



A Biodiversity Net Gain Framework for Nottinghamshire and Nottingham

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**Produced in partnership by the BNG Working Group for
Nottinghamshire and Nottingham**

This document has been produced collaboratively by representatives from the organisations shown below.



Mansfield
District Council



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A Biodiversity Net Gain Framework for Nottinghamshire and Nottingham

Foreword

We are in the midst of biodiversity and climate crises, with unprecedented pressure on the natural world and the nature-based services upon which we all rely. It is essential to ensure that Nottinghamshire can play its part in helping to tackle the biodiversity crisis and in creating a high-quality wildlife-rich environment, which will contribute to a greatly improved quality of life and health and wellbeing outcomes for the County's residents.

Each partner Authority who has contributed to this document has been committed for many years to playing their part in meeting the aims of the Nottinghamshire Biodiversity Action Plan, and the delivery of exemplary Biodiversity Net Gain (BNG) in the County is considered an essential part of continuing to meet that commitment in the future.

The solutions to tackling the biodiversity and climate crises are often interlinked, and ensuring that BNG in the County delivers the best possible habitat outcomes for wildlife and people in Nottinghamshire will also help to sequester carbon and reduce emissions. The partners in this document have agreed a strong vision for a better, greener, more wildlife-rich and healthier future for our County, delivered in part through the best use of BNG.

Section 1 - Introduction

- 1.1 The UK Government is seeking to drive nature recovery through a number of measures including the mandating of measurable BNG in new development under the Environment Act 2021. Mandatory BNG is an opportunity to deliver lasting benefits for wildlife and people through the planning process, and is an approach to development and land management that aims to leave nature in a measurably better state and is an important delivery tool to help deliver nature's recovery. However, other legal and policy protections for sites, habitats and species continue to apply, and BNG should be applied in a way that is consistent with the mitigation hierarchy process (see Principle 1 below).
- 1.2 The National Planning Policy Framework (NPPF) already requires Local Planning Authorities (LPAs) to encourage developers to incorporate biodiversity improvements in and around developments and to provide net gains for biodiversity, but the Environment Act strengthens that requirement by mandating the provision of a minimum of 10% BNG.
- 1.3 This document provides guidance for all development schemes across the County on how to achieve gains in biodiversity, building on those NPPF and Environment Act requirements. The aim of this Framework is to ensure that all the LPAs in Nottinghamshire are working towards a shared vision to deliver the most effective BNG consistently across the County, contributing to the creation of a national Nature Recovery Network (NRN) and helping to deliver the Government's commitment of achieving 30% of land protected for nature by 2030 (30x30).
- 1.4 This Framework's aim is to help to inform an aligned approach to policy development across Nottinghamshire, the principles of which can be encompassed in either Local Plans or other local planning guidance, as appropriate to each LPA and the stage of development of their Local Plan.

Section 2 - Background

Biodiversity Loss in the UK

- 2.1 Over the past 60 years environmental conservation in the UK has achieved much to protect what is rare and special; however, research shows that wildlife continues to decline and landscapes continue to be degraded. At a national scale, the abundance and distribution of species has, on average, declined over recent decades and research suggests this decline continues.
- 2.1 The State of Nature Report¹ indicates that since 1970, wildlife in England has declined by 32%, that 68% of plant species assessed have a reduced distribution, and 13% of species are threatened with extinction. Over this period in Nottinghamshire, we have seen the extinction of some species, such as Adders and Fen Violet, and a substantial contraction in the population size and range of many species, including some of those protected by law, such as Water Voles and White-clawed Crayfish. Remaining habitats are often small and fragmented, with less than 2% of the County's habitats being legally protected, 85% of our heathland lost since 1920, and only around 250ha of calcareous grassland surviving.
- 2.2 The decline of wildlife and habitats is a result of many factors, including agricultural management, urbanisation, pollution, hydrological change, forestry, and invasive non-native species. Climate change is also resulting in widespread changes in the abundance and distribution of our wildlife and habitats.
- 2.3 There is therefore much to do to restore and recover ecosystems and to ensure a rich and resilient natural environment that is integral to everyday life. This will be achieved through the creation of a NRN across England, as a result of action by many agencies and organisations across all sectors, and also by local communities and individuals. BNG will be an important mechanism contributing to delivering the NRN and to meeting the UK's 30x30 target.

Policy Background

- 2.4 BNG is already supported under the NPPF, and the delivery of a minimum of 10% BNG is now a mandatory requirement under the Town and Country Planning Act (TCPA) 1990, which was amended by the Environment Act in November 2021. Part 6, provisions 98-101 of the Environment Act 2021 provide the legislative background to the treatment of Biodiversity Net Gain in planning. Mandatory BNG came into effect on the following dates:
- 12 February 2024 for major developments; and
 - 2 April 2024 for non-major developments.
- 2.5 The following explains the context of the BNG approach:
- 2.6 **The NPPF** (revised version December 2023) sets out the Government's planning policies for England and provides a framework within which locally prepared plans for development can be produced and decisions on individual planning applications can be made. Paragraphs 180-188 encompass the principles for protecting and enhancing biodiversity and include the aim of "...*minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*" (para. 180d) and to "...*promote the conservation, restoration and enhancement of priority habitats, ecological networks and*

¹<https://stateofnature.org.uk/>

the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.” (Paragraph. 185b).

