

Birmingham Local Plan Review

Background paper: Biodiversity Net Gain

June 2024



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Biodiversity Net Gain Background Paper

1. Policy context and background

- 1.1 The National Planning Policy Framework (NPPF) Paragraph 179b states that in order to protect and enhance biodiversity and geodiversity, plans should 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 d) states that development whose primary objective is to conserve or enhance biodiversity should be supported, while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
- 1.2 Biodiversity Net Gain (BNG), represents a significant change to how we will plan for biodiversity through the planning system. The current system relies on ensuring no net loss to biodiversity by protecting designated sites and priority habitats and species from harmful development. This system works well to avoid the most severe impacts on biodiversity and protect the best sites for wildlife, but less well to manage the gradual erosion of lower value and more common habitats which benefit a broad range of flora and fauna. Cumulatively, even insignificant losses of habitat at a development scale add up to significant rates of biodiversity loss overall. Evidence of continued loss in England clearly indicates that this policy is contributing to significant biodiversity losses occurring throughout England.
- 1.3 BNG gives value to all habitats, even common non-priority habitats (for example, improved grassland and arable fields), which have not previously been recognised in the planning system and their loss not given any weight in decision making. Policy requires that losses are accounted and compensated for in a way which results in net gain.
- 1.4 The Environmental Act sets out the framework for requiring development proposals to deliver a minimum 10% BNG. Some local authorities are implementing higher minimum requirements to address the challenges of balancing unprecedented demand for development with the need to protect and restore the natural environment. Birmingham City Council wish to explore whether a policy requirement for higher than the minimum 10% level of BNG would be achievable and viable within the City, particularly given the large number of brownfield sites.
- 1.5 The 10% BNG Requirement set out in legislation is mandatory and therefore there is no scope for LPAs to reduce the requirement based on viability or other issues. LPAs are also encouraged to develop a locally specific policy to allow them to set out what strategies they require applicants to take into account in delivering BNG in order to target off site BNG delivery and to determine the strategic significance score that is



part of the Biodiversity Metric. BNG can then contribute to wider nature recovery plans and can link biodiversity to other strategic objectives and the overall place making strategy for an authority.

- 1.6 If a higher than the mandatory 10% national requirement is set out within the Local Plan and it is deemed to be sound i.e. viability has been tested and the BNG target checked against other policies in the Plan, it becomes difficult for developers to challenge it.

2. Responses to BDP Review Issues and Options Consultation

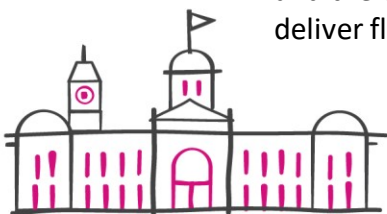
- 2.1 A number of responses were received relating to BNG and in particular relating to the requirement for more than 10% BNG on sites and also the potential to make off site provision. The main points can be summarised as follows:

In support of an increased BNG requirement:

- 20% BNG requirement would be in line with other regional authorities and should be more achievable in Birmingham's urban environs.
- The Environment Agency has a target of achieving 20% BNG for all developments.
- Some examples of where higher BNG has been achieved on sites across the City include Snow Hill Wharf (40% BNG) and Glasswater Locks (32% BNG)
- Strong support for proposals that offer over 10% BNG, especially in areas subject to flood risk from all sources. Should give priority to areas that are vulnerable to surface water flooding which should be prioritised for additional BNG targets as the creation of biodiversity assets often actively reduce flood risk.
- BNG should be at least 50% considering the majority of land in Birmingham is already developed and therefore has low levels of biodiversity.

Off-site BNG provision:

- Off-site BNG provision should be closely tied in with the Local Nature Recovery Strategy and Urban Forest projects.
- Concerned that the Local Plan could inadvertently encourage the use of off-site BNG – this should be a last resort.
- The Council's approach of brownfield sites first should not result in a higher BNG requirement which could conflict with the higher densification target which would lead to inefficient use of land in order to meet higher BNG requirements. Where BNG requirements can't be met on site – this may result in off-site contributions which could impact the viability of a site when balanced against other policy requirements.
- It may be better to allocate a few larger sites in and around the city to create large areas of open space for nature which maybe more beneficial to wildlife and the general quality of the environment?
- Off-site BNG provision would be better informed after the publication of the SFRA and the opportunity to look at which interventions would be most appropriate to deliver flood risk and biodiversity net gain outcomes. Any off-site provision should



support the creation of enhanced green and blue corridors and the retrofitting of SUDs within heavily urbanised areas of the City.

