



# **Biodiversity Net Gain**

## **Technical Advice Note**

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**March 2024**

**SOUTH DOWNS LOCAL PLAN**

DRAFT



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# I. INTRODUCTION

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## What is Biodiversity Net Gain?

- I.1 Biodiversity Net Gain (BNG) is a way of creating and improving biodiversity by requiring development to have a positive impact ('net gain') on biodiversity.
- I.2 The concept of development delivering a net gain for biodiversity has been part of national discussions for a long time. The principle has been in the National Planning Policy Framework (NPPF) since 2018 and the South Downs National Park Authority (SDNPA) has had a policy requirement in place for applications to demonstrate that development proposals identify and incorporate opportunities for net gains in biodiversity (Policy SD9(1)(b)) since the adoption of the South Downs Local Plan in 2019.
- I.3 Following the Environment Act 2021, and subsequent secondary legislation, there is now a national mandatory requirement for BNG, which has very specific technical and procedural requirements associated with this.

## Purpose of this Technical Advice Note

- I.4 The purpose of this Technical Advice Note (TAN) is to provide guidance for applicants and decision makers on how BNG is to be achieved in the South Downs National Park in accordance with legislation and national policy on BNG and in accordance with existing South Downs Policy and **how BNG is expected to make a meaningful contribution to nature recovery.**
- I.5 The remainder of **Part I** of this TAN sets out guidance on the scope of BNG requirements, including exemptions. SDNPA Requirements for new development are set out in **Part 2** of the TAN, and is divided into the following sections:
  - **Overarching principles** - The key principles that are expected to be applied and demonstrated by BNG proposals.
  - **Major Applications** – Key principles specifically for major applications.
  - **Small Sites** – Interim position BNG requirements for small sites applications pre-02 April 2024. This section will be updated in due course following further information from government.
  - **Securing and monitoring BNG** – Key principles for how BNG will be secured.

## Status of this Technical Advice Note

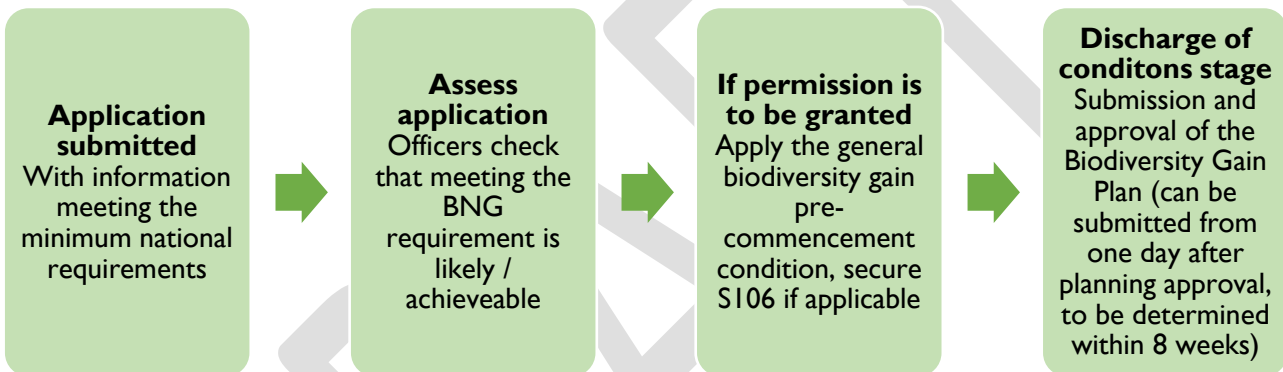
- I.6 This **guidance will be subject to review and will be updated** as new national policy and guidance is available and through ongoing industry learning on key aspects of implementing BNG at national and local level. **The latest version of the TAN should always be used.**
- I.7 This TAN is a material consideration that will be taken into account by decision makers both at the Authority and at the host authorities working on our behalf when determining planning applications that are within the scope of BNG requirements.