- 2.7 The Government’s approach to maintaining and enhancing the natural environment over the next 25 years is set out in **A Green Future: Our 25 Year Environment Plan to Improve the Environment**² (25 YEP), launched in January 2018, which contains a commitment to *‘deliver an improved environment within a generation.’* This document set out a number of goals and targets to achieve environmental benefits including the aim to embed an ‘environmental net gain’ principle for development, and particularly to *“...mainstream the use of existing biodiversity net gain approaches within the planning system, update the tools that underpin them ...”* (page 33).
- 2.8 Included within the 25 YEP is the development of a NRN to protect and restore wildlife, with the goal of providing 500,000 hectares of additional or enhanced wildlife habitat outside of the areas of protected sites (i.e. European, Nationally and Locally designated sites of nature conservation), and BNG can be expected to have a significant role in delivering this. In addition, following the global push at COP15 to protect and conserve at least 30% of the world’s lands, freshwaters and oceans by 2030, the UK Government has committed to the protection of at least 30% of the UK for nature – the **30x30 target**.
- 2.9 Following on from the vision set out in the 25 YEP, the **Environment Act 2021**³ sets out how the Government plans to protect and improve the natural environment in the UK. It introduces a mandatory requirement for a **minimum of 10% BNG** in the planning system, to *“...ensure that new developments enhance biodiversity and create new green spaces for local communities to enjoy”*. It also lays the foundation for the NRN and introduces provisions requiring the development of Local Nature Recovery Strategies (LNRS) across England, as well as introducing a new Environmental Land Management Scheme.
- 2.10 Part 6, provisions 104-108 of the Environment Act describe what LNRS will encompass. BNG and LNRS are tools to help deliver local contributions to the national NRN. LNRS will provide the legal underpinning for the NRN and will be a spatial tool to plan the NRN locally and to prioritise investment in habitat restoration and creation including through BNG, so the LNRS will be an important document to refer to when considering BNG requirements.
- 2.11 However, the publication of an LNRS for Nottinghamshire and Nottingham is set for spring 2025, hence it is essential that this BNG Framework is in place as soon as possible, as the need to deliver BNG has already commenced, and proposals are already being brought forward by the development sector.

²25 Year Environment Plan - GOV.UK (www.gov.uk)

³Environment Act 2021 (legislation.gov.uk)

Section 3 - Over-Riding Principles for Nottinghamshire

3.1 Nottinghamshire's LPAs, the Nottinghamshire Wildlife Trust, the Nottinghamshire Biodiversity Action Group, Natural England and the Environment Agency will work together to address the climate and biodiversity crises through ensuring BNG delivers for people and wildlife in an equitable way, consistently across the County, so that Nottinghamshire's nature recovery delivers multiple benefits for all.

3.2 We will aim to support and diversify our local economies through nature's recovery and deliver nature-based solutions to the risks we face. We aim to deliver this within Nottinghamshire for the benefit of our County's wildlife and people, through adopting the following principles, which have been promoted in a Good Practice Guide⁴ by the relevant professional bodies, the Chartered Institute of Ecology and Environmental Management (CIEEM), the Construction Industry Research and Information Association (CIRIA) and the Institute of Environmental Management and Assessment (IEMA):

- Principle 1. Apply the Mitigation Hierarchy
- Principle 2. Avoid losing biodiversity which cannot be offset elsewhere
- Principle 3. Be inclusive and equitable
- Principle 4. Address risks
- Principle 5. Make a measurable BNG contribution
- Principle 6. Achieve the best outcomes for biodiversity
- Principle 7. Be additional
- Principle 8. Secure a BNG legacy
- Principle 9. Optimise sustainability
- Principle 10. Be transparent

Principle 1: Apply the Mitigation Hierarchy

3.3 The mitigation hierarchy requires development to:

- **Avoid** impacts on biodiversity in the first instance, then where this is not possible to
- **Minimise** the duration, intensity and extent of the impact, then to
- **Mitigate** the residual impacts by enhancement/restoration of on-site habitats, and then as a last resort
- **Compensate** residual impacts by habitat creation or enhancement off-site.

3.4 Whilst these principles should continue to apply to developments that are subject to mandatory BNG, those developments are also required to follow the distinctly separate Biodiversity Gain Hierarchy, which was published as part of Article 37A of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO). LPAs must take into account how the Biodiversity Gain Hierarchy has been followed.

3.5 Except for 'irreplaceable habitats' (see below), the Biodiversity Gain Hierarchy requires that:

- In the first instance, avoid impacts on habitats of medium, high, and very high distinctiveness (as defined in the Statutory Biodiversity Metric);

⁴[Biodiversity Net Gain: Good Practice Principles for Development, A Practical Guide. | CIEEM](#)

- Where this is not possible: adequately mitigate the effects of those impacts;
- For all on-site habitats adversely affected by the proposals, to compensate for these in the following order of priority where possible:
 1. **Enhancement** of existing **on-site** habitats;
 2. **Creation** of new **on-site** habitats;
 3. **Deliver off-site** compensation through the purchase of land or landowner agreements within the LPA area or National Character Area;
 4. **Purchasing** an allocation of registered off-site gains (i.e., purchase of **biodiversity units** from a **local habitat bank**); and (as a very last resort),
 5. **Purchasing** national biodiversity **credits**.

3.6 It is important to note that existing levels of protection afforded to protected species and legally designated sites are not changed. Statutory obligations and other policy protections will still need to be satisfied for these, requiring separate mitigation or compensation.

Principle 2: Avoid losing biodiversity which cannot be offset elsewhere

3.7 There are certain habitats and biodiversity features that are considered to be irreplaceable, and impacts on irreplaceable habitats must be avoided in all but exceptional circumstances – these impacts cannot be offset by BNG and require a bespoke approach. Irreplaceable habitats are defined in the Government’s BNG Guidance on Irreplaceable Habitats⁵. Nottinghamshire has the following irreplaceable habitats within its County boundary:

- Ancient woodland;
- Ancient and veteran trees; and,
- Lowland fens.