- It may not be possible for all sites to provide BNG on site. The Council should apply proportionality and be supportive of off-site solutions where required as allowed for through the Environment Act.
- Sites without reasonable opportunities to achieve BNG should not face the risk of delay through prescriptive requirements that do not include provision for off-site contributions to mitigation where this is appropriate as required.
- Consideration should be given to the provision of a comprehensive package of strategically located habitat banks across the Birmingham area without a comprehensive network of these, it will be difficult for developers that require off site mitigation to deliver this within Birmingham.
- BNG is a contentious subject and the practice of applying it is not yet adequately worked out. Caution should be adopted in proposing that offsite compensation for loss of biodiversity to new development be a formal policy in the Plan. Such off-site development can fail to compensate for losses.
- Sceptical about off-site provision. This should only be done as a last resort the default should be a BNG on or near the site. Any off-site BNG should be provided within the City and in close proximity to the development.

Viability Issues and Concerns:

- Robust measures should be included to ensure that viability calculations take account of the environmental benefits.
- Arrangements for investment, management, monitoring and enforcement must be included in future versions of the Plan.
- The main challenge the requirement poses is towards the viability of future development and therefore a flexible approach towards the application of BNG requirements is suggested.
- The ability to meet a particular BNG uplift target on site will be influenced by a range of factors including the existing biodiversity of the site, the type of development proposed and the requirements being made of development to make provision for open space or other uses which may impact the availability of space or compete in use terms with BNG provision.
- 10% BNG refers to the baseline biodiversity value of the site in question so although on some sites people find it genuinely quite easy to achieve a 10% gain, on others it will genuinely be challenging because of the existing nature of the site.
- Believe that 10% BNG is achievable for most developers and that it should be pushed for major developments.
- Request that a BNG of no higher than 10% is set as the mandatory minimum requirement to avoid the risk of potential mineral operations becoming unviable. It is counter intuitive and contrary to national policy guidance to introduce policy which could hamper the viability of mineral infrastructure sites within the Plan area.
- Recognise that the 10% is a minimum requirement, however it should be for the developer to decide whether they go beyond this figure, not the Council.
- It is impossible to know what the cost of delivering net gain is until the base level of biodiversity on a site is known and consequently what is required to achieve a



10% net gain. On some sites this may be achievable on site with no reduction in developable area, for others it may require a large proportion of it to be addressed offsite, or a significant reduction in the developable area – a far more expensive option that could render a site unviable without a reduction in other policy requirements.

- It is noted that some of the conclusions reached in the Sustainability Appraisal in respect of BNG say that “going beyond 20% may place an added burden on new development in terms of space required and costs which may negatively impact viability and consequently housing delivery.
- If land is to be released from the Green Belt (which we consider will be necessary), there may be a fairly sizeable amount of housing being developed on sites that could have a higher biodiversity baseline than an urban site. Requirement to deliver a 20% BNG on such sites could therefore impact on development capacity and viability.
- Care must be taken when seeking to make blanket policy requirements where the justification is not applicable to all sites and any policy changes in respect of BNG must be robustly informed.

3. Feasibility and Viability Evidence

3.1 The majority of LPAs that have adopted or have emerging policies requiring greater than 10% net gain are predominantly in urban locations. The Birmingham City Issues and Options Consultation Report states that the Council stated that Birmingham was considering a higher percentage of BNG since the majority of development sites will be on brownfield land with limited biodiversity value. The BNG baseline of new developments could therefore be lower and therefore a 10% increase could be negligible.

