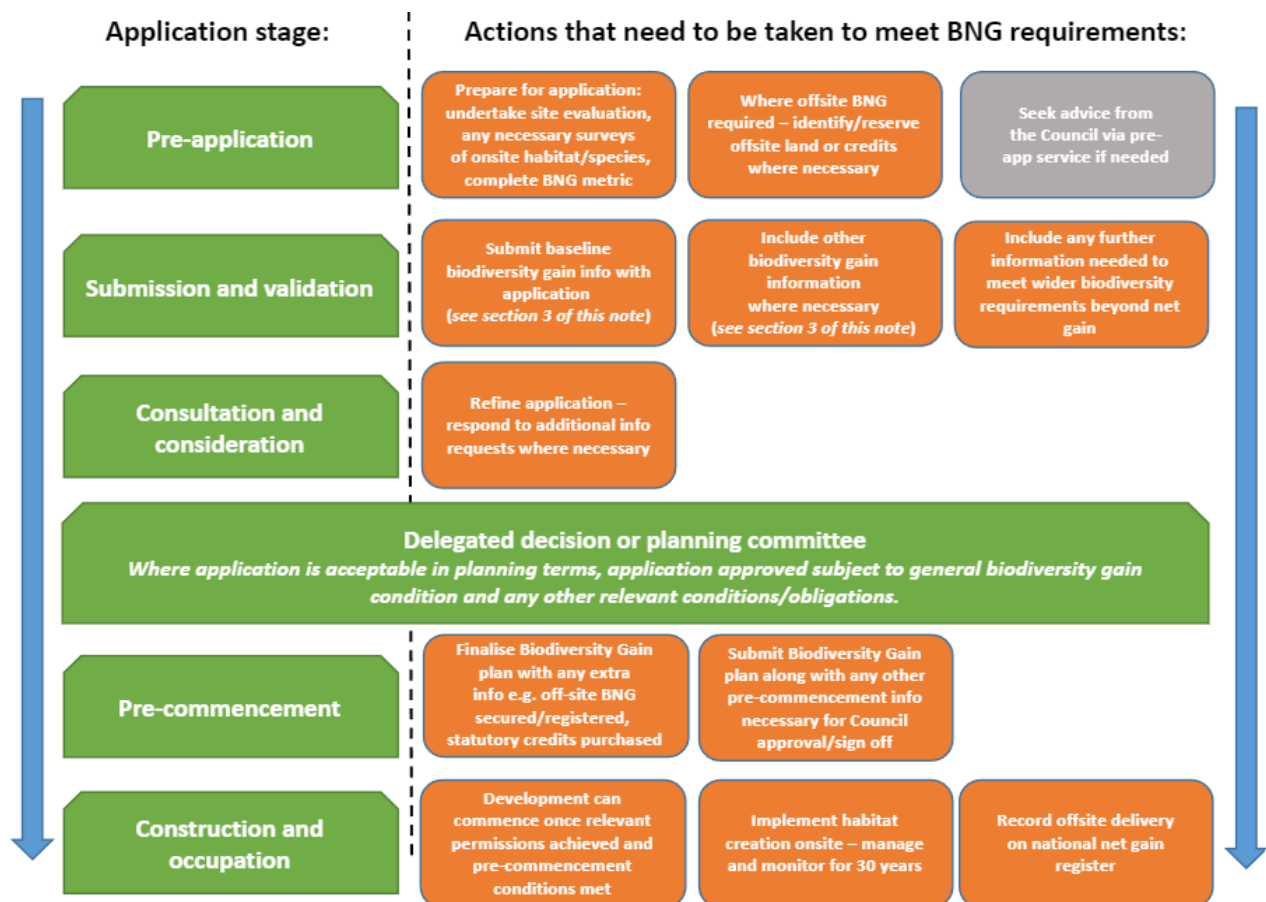
4.6 The market for biodiversity units is expected to mature and grow in the coming months. Biodiversity units can be sourced for habitat enhancement in the Oxfordshire area via several organisations, which can be identified through the national [Biodiversity Gain Register](#).

- **Statutory biodiversity credits:** These can be purchased directly from the government where offsite biodiversity units are not available from local markets, something that must be satisfactorily demonstrated to the Local Planning Authority. The funds generated from these national credits are expected to be channeled into **habitat projects** across the country. Purchase of biodiversity credits should only be considered as a last resort, and only once other steps for BNG provision have been fully explored (e.g. on-site and off-site delivery, or a mix of both). Applicants will be required to provide evidence that they have attempted to organise off-site provision via at least three market providers and that this was not possible before resorting to the national credit scheme.

4.7 Where required, biodiversity credits can be sourced directly from central government, more information can be found on this [website](#). Two statutory biodiversity credits will be required for every one unit needed for a development.

## 5. Process for successfully meeting Biodiversity Net Gain requirements

5.1 The following diagram shows an indicative example of the stages in the planning process and requirements that will need to be met to navigate biodiversity net gain successfully as part of an application – the detail of each application could of course vary.



## 6. Further information

6.1 Below are some helpful links to further information, which we may update in future as guidance and resources grow around this topic.

- Government resources on biodiversity net gain: <https://www.gov.uk/government/collections/biodiversity-net-gain>
- Statutory Biodiversity Metric tool and guidance: <https://www.gov.uk/government/publications/statutory-biodiversity-metric-tools-and-guides>
- Planning Practice Guidance on Biodiversity Net Gain: <https://www.gov.uk/guidance/draft-biodiversity-net-gain-planning-practice-guidance>
- The Local Government Association has a range of helpful resources on the BNG requirements which, whilst aimed primarily at local authorities, may be useful to applicants: <https://www.local.gov.uk/pas/topics/environment/biodiversity-net-gain-local-authorities>

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