Principle 3: Be inclusive and equitable

3.8 Achieve exemplary net gain in partnership with relevant stakeholders, such as through local community consultation in Local Plan development and in consultations on planning applications.

3.9 We will work together across Nottinghamshire in a timely and planned approach to ensure that any habitats restored and created are fairly and equitably located to ensure no community is deprived of the benefits of nature’s recovery. Through the further public consultation on the Nottinghamshire and Nottingham LNRS, we will ensure inclusivity and equality.

Principle 4: Address risks

3.10 Mitigate difficulty and uncertainty and other risks to achieving BNG. Apply well-accepted techniques, in accordance with current legislation and best practice guidance, to add contingency when calculating biodiversity losses and gains in order to account for any remaining risks, as well as to compensate for the time between the losses occurring and the gains being fully realised. The Statutory Biodiversity Metric encompasses a means to understand and place a value on these risks with regard to habitat creation and enhancement.

⁵ <https://www.gov.uk/guidance/irreplaceable-habitats>

Principle 5: Make a measurable BNG contribution

- 3.11 For development that is not exempt from mandatory BNG, legislation requires the delivery of a measurable, overall net gain for biodiversity of at least 10%. However, because of the scale of past (including recent) losses of Nottinghamshire's habitats and species to development, which should now be reversed in order to make progress towards NRN and 30x30, proposals will be strongly encouraged to provide more than 10% BNG.
- 3.12 Minerals development will be expected to deliver substantially higher BNG due to the nature of the development and availability of opportunities. Minerals development should seek to maximise biodiversity gains as outlined within Policy SP2: Biodiversity-Led Restoration of the Nottinghamshire Minerals Local Plan Adopted 2021⁶.

Principle 6: Achieve the best outcomes for biodiversity

- 3.13 Achieve the best outcomes for biodiversity by using robust, credible evidence and local knowledge to make clearly justified choices when:
- Delivering compensation that is ecologically equivalent in type, amount and condition, and that accounts for the location and timing of biodiversity losses;
 - Compensating for losses of one type of biodiversity by providing a different type that delivers greater benefits for nature conservation;
 - Achieving net gain locally to the development while also contributing towards nature conservation at local, regional and national levels;
 - Enhancing existing or creating new habitat;
 - Enhancing ecological connectivity by creating more, bigger, better and joined-up areas for biodiversity; and,
- 3.14 Providing the right habitat in the right place, and at an appropriate scale, with reference to the Nottinghamshire Local Biodiversity Action Plan (LBAP)⁷, the Nottinghamshire Biodiversity Opportunity Maps^{8 9} and Natural England's National Character Areas (NCA)¹⁰.

Principle 7: Be additional

- 3.15 Achieve nature conservation outcomes that demonstrably exceed existing obligations (i.e., they do not deliver something that would occur anyway). This will be carefully assessed and monitored to ensure that habitat creation is not double counted, and that additionality is rigorously achieved. The potential for payment stacking and blended finance for habitat creation from BNG, Carbon Credits, agri-environment schemes etc., is a positive opportunity for bringing back biodiversity to the County, but requires careful accounting to ensure that gains are maximised for wildlife and people.

⁶<https://www.nottinghamshire.gov.uk/planning-and-environment/minerals-local-plan/adopted-minerals-local-plan>

⁷LBAP – Nottinghamshire Biodiversity Action Group (nottsbag.org.uk)

⁸<https://nottsbag.org.uk/projects/biodiversity-opportunity-mapping/>

⁹Document library - Nottingham Insight

¹⁰<https://nationalcharacterareas.co.uk/>

Principle 8: Secure a BNG legacy

3.16 Ensure BNG generates long-term benefits by:

- Engaging stakeholders and jointly agreeing practical solutions that secure BNG for a minimum of 30 years;
- Planning for adaptive management and securing long-term management for at least 30 years, as required under the Environment Act 2021;
- Designing BNG for biodiversity to be resilient to external factors, particularly climate change;
- Mitigating risks from other land uses;
- Avoiding displacing harmful activities from one location to another; and,
- Supporting local-level management of BNG activities, underpinned by the necessary legal and funding obligations as required under the Environment Act 2021 and as advised in subsequent DEFRA guidance on BNG for the use of Section 106 agreements and Conservation Covenants.

3.17 It will be necessary to evidence the impact of BNG. New reporting duties under the enhanced Biodiversity Duty¹¹ require local authorities to publish a biodiversity report (by 1 January 2026), which must contain a summary of action taken by the local authority in carrying out its functions relating to BNG, including information about biodiversity gains resulting or expected to result from Biodiversity Gain Plans. This information will also be critical for capturing delivery towards the Nottinghamshire and Nottingham LNRS, which will have biodiversity targets and a spatial mapping evidence base. This can then be used to promote good practice amongst developers. Monitoring costs can be secured through planning agreements with developers to ensure that they provide their necessary contribution towards those costs.

Principle 9: Optimise sustainability

3.18 Prioritise BNG and, where possible, optimise the wider environmental benefits for a sustainable society and economy and improved natural capital.

Principle 10: Be transparent

3.19 Communicate all BNG activities in a transparent and timely manner, sharing the learning with all stakeholders, including those local communities affected by development.

