



Norwich Western Link

Environmental Statement

Chapter 10: Biodiversity

Appendix 10.33: Biodiversity Net Gain Technical Report

Sub Appendix B: Biodiversity Net Gain Policy and Legislation

Author: WSP UK Limited

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Contents

1	Statutory Framework for Biodiversity Net Gain	3
2	Natural Environment and Rural Communities (NERC) Act 2006	4
3	Biodiversity 2020: A strategy for England’s wildlife and Ecosystem Services	4
4	National Planning Policy Framework.....	5
5	Local Policy.....	6
5.2	Greater Norwich Local Plan - Policy 3 – Environmental Protection and Enhancement.....	6
5.3	Norfolk County Council: Local Transport Plan (LTP) 4 2021 - 2036.....	7



1 Statutory Framework for Biodiversity Net Gain

- 1.1.1 In England, biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990, inserted by the Environment Act 2021.
- 1.1.2 This applies under the Town and Country Planning Act 1990 from 12 February 2024 for major developments, and from 2 April 2024 for non-major development (as defined under Article 2 Town and Country Planning (Development Management Procedure) (England) Order 2015). From these dates, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the pre-commencement condition that the biodiversity gain objective is met ('the biodiversity gain condition'). The objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity gains.
- 1.1.3 Exempted development includes: those granted planning permission through other routes to permissions such as development orders or deemed planning permission including permitted development rights; householder development; self-build and custom build development of no more than 9 dwellings and on a site with an area no larger than 0.5ha; biodiversity gain sites; development related to the high speed railway network; and development subject to the de minimis exemption i.e. where it does not impact a priority habitat and impacts less than 25m² area habitat and 5m linear habitat onsite. Mandatory BNG for Nationally Significant Infrastructure Projects (NSIPs) is expected in 2025.
- 1.1.4 The Statutory Biodiversity Metric forms the basis for the statutory instrument and must be used once mandatory net gain comes into force. The Environment Act 2021 requires that gains must be secured for a minimum of 30 years post completion of development.



- 1.1.5 Defra have published a collection of BNG guidance on the government advice webpages (Defra 2023c), and the Planning Practice Guidance collection also include a guidance page on BNG (DLUHC, 2024).

2 Natural Environment and Rural Communities (NERC) Act 2006

- 2.1.1 Under Section 40 the NERC Act 2006, as amended by the Environment Act 2021:

“A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.”

- 2.1.2 The biodiversity objective is:

“...the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England”.

This is referred to as the Biodiversity Duty.

3 Biodiversity 2020: A strategy for England’s wildlife and Ecosystem Services

- 3.1.1 Biodiversity 2020: A strategy for England’s wildlife and ecosystem services (DEFRA, 2011) is the national strategy for biodiversity. This sets out an ambition to halt the loss of biodiversity and see an increase in the area of priority habitats by 200,000 ha by 2020. Biodiversity 2020 sets in policy the objectives to improve our wildlife sites, make them bigger, develop more of them and join them up (summarised as ‘Bigger, Better, More and Joined’).



4 National Planning Policy Framework

4.1.1 The revised National Planning Policy Framework (NPPF) (MHCLG, 2023) refers to conserving and enhancing the natural environment. This requires Local Authorities in England to take measures to:

- Conserve and enhance biodiversity;
- Protect the habitats of these species from further decline;
- Protect the species from the adverse effect of development; and
- Refuse planning permission for development, if significant harm resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for.

4.1.2 The NPPF refers to biodiversity and environmental net gains in the following paragraphs:

- Paragraph 108. “Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:
 - d) the environmental impacts of traffic and transport infrastructure can be identified assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for **net environmental gains.**”
- Planning decisions
 - Paragraph 124. “Planning decisions and planning policy should a) encourage multiple benefits from both urban and rural land ... and taking opportunities to achieve net environmental gains - such as developments that would enable new habitat creation.”
 - Paragraph 180. “Planning policies and decisions should contribute to and enhance the natural and local environment by: ... d) minimising impacts on and providing net gains for biodiversity, including by



establishing coherent ecological networks that are more resilient to current and future pressures.”

- Paragraph 185. “To protect and enhance biodiversity and geodiversity plans should b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.”
- Paragraph 186. “When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; ... and d) ... opportunities to incorporate biodiversity improvements in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.”

5 Local Policy

5.1.1 For a summary of Norfolk County Council local biodiversity policy please refer to Section 2.2, **Chapter 10: Biodiversity** (Document Reference: 3.10.00), of the Environmental Statement.

5.1.2 Elements of local policy that relate to Biodiversity net gain are as follows.

5.2 Greater Norwich Local Plan - Policy 3 – Environmental Protection and Enhancement

5.2.1 The Greater Norwich Local Plan was submitted to the Secretary of State for independent examination on 30 July 2021 and is expected to be adopted in March 2024.

5.2.2 Policy 3 requires development proposals to conserve and enhance the natural environment, including avoiding harm to designated and non-designated



assets, following the mitigation hierarchy, and conserving or enhancing green infrastructure to contribute to the strategic green infrastructure network. It states that: “development will deliver net biodiversity gain through the provision of on-site or off-site natural features, creating new or enhancing existing green infrastructure networks that have regard to local green infrastructure strategies. It should be demonstrated that the gain to biodiversity is a significant enhancement (at least a 10% gain) compared to the existing situation”.

5.3 Norfolk County Council: Local Transport Plan (LTP) 4 2021 - 2036

5.3.1 The Norfolk County Council LTP4 sets out Norfolk County Council’s plans, policies and programmes on transport and transport infrastructure. The policy commits to assessing any potential loss of biodiversity as a result of the implementation of the transport strategy. This would be in order to seek to meet the objectives for Biodiversity Net Gain as a condition of planning permission, in accordance with the Environment Act which received Royal Assent in 2021. The policy also commits to identifying opportunities for linear habitat creation along the active travel network.