## An overview of mandatory BNG

### Key Facts

- **BNG does not change the statutory protection** of certain species, habitats, and designations.
- A **minimum 10% BNG** is required (i.e. 110% of pre-development biodiversity value) as established by the Environment Act 2021.
- Relates to **habitats within the red line** boundary.
- **Significant on site BNG** to be secured for 30 years with an associated Habitat Management and Monitoring Plan (HMMP).
- **Off Site BNG** must be recorded on the national register.
- There are **minimum statutory requirements for what must be provided to support a planning application** in order for it to be validated. The SDNPA has **additional requirements set out in the Local Validation List**.

**Planning Applications Process Overview** - Summary of the minimum process requirements set out in national regulations and guidance:



### BNG Delivery – Onsite, OffSite, Statutory Credits

- Addressing the biodiversity gain hierarchy (37A of the Regulations) and an **appropriate balance** between onsite gains, offsite gains, and the use of statutory biodiversity credits is important.
- Where a development cannot achieve BNG either wholly or partly on site, then the developer can secure the unit shortfall by:
  - **Purchasing units** from appropriate sites on the local net gain habitat market (habitat banks),
  - A **bespoke site** for net gain, or
  - As a **last resort**, the purchase of Statutory Credits.
- A completed metric must be provided with onsite and offsite baseline and post-development calculations completed, so that offsets can be married up.
- Offsite units must be purchased (and the purchase registered) before the Biodiversity Gain Plan (BGP) can be approved. Development cannot commence until the BGP is approved.

**Order of preference:**



**The Statutory Metric**

- BNG is calculated using the Statutory Metric. This uses habitats as a proxy for biodiversity (measured as Biodiversity Units (BUs)).



- The Metric has three distinct BNG type categories: **habitat (area)**, **hedgerow (linear)** and **watercourse (linear)** biodiversity units. **These are not interchangeable** - i.e., 10% gain required for each where they are present.

**Statutory Biodiversity Metric: inputs and outputs**

<p><b>Pre-development</b></p> <ul style="list-style-type: none"> <li>• Habitat Size</li> <li>• Habitat Distinctiveness (Type)</li> <li>• Habitat Condition</li> <li>• Strategic Significance</li> </ul>	<p><b>Post-development</b></p> <ul style="list-style-type: none"> <li>• Habitat Size</li> <li>• Habitat Distinctiveness</li> <li>• Habitat Condition</li> <li>• Strategic Significance</li> </ul> <p><b>PLUS</b></p> <ul style="list-style-type: none"> <li>• Temporal Risk (on and off-site) – time to target condition.</li> <li>• Difficulty Risk (on and off-site) - difficulty to create habitat.</li> <li>• Spatial Risk (off-site only) – distance from impact.</li> </ul>
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**When do mandatory BNG requirements apply?**

- 1.8 Mandatory BNG requirements commence for the following types of development on these dates:
- **12th February 2024 – Major applications** – As defined in article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. This includes all minerals and waste applications.
  - **2nd April 2024 – Small sites** – For residential development: between 1 and 9 dwellings, or if this is unknown, the site area is less than 0.5 hectares; and commercial development: floor space created less than 1,000 square metres or total site area is less than 1 hectare.
  - **November 2025 – Nationally Strategic Infrastructure Projects (NSIPs)**

**What types of planning applications are exempt from mandatory BNG requirements?**

- 1.9 The following types of development are exempt from mandatory BNG requirements:
- **Developments below the threshold** – development that **does not impact a priority habitat and impacts less than 25 square metres (5m x 5m) of habitat or 5 metres of linear habitat**. Existing sealed surfaces such as tarmac or buildings are assigned a zero score in the statutory biodiversity metric, meaning that these surfaces are effectively exempted from the 10% net gain requirement.
  - **Householder applications** - as defined within article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.
  - **Small scale self-build and custom build applications** - as defined in Section 1(A1) of the Self-build and Custom Housebuilding Act 2015, sites up to 9 dwellings with a site area no larger than 0.5 hectares.

- **Biodiversity gain sites** - developments undertaken for the purpose of fulfilling the BNG planning condition for another development through off-site enhancement, or to permit public access to a biodiversity gain site for educational or recreational purposes without payment of a fee are exempt.