¹¹Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006, as amended by section 102 of the Environment Act 2021

Section 4 – Other Considerations

Priorities for Net Gain in Nottinghamshire and Nottingham

- 4.1 Legislation requires a minimum biodiversity net gain of 10% to be delivered as part of relevant development. The partnership of LPAs, Natural England, Environment Agency, Nottinghamshire Biodiversity Action Group and Nottinghamshire Wildlife Trust recognise this as a minimum and will encourage developments to provide a higher minimum of 20% biodiversity net gain wherever possible taking account of evidence and viability considerations.
- 4.2 This 20% target will be considered through Local Planning Policies for each district in Nottinghamshire and would have to be subject to relevant viability assessments, but there is recent evidence¹² that the difference in cost in delivering the extra 10% should be very marginal, particularly when balanced against the scale and urgency of the need to bring back biodiversity to the County.
- 4.3 It is expected that developers will not bring forward development where the combined effect of all policy requirements (including CIL) resulted in less than reasonable financial returns for the landowner or developer. Paragraph 58 of the NPPF¹³ says: “*Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable.*” Evidence from elsewhere of local levies or costs beyond national minimum requirements is that it has not disincentivised developments from being brought forward, with some such schemes in place for several years such as in Milton Keynes. Some other counties, such as Cambridgeshire, have now declared a 20% BNG target.
- 4.4 It is recognised that it may not be possible for all LPAs to achieve the aspirational target of 20% BNG on every site, but equally, on some large strategic sites, or for certain types of development such as new mineral extraction, it may be possible to achieve substantially higher than this, which might also benefit local communities further through access to wildlife-rich greenspaces, and consequent improved outcomes for health and wellbeing.
- 4.5 Working towards the aspirational 20% BNG target within the County will initially involve encouraging development to provide more than the mandatory minimum of 10%, with the LPA pre-application advice process providing the main mechanism to do this. Then, at relevant stages of the local plan making cycle, local authorities will give consideration to the aspirational target of 20%, with the objective of assessing whether more than the minimum mandatory 10% BNG can be secured in a financially viable way via local planning policy.
- 4.6 A range of options for the management of on-site BNG features (such as local management groups, or management companies) will be considered on a case-by-case basis as appropriate to each application, with all costs to be borne by the developers and suitable legal agreements in place to ensure long term effective delivery and security of outcomes. This may include requirements for upfront maintenance contributions from developers, as commuted sums. The levels of maintenance contribution will relate to the nature of the net gain mitigation; clearly many features can be integrated into on-site green and blue infrastructure at little or no extra cost to the developer. For off-site BNG, the use of Section 106 Agreements and Conservation

¹²Kent Assesses 20% Biodiversity Net Gain Requirement | CIEEM

¹³https://assets.publishing.service.gov.uk/media/669a25e9a3c2a28abb50d2b4/NPPF_December_2023.pdf

Covenants will be essential and the relevant guidance and documentation from DEFRA will be utilised.

- 4.7 Therefore, the approach to these issues in Nottinghamshire and Nottingham is as follows:

Nottinghamshire and Nottingham Approach

- In accordance with legislation, relevant development will need to provide measurable BNG of at least 10%, but LPAs in Nottinghamshire & Nottingham will encourage development to provide more than the minimum 10%.
- At relevant stages of their local plan making cycles, LPAs in Nottinghamshire & Nottingham will consider securing more than the mandatory minimum 10% (with an aspirational target of 20% or higher) via local planning policies subject to local evidence or plan based viability assessments.
- For new minerals development an ambitious approach to BNG will be encouraged to deliver the best outcomes possible in line with the policies within the Nottinghamshire Minerals Local Plan.

Pre-Application Advice

- 4.8 Because of the need for proposals to follow the Biodiversity Gain Hierarchy, BNG needs to be considered from the outset of a project. Therefore, LPAs will use the pre-application process to encourage early consideration of BNG in development proposals, and to ensure that all the information regarding BNG that is required, is provided when the application is submitted.
- 4.9 As outlined above, the pre-application process provides the opportunity for LPAs to encourage development to provide more than the mandatory minimum 10% BNG, with 20% strongly encouraged.

Measuring Biodiversity Using the Statutory Biodiversity Metric

- 4.10 The Statutory Biodiversity Metric (which also includes the Small Sites Metric (SSM)), uses habitat as a proxy for wider biodiversity with different habitat types scored according to their relative biodiversity value. This value is then adjusted, depending on the condition and location of the habitat, to calculate 'biodiversity units' for that specific project or development, based on criteria such as the habitat distinctiveness, condition and extent.
- 4.11 The Statutory Biodiversity Metric can be used to measure both on-site and off-site biodiversity changes for a project or development and can be used to measure the change in biodiversity achieved by different land management interventions. Guidance for the proper application of the Statutory Biodiversity Metric is used by the Government and can be found online¹⁴.
- 4.12 It is important to note that achieving gains in biodiversity from the calculation does not necessarily mean a development meets any wider requirements of planning policy or law relating to nature conservation or biodiversity, and should only be used after the application of the mitigation hierarchy. Particular care should be taken to ensure that

¹⁴[The_Statutory_Biodiversity_Metric_-_User_Guide_.pdf \(publishing.service.gov.uk\)](#)

avoidance, mitigation or compensation for impacts on species should be rigorously assessed, as this is not encompassed in the BNG metric.

- 4.13 The statutory metric calculations should be made by a suitably qualified (and where relevant, accredited) ecologist who will need to undertake an appropriate on-site ecological appraisal (to best practice standards) with the evidence base supported by robust and transparent survey information and justification. Applications which fall into the Small Sites Metric category should have the calculation made by a competent person. Competency is aligned with the British Standard 'Process for designing and implementing biodiversity net gain: BS 8683:2021', as outlined within the Small Sites Metric User Guide.
- 4.14 All Nottinghamshire LPAs will ensure that they have access to advice from suitably qualified ecologists in the scrutiny of metric calculations, Biodiversity Gain Plans and associated information, so that approaches to BNG can be applied consistently across Nottinghamshire and Nottingham, and can ensure the delivery of high quality BNG in the most appropriate locations.