3.2 DEFRA’s Impact Assessment Document (dated 21/11/18), states that in simple terms 10% is the lowest level of net gain that DEFRA could confidently expect to deliver genuine net gain, or at least no net loss of biodiversity and thereby meet its policy objectives. The Impact Assessment looked at the impacts of 5%, 10% and 20% net gain and concluded “While this suggests that varying the level of net gain between 5% and 20% has very limited impact on the outcome, there is a trade-off between cost implications for developers and the likelihood of net gain being delivered at a national level (e.g. Less costly/likely at 5% net gain compared to 10% and vice versa for 20%)

3.3 The advice from some Natural Capital Committee members suggested that a level of net gain at or above 10% is necessary to give reasonable confidence in halting biodiversity losses. DEFRA therefore favours as high a level of net gain as is feasible. The analysis undertaken in this Impact Assessment indicated that the level of requirement makes relatively little difference to the costs of mitigating and compensating for impacts.

3.4 Officers have produced a background report on the approaches that other authorities have taken towards BNG requirements. This included Horsham District, Guildford Borough Council, Kent Nature Partnership, South Worcestershire, Rossendale



Borough Council and Swale Borough Council. In summary, evidence from those Local Planning Authorities who have commissioned viability work on % biodiversity net gain for new developments, indicates that an increase from 10% BNG to 15 – 20% BNG will not materially affect viability in the majority of cases when delivered on site or off site.

- 3.5 The highest cost in most cases is to get to the mandatory 10% BNG requirement. The increase above this requirement up to 15 and 20% in most tested cases, cost proportionately less and would therefore generally appear to have more negligible implications on scheme viability.
- 3.6 In addition, and potentially appropriate for many site-specific circumstances within Birmingham, where the starting BNG baseline is low (for example on cleared brownfield sites), it may prove easier for developers to provide considerably larger BNG increases over 20%.
- 3.7 Officers noted that a significant caveat is that to date only a handful of authorities have undertaken viability assessment on increasing the mandatory BNG requirements and therefore the current evidence is not particularly representative of many LPAs. This is a significant concern reflected in many of the responses summarised above, to proposed BNG requirements.
- 3.8 BCC has recently commissioned Aspinall Verdi to undertake a whole plan viability assessment on the BDP Plan Review. In light of the viability evidence from other authorities and the concerns raised during the Issues and Options consultation, it is advisable for the cost implications of BNG to be tested at 10, 15 and 20 % and also on site-based typologies.
- 3.9 Aspinall Verdi completed the Viability Report in April 2024. Paragraph 87 of the Viability Report states:

“We also recommend that the policies in respect of net zero energy and other design costs e.g Urban Greening Factor are set at a minimum Building Regulations/National Policy level. This is in accordance with the Written Ministerial Statement (WMS). The WMS states that *“the Government does not expect plan makers to set local energy efficiency standards for buildings that go beyond current or planned building regulations.”* The proliferation of multiple, local standards by local authority area can add further costs to building new homes by adding complexity and undermining economies of scale and we concur with these findings herein.”

- 3.10 Paragraph 8.8 of the Viability Report states:

“Developers are currently facing multiple challenges of high land value expectations in Birmingham, high interest rates (which impact development finance and mortgage rates) and mandatory policy costs (e.g CIL and BNG). We therefore recommend that any discretionary requirements are minimised in order to focus on the delivery of housing generally and affordable housing specifically. “



4. BNG Evidence Base for Birmingham

4.1 Establishing a baseline for BNG

Using a baseline dataset provides a starting point against which future BNGs can be measured and it is considered good practice for BCC to begin to collate a baseline. It will be important to look at how existing datasets can be used to inform BNG Policy and guidance.

4.2 BCC is commissioning Birmingham and Black Country Wildlife Trust & EcoRecord to identify and quantify opportunities across the City Council's estate for off-site BNG delivery as part of Birmingham City of Nature work.

4.3 Birmingham City Council has become the first UK Local Authority to develop a measurement tool for Environmental Justice. The tool has been used to create the Environmental Justice Map which identifies the areas in the city where the effects of climate change are being felt most acutely. This helps to make sure that we reduce flood and overheating risks for the areas of the city which are most vulnerable and least resilient.