### Useful links to legislation, national policy and other guidance

I.10 Please see below for a series of links to legislation, regulations, national policy and guidance, and other guidance on mandatory BNG:

- Schedule 7A of the Town and Country Planning Act 1990 (as inserted by [Schedule 14 of the Environment Act 2021](#))
- 6 [Statutory Instruments / sets of regulations](#)
- [Planning Practice Guidance \(PPG\) for BNG](#)
- The [Statutory Metric](#) and supporting guidance.
- A range of [Defra guidance notes](#) which includes links and guidance for the Register of offsetting sites.
- Articles on the [Defra Natural Environment Blog](#)
- The [Planning Advisory Service \(PAS\) resources](#)
- The [Chartered Institute of Ecology and Environmental Management \(CIEEM\) guidance](#) including good practice principles and case studies.

## 2. BIODIVERSITY NET GAIN REQUIREMENTS FOR DEVELOPMENT PROPOSALS

### OVERARCHING PRINCIPLES

- 2.1 This section sets out the principles for achieving landscape led BNG that makes a meaningful contribution to nature recovery.
- 2.2 The First Purpose of the South Downs National Park is to conserve **and enhance** the natural beauty, wildlife and cultural heritage of the area (*emphasis added*). **It is therefore expected that all BNG is delivered within the South Downs National Park in order to meet the First Purpose.**

#### The First Purpose of the South Downs National Park:

*‘To conserve and enhance the natural beauty, wildlife and cultural heritage of the area’*

Box 1: First Purpose of the National Park

### South Downs Local Plan Policy

- 2.3 The South Downs Local Plan (SDLP) Policy SD9(1)(b) requires it to be demonstrated that development proposals identify and incorporate opportunity for net gains in biodiversity. SD9(1)(b) as currently worded applies to all types of applications and section 38(6) of the Planning and Compulsory Purchase Act 2004 says that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.
- 2.4 Paragraph 020 of the [Planning Practice Guidance](#) states: “*It would be inappropriate for decision makers to continue to give weight to aspects of existing local policies related to biodiversity gains which are inconsistent with the statutory framework for biodiversity net gain... decision makers should not give weight to local policy which requires biodiversity gains for types of development which would now be exempt under the statutory framework*”. The conflict with Policy SD9 is acknowledged and the role of the PPG advice and the statutory provisions is an important material consideration which indicates that BNG should not be applied to exempted development such as householder applications.
- 2.5 It is important to note that other policy requirements in the SDLP for biodiversity still apply. This is recognised by planning practice guidance paragraph 020 which goes on to say: ‘*other local biodiversity policies which require specific enhancements to support biodiversity would continue to apply to these applications where appropriate*’. The application of Local Plan Policy SD2 still requires “an overall positive impact on the ability of the natural environment to contribute goods and services” which may include biodiversity enhancements and overall gains and is still applicable. Other criteria in Policy SD9 contain important requirements for other aspects of biodiversity. As do many other policies in the SDLP, including but not limited to: SD10 International Sites, SD11 Trees, Woodlands and Hedgerows, SD17 Protection of the Water Environment and SD50 Sustainable Drainage Systems.

## A Landscape-led Approach to BNG in the South Downs

- 2.6 Development proposals are required to take a landscape-led approach in accordance with South Downs Local Plan Policies SD4 (Landscape Character) and SD5 (Design) and supporting information including the Design Guide SPD. **It is expected that applications will demonstrate how the overarching landscape-led principles set out in Box 1 have been addressed.** A landscape-led approach should support actions for the ‘right habitats, in the right places, for the right reasons’, maximise multiple benefits, and continue to meaningful nature recovery. The remainder of this section provides information and guidance on how to apply BNG in accordance with the principles below.