Significant On-Site Enhancement

- 4.15 There is a requirement on LPAs to legally secure the maintenance of 'significant on-site enhancements' delivered through mandatory BNG, and there is therefore a requirement for LPAs to consider if any on-site gains are 'significant'.
- 4.16 Government guidance defines significant on-site enhancement as "...areas of habitat enhancement which contribute significantly to the proposed development's BNG, relative to the biodiversity value before development...", and goes on to say that "...What counts as a significant enhancement will vary depending on the scale of development and existing habitat, but these would normally be:
- habitats of medium or higher distinctiveness in the biodiversity metric;
 - habitats of low distinctiveness which create a large number of biodiversity units relative to the biodiversity value of the site before development;
 - habitat creation or enhancement where distinctiveness is increased relative to the distinctiveness of the habitat before development;
 - areas of habitat creation or enhancement which are significant in area relative to the size of the development; and,
 - enhancements to habitat condition, for example from poor to moderate or moderate to good.
- 4.17 As the Government guidance does not provide a definitive set of criteria to define what 'significant' is, this is likely to result in considerable debate between applicants and the LPA, and considerable risk of lack of consistency as to how this is addressed between different developments. The Government recognises that what might be 'significant' in one local authority area would not be significant elsewhere. For example, what might be considered significant in a heavily urbanised area like Nottingham City might be different in a more rural planning authority area. Therefore, each LPA will need to make its own judgement as to what constitutes 'significant on-site enhancement', and may wish to

secure this via adoption of a local policy or guidance (as has been done by Newark and Sherwood District Council¹⁵).

4.18 The consideration of whether on-site gains are significant must be made by the LPA during the planning application process, even though the requirement is linked to the BNG pre-commencement general planning condition. As with off-site provision, the maintenance of significant on-site enhancements must be for at least 30 years after completion of the development, with legal security provided through a planning condition or S106 agreement; a planning obligation between the LPA and the landowner of the on-site habitat; or a conservation covenant between a responsible body and the landowner of the on-site habitat.

Strategic Significance

4.19 Strategic significance is the significance of a habitat based on its location and type, and is determined when the Statutory Biodiversity Metric is completed, for each individual habitat parcel, at baseline and post-intervention, for on-site and off-site.

4.20 When a **Local Nature Recovery Strategy (LNRS)** has been published, this should be used, with reference to the descriptions provided in Table 7 of the Statutory Biodiversity Metric User Guide¹⁶. The Nottinghamshire and Nottingham LNRS is currently in preparation and should be used when published.

4.21 In the absence of an LNRS, an LPA should specify which alternative documents can be used for assigning strategic significance, where such documents map and describe a habitat type within a specific location. The **Nottinghamshire Biodiversity Opportunity Map (BOM)** (including opportunity areas and focal areas) would be a suitable document for this purpose, especially as this document is likely to be an important evidence base for the LNRS. In addition, any **draft outputs from the LNRS** available prior to publication can also be used. However, other documents which could be used include:

- Local Plans and Neighbourhood Plans;
- Tree Strategies;
- The Nottinghamshire Local Biodiversity Action Plan;
- Species conservation and protected sites strategies;
- Woodland strategies;
- The Greenwood Community Forest Plan;
- Green and blue infrastructure strategies;
- River Basin Management Plans; and
- Catchment Plans.

¹⁵<https://www.newark-sherwooddc.gov.uk/media/nsdc-redesign/documents-and-images/your-council/planning-policy/other-planning-policy-information/biodiversity-and-landscape/Mandatory-Biodiversity-Net-Gain---Significant-On-site-Enhancement.pdf>

¹⁶https://assets.publishing.service.gov.uk/media/65c60e0514b83c000ca715f3/The_Statutory_Biodiversity_Metric_-_User_Guide_.pdf

4.22 The specified alternative documents should then be used with reference to the descriptions provided in Table 8 of The Statutory Biodiversity Metric User Guide¹⁷.

4.23 When the 'Medium' strategic significance category is used (which can occur when an LPA has not identified a suitable document for assessing strategic significance), those completing the Metric are required to:

- Explain how the habitat type is ecologically important within a specific location;
- Demonstrate the importance of that habitat in providing ecological linkage to other strategically significant locations; and
- Use professional judgement.

4.24 This can be done with reference to resources such as MAGIC (defra.gov.uk)¹⁸ the Nottinghamshire BOM¹⁹ and the LBAP²⁰.

Spatial Risk

4.25 Spatial risk should be applied as per Table 9 of the Statutory Biodiversity Metric User Guide¹⁷, whereby:

- Off-site compensation delivered within the same LPA area, National Character Area (NCA) or within the waterbody catchment area, as the impact site is given a multiplier score of 1.0;
- Off-site compensation delivered within an LPA/NCA that neighbours the LPA/NCA within which the impact site is located or for waterbodies the compensation is outside the catchment area but within the operational catchment area is given a multiplier score of 0.75; and,
- Off-site compensation delivered elsewhere is given a multiplier score of 0.5.

4.26 However, in accordance with the Biodiversity Gain Hierarchy, all efforts should be made to locate off-site BNG within the same LPA or NCA as the source of the impact, and ideally as close to the development site to which it relates as possible, with off-site BNG for watercourses located within the same catchment area. Developers will be expected to provide robust and transparent evidence of why off-site compensation is being taken forward that fails to adhere to this.