4.4 The 25 Year Nature Recovery Vision Map shows how much more natural Birmingham could become in 25 years. The Matching 2021 Natural Capital Assessment provides what value that would bring collectively to the city. It cites the following City Outcomes:

- Restoration of green spaces, nature and the environment
- Greener development bringing natural landscapes of features into every place and neighbourhood
- The Nature Recovery Network, stretching right across the city and linking with all our West Midlands neighbours, forming part of the West Midlands National Park
- Increase to the tree canopy coverage across the city to 25%.
- Nature Recovery Network Core Habitat Zones
- Nature Recovery Network Core Expansion Zones
- Urban Matrix Recovery Zones

4.5 It is also worth noting that Warwickshire County Council is working with Buckinghamshire and Milton Keynes Councils to look at Priority Offset Location Mapping (February 2021). This was produced to assist with the selection of the location of biodiversity offset sites to be used alongside other criteria to produce a guidance map. The mapping work aims to prioritise, where possible, and in consideration with other criteria, offsetting with the Biodiversity Opportunity Areas, and otherwise in areas that buffer them, or provide linkages within and between them.



- 4.6 In addition, as per the example above under Horsham District, BCC could also consider undertaking a BNG call for sites to help establish a bank of sites in addition to its own suitable land holdings. This could assist with the future provision of strategic habitat banks across the city and would help to provide biodiversity enhancements to offset losses resulting from new developments.

5. BCC Policy BNG Approach

- 5.1 The following Preferred Options Policy wording is proposed:

Biodiversity Net Gain for New Developments

New developments must provide a minimum of 10% Biodiversity Net Gain (BNG). The Council will use the latest version of DEFRA's Biodiversity Metric to establish the baseline and post development gains for biodiversity units.

Applications within the 10 metre zone adjacent to the river(s) bank(s) will also be required to apply the River Biodiversity Metric and ensure that the required levels of BNG for river biodiversity units can be achieved.

In accordance with the mitigation hierarchy, new developments should deliver BNG on site, unless there is robust evidence that it would not be feasible to do so.

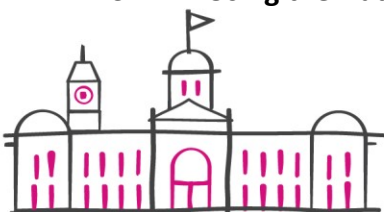
On Site BNG Delivery

Applicants should be able to demonstrate that BNG and associated habitat features have been fully considered from the scheme's outset. An ecological consultant should input into the master planning and design process. Accompanying Design and Access Statements must include reference to BNG and how this has been addressed within the scheme design. This will also be important in addressing the requirements as set out in the Council's Urban Greening Factor Policy ().

Off Site BNG Delivery

Any required residual number of biodiversity units to be delivered off site, should be delivered within the same locality as the development site or/and in one of the following options (in decreasing order of preference):

1. Improvements on sites owned by Birmingham City Council, or its identified partners, particularly those identified through the LNRS, the Strategic Flood Risk Assessment and the City of Nature Plan.
2. On land registered within a private habitat bank within the LNRS area/West Midlands region.
3. Using the National Biodiversity Credit scheme.



Delivery and Monitoring

The Council will require a Section 106 and/or Conservation Covenant to ensure that applicants submit a BNG Management Plan; Annual Management Progress Report and habitat monitoring arrangements for a minimum 30 year period. All biodiversity units delivered as part of the minimum 30-year period will be retained thereafter for the lifetime of the development.

6. Policy alternatives

6.1 The policy alternatives are listed below. These have been considered against the emerging evidence base such as the Viability Assessment and the Issues and Options Consultation responses.

- Do not have a locally specific policy and rely on the mandatory 10% BNG requirements.
- A typology based BNG policy could be progressed based on site characteristics, where a higher % of BNG is sought on brownfield sites.
- A more flexible, open ended policy approach such as that being progressed through the South Worcestershire Development Plan. However, this may not provide a clear-cut policy position on the requirement for an increase on the mandatory BNG and could mean that developers find it easier not to contribute over mandatory levels in these circumstances.