### **Key Principles for a Landscape-Led Approach to BNG in the South Downs**

- **Principle 1 - Consider BNG in a landscape context at the earliest stages in the design process.** Helping to achieve better outcomes for biodiversity and avoiding need to retrofit BNG at a late stage resulting in costly changes to design proposals.
- **Principle 2 – Respond to the local landscape, cultural heritage, and ecological context of the site.** Consider the surrounding landscape patterns and elements including habitats, connectivity, historic landscape and cultural heritage features around the site (i.e. within the Ecological Impact Assessment zone of influence). Evidence to inform this includes the [South Downs Landscape Character Assessment 2020](#).
- **Principle 3 - Respond to the site-specific evidence within the development site itself.** e.g. geology, soils, aspect, slope, topography, existing ecology and past land uses which can provide a positive steer on opportunities for restoration or can impact feasibility of proposals.
- **Principle 4 – Be informed by strategic and/or adopted evidence and guidance.** Information for landscape and ecology of the area can be found in existing publications. The [South Downs Landscape Character Assessment 2020](#) includes Nature Recovery Zone layers, this evidence should be used to inform BNG proposals.
- **Principle 5 – Apply the Lawton Principles of bigger, better, more joined up... and more.** This could involve repairing or restoring habitats, expanding, buffering and/or connecting habitats, or renaturing habitat that has been heavily modified to function by natural processes.
- **Principle 6 – Support naturally functioning ecosystems and use of nature-based solutions.** e.g. thinking holistically about wider benefits of BNG design and the multiple benefits that may be achieved.
- **Principle 7 – Be well designed for ecological functionality.** e.g. consider size, habitat type, context and connectivity in relation to the intended function of the habitat.

Box 2: Key Principles for a Landscape-Led Approach to BNG in the South Downs

## Delivering BNG to achieve meaningful Nature Recovery

- 2.7 BNG is one of a toolkit of strategic measures designed to contribute to nature recovery. To achieve this, it is essential that BNG proposals must be meaningful, respond to contextual evidence, maximise opportunities for nature and follow best practice principles. The following principles must be addressed by development proposals and demonstrated through the submitted supporting ecology and BNG information.



*Demonstration of Competency*

- 2.8 The [Statutory Metric User Guide, Feb 2024](#) states: “Principles and rules underpin the use of the biodiversity metric tool. The first principle is that the metric assessment should be completed by a competent person. A competent person has the knowledge and skills to perform specified tasks to complete and review biodiversity metric calculations. You obtain this through training, qualifications, experience, or a combination of them. Competency is aligned with the British Standard ‘Process for designing and implementing biodiversity net gain (BS 8683:2021)’. You should be a qualified assessor to undertake a river condition assessment.”

*Application of the Mitigation Hierarchy*

- 2.9 Statutory delivery of enhanced biodiversity does not override the need to avoid, mitigate and enhance the existing biodiversity value of a site and policy and legislation to prevent this happening has not changed in this regard. The mitigation hierarchy sets out that impacts on biodiversity must first be avoided then mitigated and only as a last resort, compensated. This must be done before measures that will provide a net gain can be identified. Any submitted Ecological Impact Assessment (EclA)/Environmental Impact Assessment (EIA) report will need to clearly evidence the genuine application of the Mitigation Hierarchy prior to the proposed gains in the Biodiversity Gain Plan. The best and most efficient means of avoiding the need to create additional biodiversity is by retaining the most important existing habitats on-site, which then can be targeted for enhancements, e.g. via restoration to improve habitat condition. Mitigation or compensation for any negative impacts to Irreplaceable Habitats or protected/priority species on site is considerably easier to achieve when adequate and suitable habitat is retained on-site.

*Additionality and Compensation for Irreplaceable Habitats, Protected and Priority Species*

- 2.10 BNG does not replace existing protections for designated sites and protected/priority species. All other biodiversity requirements, policies and best practice must be fully addressed and demonstrated alongside BNG as part of any planning application. BNG must be in addition to ‘business as usual’ and cannot substitute for other legal instruments requiring biodiversity enhancements, for example on statutory protected sites (such as Sites of Special Scientific Interest (SSSI)).

*Protected and Priority Species:*

- 2.11 The Statutory Biodiversity Metrics use habitats as a proxy for biodiversity value and do not take rare, notable, and protected species into consideration. It will therefore be necessary to demonstrate how these species have been considered, protected, and supported through the Ecological Impact Assessment (EclA) process in order to address legal requirements and to meet Policy SD9(1)(d) of the South Downs Local Plan. The presence of protected species is expected to influence the design, layout and specification of the proposals for habitat retention, enhancement and creation and this should be clearly demonstrated in the planning application documentation.
- 2.12 Although there may be species benefits resulting from habitat enhancement and creation, BNG does not replace or override species-specific enhancements, which should continue to be provided in line with the top tier of the mitigation hierarchy and South Downs Local Plan Policy SD9.