Delivering Off-Site BNG

4.27 Where compensation for losses or BNG cannot be delivered on-site, there will be a clear requirement for off-site biodiversity to deliver towards a strategic vision to ensure that benefits to biodiversity are maximised, and this is built into the Statutory Biodiversity Metric through the consideration of strategic significance and spatial risk.

¹⁷https://assets.publishing.service.gov.uk/media/65c60e0514b83c000ca715f3/The_Statutory_Biodiversity_Metric_-_User_Guide_.pdf

¹⁸<https://magic.defra.gov.uk/>

¹⁹<https://nottsbag.org.uk/projects/biodiversity-opportunity-mapping/>

²⁰<https://nottsbag.org.uk/lbap/lbap-introduction-and-sections-1-to-6/>

4.28 The Government's Guidance for Off-site Biodiversity Gains²¹ identifies that off-site units can be brought directly from a landowner, from a habitat bank operator, through a broker, from a trading platform or from the LAP (if they provide this service). These off-site measures comprise areas of enhanced or created habitats which generate biodiversity unit 'credits'.

4.29 In Nottinghamshire and Nottingham, the location of such potential 'off-site biodiversity gain sites' (including 'habitat banks') should be guided by the following:

- Adherence to the Lawton Principles of 'Bigger, Better, More, Connected', i.e. in locations where they would buffer and expand existing habitats and actively strengthen local ecological networks, such as by linking clusters of SSSIs and LWS;
- The Nottinghamshire BOM and the emerging LNRS should be used as guidance as to the spatial priorities for habitat creation;
- Small areas of new habitat created as off-site biodiversity gain in isolated locations should generally be avoided;
- Reference to Local Plans shows where development will be occurring in the coming years, and locating off-site gain sites in proximity to these areas helps ensure new development has accessible greenspace which incorporates BNG; and,
- Large off-site gain sites (which may fall into the category of 'landbanks') have the potential to deliver significant new biodiversity in areas that meet the above spatial priorities.

The Right Habitat in the Right Place

4.30 Some habitats are appropriate to particular locations in the County, and some are not, determined largely by geology and hydrology. To ensure that the habitats are correctly located, Natural England's National Character Area (NCA) approach will be followed. The NCA's covering Nottinghamshire are:

- Nottinghamshire, Derbyshire and Yorkshire Coalfield;
- Southern Magnesian Limestone;
- Sherwood;
- Humberhead Levels;
- Trent and Belvoir Vales;
- Leicestershire and Nottinghamshire Wolds; and,
- Trent Valley Washlands.

4.31 Development proposals should seek to ensure that habitats which are created, as well as being correctly located in the County, are of a sufficient size to enable effective and efficient management, as well as ecological functioning.

²¹<https://www.gov.uk/guidance/make-off-site-biodiversity-gains-as-a-developer#make-off-site-gains>

4.32 The table below indicates which habitats, as identified in the Local Biodiversity Action Plan, are appropriate within each NCA.

LBAP habitat	Notts, Derby & Yorks Coalfield	Southern Magnesian Limestone	Sherwood	Humberhead Levels	Trent and Belvoir Vales	Leics & Notts Wolds	Trent Valley Washlands
Lowland calcareous grassland		✓			(✓)	(✓)	
Lowland neutral grassland	✓	(✓)			✓	✓	✓
Lowland wet grassland	✓	(✓)	(✓)	✓	✓		✓
Lowland dry acid grassland			✓	(✓)	(✓)		
Lowland heathland			✓				
Mixed ash-dominated woodland	✓	✓			✓	✓	
Oak-birch woodland			✓		(✓)		
Wet broadleaved woodland	✓	(✓)	(✓)	✓	✓		✓
Wood pasture & parkland	✓	✓	✓	✓	✓	✓	✓
Fens, marshes & swamps	✓	(✓)	(✓)	✓	✓		✓
Reedbed	(✓)			✓	✓		✓
Eutrophic & mesotrophic standing water	✓	✓	✓	✓	✓	✓	✓
Open mosaic habitat on Previously Developed Land*	✓	✓	✓	✓	✓	✓	✓
Hedgerows**	✓	✓	✓	(✓)	✓	✓	(✓)
Rivers and streams	✓	✓	✓	✓	✓	✓	✓
Ditches	✓	✓	✓	✓	✓	✓	✓
Canals*	(✓)	(✓)	(✓)	(✓)	(✓)	(✓)	(✓)
Key:							
* restoration only / ** creation only							
✓ = Habitats which are an important and characteristic part of the NCA and should be the focus of habitat restoration and creation efforts							
(✓) = Habitats which are a lesser component of the NCA, and are often only relevant in very specific cases – local advice should be sought							

Pre-Emptive Clearance and Degradation

- 4.33 Pre-emptive clearance (or other damage) is not a criminal offence under BNG legislation, but is strongly discouraged. The deliberate clearing of habitats prior to planning permission being sought or obtained is penalised under the Environment Act 2021 (Schedule 7A, Part 1, Paras 6a-b). If activities are carried out on land (on or after 30 January 2020) that do not benefit from planning permission or any other kind of permission, which result in the baseline biodiversity value being lower than it was prior to the activity, then the biodiversity value of the on-site habitats is taken to be its biodiversity value before those activities were carried out.
- 4.34 The approach outlined within the Statutory Biodiversity Metric User Guide for degradation should be followed when valuing a degraded site for input into the Statutory Biodiversity Metric. Where there is insufficient evidence of the biodiversity value prior to pre-emptive clearance, the value is taken to be the highest biodiversity value reasonably supported by any available evidence (e.g. aerial photos, previous surveys, local knowledge). A full justification of this approach should be provided as part of the application.