*Irreplaceable habitats:*

- 2.13 Irreplaceable habitats are by definition highly valued habitats, and their protection should be prioritised in the site proposals – development resulting in the loss or deterioration of Irreplaceable Habitats should be refused, unless there are wholly exceptional reasons as per South Downs Local Plan Policy SD9(2)(d).
- 2.14 The Schedule to The Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024 ([legislation.gov.uk](https://legislation.gov.uk)) sets out an initial list of Irreplaceable Habitats to support the launch of mandatory BNG including: blanket bog; lowland fens; limestone pavements; coastal sand dunes; ancient woodland; ancient trees and veteran trees; *Spartina* saltmarsh swards; Mediterranean saltmarsh scrub.
- 2.15 Government has committed to a public consultation on a broader definition of irreplaceable habitat in 2024.
- 2.16 The Statutory Biodiversity Metric does not account for Irreplaceable Habitats and those defined in the Metric are flagged and included on a separate worksheet to emphasise their retention: any loss to their original baseline area automatically triggers an error on the Headline Results worksheet. By definition, their loss cannot be adequately compensated. Where ‘compensation’ in respect of applying the mitigation hierarchy ends (i.e. to the point of no net loss), and where contributing to the required quantum of biodiversity net gain starts, is an area currently left largely to professional ecological judgement. There will be clear cases, for example around impacts to protected/priority species, where ‘compensation’ is considered bespoke and thus inadmissible as net gain, but others will not be so straightforward and thus highlighting the clear driver to retain important habitats on site. It must be clearly set out in the Biodiversity Gain Plan what habitat enhancement/creation consists of compensation contributing up to ‘no net loss’ and what consists of proposals contributing to the biodiversity gain element of the calculations. Applicants are expected to follow Government guidance (including [‘Irreplaceable Habitats’](#) and [‘What Can Count Towards Biodiversity Net Gains’](#), and [Planning Practice Guidance](#)) in the approach to compensation and biodiversity net gain.

*Selection of Appropriate and Functional Habitats*

- 2.17 Site-specific evidence will be needed to inform BNG choices for the site. Consideration of past uses and how management might have affected the quality and condition of habitats present within and adjacent to the site will provide a useful steer on opportunities for restoration.
- 2.18 When completing a Biodiversity Gain Plan (as required by the legislation), applicants should provide evidence that project targets are achievable and viable within the project time frame, supported by ecological best practice. If the time for a habitat to reach target condition exceeds the project timeframe, then the following should be considered: whether more achievable outcomes would be more appropriate; whether a longer project timeframe or agreement is required (for example, where like-for-like replacement of a high distinctiveness habitat such as lowland calcareous grassland is required).
- 2.19 High and very high distinctiveness habitats require very specific environmental conditions to become successfully established. In the Biodiversity Gain Plan applicants should demonstrate how these requirements will be met over the project timescale, by including reference to factors including: habitat size (and potential for edge effects), location and geology,

management, environmental conditions, access arrangements (e.g. for mowing/grazing) and habitat requirements, e.g. soil condition/structure and pH.

### Strategic Significance

- 2.20 Strategic significance is one of the inputs of the Statutory Metric. It is one of three core habitat quality inputs (the others being distinctiveness and condition) which contribute towards the calculation of biodiversity units. It is a multiplier within the calculation that responds to the local significance of the habitat based on its location and the habitat type. This multiplier is applied to the baseline (the current habitats) and the proposed post-development (the proposed habitat enhancement and creation) calculations.
- 2.21 The [Statutory Metric User Guide February 2024](#) states that ‘Where a Local Nature Recovery Strategy (LNRS) has been published, you should use the relevant published LNRS, and the descriptions set out in table 7 [of the User Guide] to assign strategic significance’. In this area, the Responsible Authorities for preparing LNRS are the County and Unitary Councils. Current timetables indicate that publication of approved LNRS is likely to be during summer 2025. In the absence of LNRS, the User Guide states: ‘If an LNRS has not yet been published, a relevant planning authority should specify alternative documents for assigning strategic significance whilst an LNRS is put in place’ and refers to Table 8 within the User Guide for assigning strategic significance. In summary:
- High – When the habitat type is mapped and described as locally ecologically important within a specific location in a formally identified local strategy.
  - Medium – When the habitat and location is ecologically desirable but not in local strategy.
  - Low – When the area / compensation is not in local strategy and where habitat and location is not ecologically desirable as per the medium category.
- 2.22 Whilst the LNRS framework is in development, in the South Downs National Park the areas classed as having ‘High’ strategic significance will comprise existing designated sites (Special Protection Areas (SPAs), Special Areas of Conservation (SACs), Sites of Special Scientific Interest (SSSIs), Local Wildlife Sites (LWS/SINC/SNCI) and Ancient Woodland) and Biodiversity Opportunity Areas (BOAs) (excluding built or sealed surfaces or land within these areas). This is on the basis that they are well established, known, understood, and applied in planning, are referred as part of SDLP Policy SD9 and its supporting text, and these are expected to inform the Hampshire, West Sussex, and East Sussex LNRS. A map of the BOAs and designated sites is available on the SDNPA website. In addition, designated sites can be viewed on the South Downs Local Plan Policies Map. BOAs in Sussex can be viewed on the [Sussex Local Nature Partnership \(LNP\) website](#) and BOAs in Hampshire can be viewed on the [Hampshire County Council website](#).
- 2.23 The ‘Medium’ category comprises Priority Habitats outside of BOAs and the zones mapped in the Nature Recovery section of the South Downs Landscape Character Assessment 2020. This is not a formally identified strategy but it is an evidence document for restoration and nature friendly habitat enhancement and creation for landscape types across the National Park.
- 2.24 Tables 1 and 2 below explain the interim approach in more detail. Table 1 gives definitions for how strategic significance should be applied to the baseline calculations. Table 2 gives definitions for how strategic significance should be applied to the post-development calculations.

- 2.25 Overall, this should maximise the attraction of locating off-site net gain projects within the BOAs, where these will have most impact on repairing habitat connectivity (a key aspect of ‘landscape-scale’ conservation) and therefore recovery of SDNPA’s nature/biodiversity.
- 2.26 Once approved LNRS are published, the ‘high’ strategic significance category will be limited to land identified within the LNRS and the ‘medium’ category will disappear. This could mean that some sites for off-site BNG provision are scored differently during this interim period than they will be once the LNRS are approved. It also provides an incentive for landowners to submit their sites for inclusion within the LNRS.

Table 1: Strategic Significance for baseline calculations

<b>Strategic significance (metric multiplier)</b>	<b>Definition</b>
High (x1.15)	<p>With the exception of built or sealed surfaces or land within these areas, every constituent habitat-type:</p> <ul style="list-style-type: none"> <li>• Within Biodiversity Opportunity Areas (BOAs); and</li> <li>• Within designated sites (Special Protection Areas (SPAs), Special Areas of Conservation (SACs), Sites of Special Scientific Interest (SSSIs) and Local Wildlife Sites (LWS/SINC/SNCI) and Ancient Woodland)</li> </ul> <p>A map of the BOAs and designated sites is available on the SDNPA website.</p>
Medium (x1.10)	<p>Priority Habitat/Habitats of Principal Importance beyond BOAs and areas within mapped South Downs Landscape Character Area Nature Recovery Zones layers ‘<i>Nature friendly actions to improve and connect existing habitats</i>’ and ‘<i>Actions to restore and create new habitats</i>’ should be scored as medium strategic significance (i.e., location ecologically desirable but not in local strategy).</p>
Low (x1.0)	<p>All other habitats should be scored as low strategic significance (i.e., area not in local strategy).</p>

Table 2: Strategic significance for post-development habitats calculations

<b>Strategic significance (metric multiplier)</b>	<b>Definition</b>
High (x1.15)	<p>Within BOAs and other designated sites outside these areas, BNG proposals can be scored as ‘high significance’ when the proposals are enhancement or habitat restoration of:</p> <ul style="list-style-type: none"> <li>• Priority Habitat/Habitats of Principle Importance or equivalent quality, or</li> <li>• habitats which support species of conservation importance relevant for those areas, or</li> <li>• the wider objectives of the BOA/designated site</li> </ul>
Medium (x1.10)	<p>Actions to create or improve other habitats within Priority habitats or within the LCA Nature Recovery Zone layers ‘<i>Nature friendly actions to improve and connect existing habitats</i>’ and ‘<i>Actions to restore and create new habitats</i>’, outside of BOAs or designated sites will be scored of medium significance (i.e., location ecologically desirable but not in local strategy).</p>
Low (x1.0)	<p>Enhancements to any habitats beyond BOAs/ LCA Nature Recovery Zone layers or outside of designated sites and outside</p>