BNG Validation Requirements

- 4.35 The Government's Planning Practice Guidance²² (Paragraph: 011 Reference ID: ID: 74-011-20240214) provides a list of minimum information requirements which applications should supply for validation in line with Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015:
- Confirmation that the applicant believes that, if planning permission is granted, the development would be subject to the biodiversity gain condition;
 - The pre-development biodiversity value(s), either on the date of application or earlier proposed date (as appropriate);
 - Where the applicant proposes to use an earlier date, this proposed earlier date and the reasons for proposing that date;
 - The completed metric calculation tool showing the calculations of the pre-development biodiversity value of the on-site habitat on the date of application (or proposed earlier date) including the publication date of the biodiversity metric used to calculate that value;
 - A statement whether activities have been carried out prior to the date of application (or earlier proposed date), that result in loss of on-site biodiversity value ('degradation'), and where they have:
 - A statement to the effect that these activities have been carried out;
 - The date immediately before these activities were carried out;
 - The pre-development biodiversity value of the on-site habitat on this date;
 - The completed metric calculation tool showing the calculations; and,

²²<https://www.gov.uk/guidance/biodiversity-net-gain#biodiversity-net-gain-submitting-a-planning-application>

- Any available supporting evidence of this;
- A description of any irreplaceable habitat (as set out in column 1 of the Schedule to the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) on the land to which the application relates, that exists on the date of application, (or an earlier date); and,
- Plan(s), drawn to an identified scale and showing the direction of North, showing on-site habitat existing on the date of application (or earlier proposed date) including any irreplaceable habitat (if applicable).

4.36 If this information has not been provided, the LPA will likely refuse to validate the application. Within the planning application form applicants will be asked to confirm whether this information accompanies the application. Where these details have been provided elsewhere in accompanying documents, applicants are encouraged to cross-reference to these rather than duplicate this information within the application form.

4.37 Applicants should be aware that each LPA has their own validation requirements and should be consulted in addition to the Government's Guidance as set out above.

4.38 LPAs may also request further information relating to biodiversity net gain as part of the planning application, as provided in the below section.

Application Determination Requirements

4.39 In addition to the minimum information requirements to validate the application, further information will likely be required in order to assist the consideration of BNG as part of the planning application.

4.40 Paragraph: 013 Reference ID: 74-013-20240214 of the Government's Planning Practice Guidance²³ allows LPA's to produce local lists of information requirements for planning applications which will allow the LPA to fully understand, assess and determine the application's proposals to feasibly provide a net gain. This also includes the checking of habitat surveys and metric calculations.

4.41 The BNG Working Group have produced a general guide to information requirements (BNG Application Checklist) which can be found in **Appendix 2**. This checklist does not feature explicit details of requirements but is a general guide to information which should be submitted with applications subject to the BNG condition. As it is a collective document, it does not replace any individual validation or local information lists which each individual LPA may have already produced. Each LPA should be consulted for their own information requirements.

Guidance and Tools

4.42 Government guidance on BNG can be found online²⁴. may be subject to change and should be checked for updates.

4.43 The Wildlife Trusts' publication 'How to build housing in a nature friendly way'²⁵ identifies ways BNG can be designed into a scheme, with other useful guidance available from

²³<https://www.gov.uk/guidance/biodiversity-net-gain#biodiversity-net-gain-submitting-a-planning-application>

²⁴<https://www.gov.uk/government/collections/biodiversity-net-gain>

²⁵[Homes of People and Wildlife.pdf \(wildlifetrusts.org\)](https://www.wildlifetrusts.org/Homes_of_People_and_Wildlife.pdf)

the RTPI/RSPB²⁶. Other ways of designing schemes that promote biodiversity and deliver opportunities for net gain are listed in Appendix 1 to this Framework.

4.44 The Environmental Benefits from Nature (EBN)²⁷ tool is designed to work alongside the Statutory Biodiversity Metric and provide developers, planners and other interested parties with a means of enabling wider benefits for people and nature from BNG. The EBN tool is biodiversity-led and recognises that healthy, diverse and resilient ecosystems are essential to underpin the long-term delivery of multiple ecosystem services considering multiple objectives, for example siting new woodland in an optimum location for flood protection or air quality regulation, improving public access for recreation, creating flower-rich grassland to benefit pollinators, providing green roofs for cooling, and planting the right tree species with maximum potential for carbon storage.

Local Plan Policies

4.45 Local Plan Policies and/or associated statutory documents to support the Local Plan should be consistent with national Guidance and Regulations, and appropriately encompass the principles in this Framework, in order to ensure a consistent approach to delivering high quality BNG across the County and contributing to the NRN in the most effective way.

Applications Not Subject to the BNG Condition

4.46 All applications are encouraged to provide a positive gain for biodiversity in line with national and local biodiversity targets. Additional enhancements will be welcomed in applications which are not subject to the biodiversity gain condition.

Implementation

4.47 The Nottinghamshire LPAs will work together through the BNG Working Group to:

- Seek to develop a list of potential BNG receptor sites agreed consistently and equitably with regard to the agreed spatial/habitat priorities;
- Undertake a consistent assessment of sites and their potential BNG value for inclusion in the list;
- Ensure that the Statutory Biodiversity Metric will be used consistently and assessed by someone with an appropriate level of training and expertise, and preferably by a suitably qualified ecologist;
- Ensure that, where appropriate a contribution will be secured by the relevant LPA from developers in accordance with their obligations to monitor BNG in that LPA area; and,
- Ensure that robust monitoring is undertaken of the delivery of BNG to ensure that it meets all stated aims and targets in a timely manner, and that any further work/remediation is undertaken promptly as required.