	Priority Habitat/Habitats of Principal Importance will be scored of low strategic significance (i.e., not in local strategy).
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**Spatial Risk Multiplier (for offsite units)**

- 2.27 For the South Downs National Park, the key categories in the Statutory Metric are:
- Compensation inside Local Planning Authority (LPA) boundary or National Character Area (NCA) of impact site
  - Compensation outside LPA or NCA of impact site, but in neighbouring LPA or NCA
  - Compensation outside LPA or NCA of impact site and neighbouring LPA or NCA
- 2.28 The SDNPA boundary is intersected by several LPA and NCA boundaries. Development sites within the SDNP boundary which rely wholly or partially on off-site BNG provision are expected to deliver the required Biodiversity Units within the South Downs National Park unless there are exceptional reasons why this cannot be achieved. Within the National Park boundary, preference should be given to off-site provisions which fall within the same NCA (and ideally within the same Landscape Character Area (LCA) as the impact site), unless there are ecological or other reasons why this cannot be achieved.

**Selling excess Biodiversity Units**

- 2.29 National guidance allows the sale of excess Biodiversity Units where more than 10% biodiversity gain is demonstrated on site. Should the sale of excess units be sought, national legislation and [guidance](#) must be followed, excess units must be identified as clearly within the red line of the site, and a buffer of Biodiversity Units will be expected to minimise risks around failure to deliver the minimum 10% gain. The size of the buffer will be agreed between the concerned party and the planning authority and will be determined on a case-by-case basis depending on the habitat types and areas involved and the overall quality of the scheme.

## MAJOR APPLICATIONS

### Local requirements

- 2.30 In addition to Statutory BNG information set out in Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), applicants are required to submit the following additional information as set out in the Local Validation List:
- BNG Strategy setting out how 10% BNG will be achieved, and
  - Completed draft Statutory BNG Metric for the proposed scheme.
- 2.31 A statement of competency including qualifications, training, and relevant experience (Paragraph 2.4) should be provided in the Biodiversity Strategy submitted at validation stage.
- 2.32 The Full Statutory Metric should be completed by a suitably qualified Ecologist (Paragraph 2.4). For Metrics containing watercourse units, the river condition assessment component should be completed by a [qualified assessor](#) and evidence should be provided to confirm this.
- 2.33 Where appropriate, applicants are encouraged to include a draft Biodiversity Gain Plan and a draft Habitat Management and Maintenance Plan at validation stage, to inform discussion around feasibility, securing and monitoring of BNG. However, this is not a requirement of validation.

### Meaningful BNG

- 2.34 By virtue of their size, major applications are likely to present the best opportunities for achieving ecologically functional, landscape-driven biodiversity gains. The SDNPA therefore attaches high importance to the delivery of BNG on major sites. Applications should clearly demonstrate how the BNG proposals have been developed in line with the overarching principles set out in this document, the approach taken to retaining, protecting and improving Irreplaceable Habitats and in the application of the BNG Hierarchy in relation to very high, high and moderate distinctiveness habitats.

## **SMALL SITES APPLICATIONS**

- 2.35 The mandatory requirement for BNG for applications for Small Sites is not expected to commence until 2 April 2024. A draft version of the Small Sites Metric is available, but other national policy and national guidance on applying BNG will be produced.
- 2.36 In the interim, South Downs Local Plan Policy SD9(1)(b) remains relevant, and applicants are encouraged to provide a minimum of 10% BNG demonstrated by the draft Small Sites Metric.
- 2.37 This section of the TAN will be updated with further guidance on applying the mandatory requirements for BNG for small sites applications in the South Downs National Park in due course.

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## SECURING AND MONITORING BNG

### Principles for securing and monitoring BNG

2.38 Set out below are key principles and process information for securing and monitoring BNG both on site and for off-site arrangements.

1. **A tiered approach to S106 monitoring:**

- a. **Tier 1 – Major development applications (excluding exemptions) submitted on or after 12<sup>th</sup> February 2024: As a starting point, all major applications are considered likely to be ‘significant’ in regards onsite BNG on the basis of their size/scale, unless demonstrated otherwise by the applicant in accordance with the guidance published by Defra and where agreed by SDNPA.**
- b. **Tier 2 – Small sites (excluding exemptions) determined under SD9(1)(b) in the transition period prior to 2<sup>nd</sup> April 2024.**

**Table 3: Approach for securing and monitoring on-site and off-site BNG**

Tier	Pathway	Secured by	Monitoring approach
<b>Tier 1</b> Major applications (excluding exemptions) submitted on or after 12 <sup>th</sup> February 2024.	(a) On-site (significant on-site BNG)	Secured by S106	LPA compliance monitoring – a fee will be secured. Information on charges will be published on the SDNPA website. BNG provider-led monitoring undertaken by and paid for by developer unless strategic partnership agreement with LPA made.
	(b) Offsite – established habitat bank	Secured through condition and then proof of purchase at discharge of condition stage.	n/a – Monitoring fees and approach are agreed with the habitat bank provider separate to the development application.
	(c) Off-site – bespoke	Secured by S106	LPA compliance monitoring – a fee will be secured. Information on charges will be published on the SDNPA website. BNG provider-led monitoring undertaken and paid for by developer unless strategic partnership agreement with LPA made.
	(d) Statutory Credits	Secured through condition and then proof of purchase at discharge of condition stage.	n/a – No specific monitoring fee or approach – these are a nationally administered system.
<b>Tier 2</b> Applications for ‘small sites’ (excluding exemptions) under Policy SD9(1)(b) in the transition period prior to 2 <sup>nd</sup> April 2024		Secure through condition Standard condition charge.	N/A

2. **Private land (excluding residential gardens) or communal/shared land can be used for significant on-site BNG however the management must be secured through a S106 legal agreement and guaranteed through a management company or landowner with liability for the ongoing maintenance and requirement for the land, and the primary purpose of this land must be managed for biodiversity. The legal agreement would need to bind the owner of the land in question and set out clearly how the land will be managed during the 30-year period. A compliance monitoring**



**fee would be secured for the role of the SDNPA in monitoring and enforcing the obligations over the 30-year period.**

Reason: Private land is relatively difficult to observe, monitor and enforce and so this principle will help to ensure that private land does make the intended contribution to BNG.

**3. When s.106 agreements are used they must include a requirement that the LPA is notified of all land transfers i.e. when landownership changes.**

Reason: As land may be sold over the 30-year period, it will be important for LPAs to know who the landowner is for any monitoring and enforcement queries.

**4. For medium and high distinctiveness habitat (level 4 or higher) and other habitat as appropriate, the management company responsible for the creation and / or management / maintenance of that habitat must demonstrate competency in relation to those habitats (i.e. relevant qualifications and expertise).**

Reason: One of the aims of BNG is to protect and enhance England's habitats of high conservation value. However, by their nature these habitats are often difficult to create and maintain. The SDNPA landscape is characterised by certain high-distinctiveness habitats (e.g. lowland calcareous grassland) which are likely to be targeted for creation and enhancement within the Statutory Metric. We must therefore ensure that habitats proposed are feasible and achievable, to ensure meaningful BNG is achieved within the SDNP. Competency of parties involved in assessing baseline and post-development habitats through the Metric AND those implementing approved schemes through a S106 must be sufficiently demonstrated and approved by the SDNPA prior to commencement. This threshold for medium and high distinctiveness habitat is based on the new Biodiversity Gain Hierarchy set out in paragraph 008 of the [Planning Practice Guidance](#).

### **Habitat Banking Criteria**

2.39 A [Habitat Bank Checklist](#) has been produced by SDNPA setting out key information for landowners interested in creating habitat banks in the South Downs National Park as part of new rules for Biodiversity Net Gain (BNG). The Checklist sets out for landowners the information that is required in order satisfy the SDNPA validation process of a prospective Habitat Bank for BNG prior to entering into a s106 legal agreement.