²⁶<https://www.rspb.org.uk/helping-nature/what-we-do/influence-government-and-business/nature-protection-and-restoration/green-infrastructure>

²⁷<https://publications.naturalengland.org.uk/publication/6414097026646016>

Appendix 1 – Incorporating Biodiversity into Developments

The following are simple measures which can be used (where appropriate) to design biodiversity into developments (noting that not all of these can be delivered through BNG).

Planting and Landscaping

- Design landscaping with biodiversity in mind, and appropriate to the NCA;
- Use native species of year-round value and importance to local wildlife in planting schemes;
- Create rough grassland areas as wildlife corridors with appropriate mowing regimes;
- Plant nature depleted open spaces with native grass and wildflower mixes;
- Encourage allotment creation with hedgerows, fruit tree avenues, beetle banks and other wildlife corridors;
- Create environmental features in parks and open spaces, including copses, ponds, ditches, rough areas and dead wood piles;
- Where appropriate and safe to do so, provide some standing dead wood or lying dead wood;
- Maximise tree canopy cover with the aim of achieving no less than 20% of the developed area on a site, where woodland is an appropriate habitat for the location and NCA and recognising the value of wood pasture as an alternative;
- Link the site to a network of green and blue corridors within the locality and seek to complement the Nature Recovery Network by delivering habitats that can provide connectivity and function;
- Provide wildflower meadows, grass-cut mazes or verges that are appropriate in a semi-urban context;
- Consider the potential for planting new community orchards using local varieties of apple, pear and plum; and,
- Opening up of culverted watercourses, re-naturalisation of watercourses, removal of hard engineering elements and invasive non-native species control along watercourses.

Drainage and Water Management

- Include reedbed and willow filtration systems within sustainable drainage systems (SuDS);
- Provide soft-edged drainage ditches in place of underground pipes where possible;
- Provide rough grass and scrub as habitats for amphibians when in their terrestrial phase;
- Where there are natural streams or rivers adjoining the development retain wide buffers of at least 7m if rough riparian grassland or sandy banks with some overhanging trees to encourage kingfishers, sand martins, water voles and otters;
- Use soft engineering options instead of canalising watercourses; and,
- Consider building a sand martin bank in a relatively undisturbed area.

Habitat Creation

- Creating habitats appropriate for the county and LPA area;
- Use of multi-function habitats, such as providing species specific habitat creation as well as providing a biodiversity net gain;
- Incorporate green walls by providing wildlife-friendly climbing plants on unused walls and boundary fences as nesting habitat for birds, bat roosts and for invertebrates;
- Install hibernacula, insect hotels, hedgehog shelters and corridors, habitat piles / compost heaps; and,
- Consider the use of green or 'living' roofs that feature local native vegetation.

Habitat Enhancement

- Provide integral house 'bricks' for swifts and bats, or integral nest boxes and ledges for barn owls; and,
- Encourage the use of durable bat boxes, house sparrow boxes, house martin/swallow nests etc.

Appendix 2 – BNG Application Checklist

The table below provides a general guide to information which should be submitted with applications subject to the BNG condition. It does not replace any individual validation or local information lists which each individual LPA may have already produced. Each LPA should be consulted for their own information requirements. **As detailed above, this does not replace the requirement for ecological impact assessment for habitats and species and to follow the mitigation hierarchy.**

Item	Description
Surveys	Surveys should be undertaken using the latest version of UKHabs and undertaken within an appropriate time of year in line with the BNG User Guidance.
Reporting	<p>A suitable report should include the following information:</p> <p>Survey information - Including timings, surveyors and relevant experience/accreditations.</p> <p>Baseline habitat descriptions - In UKHabs format including justification for how the habitat fits into the relevant UK Habitat type and photographs for both on-site and off-site habitats (where off-site compensation is proposed).</p> <p>Habitat Condition Assessment results - Full condition assessment results including condition assessment sheet used for each habitat type, quadrat data (where relevant), each criteria passed or failed, justification (where relevant) for both on-site and off-site habitats (where off-site compensation is proposed)</p> <p>Statement of strategic significance – how the strategic significance multiplier has been applied to each habitat type within the metric in line with local guidance.</p> <p>BNG Hierarchy - How the BNG Hierarchy has been followed for the application.</p> <p>BNG Principles - Demonstrate how the proposals have considered and applied all the ten Biodiversity Net Gain Good Practice Principles.</p> <p>Details of how the proposed enhancements will achieve at least 10% net gain – justification that the proposals are feasible and can be practically achieved, this can also be provided as a draft Habitat Management and Monitoring Plan (HMMP).</p>
Plans	<p>A baseline plan or plans showing all of the site habitats with labelled parcel references/hedgerows in UKHabs.</p> <p>A post-development plan showing the post-development layout including parcel references in UKHabs. This should include areas retained and subject to enhancement.</p> <p>Any plans for any off-site areas in the same UKHabs format.</p>
BNG Metric (for applications providing 10% on-site or off-site creation)	<p>The following should be provided with each planning application:</p> <p>A copy of the Biodiversity Metric in excel format (or subsequent formats published by the UK GOV) providing at least 10% net gain for all habitat types where required (habitat areas, hedgerows, and watercourses) for both on-site and off-site habitats (where off-site compensation is proposed). No errors with the trading rules or other errors flagged within the Metric.</p> <p>Habitat parcels should be referenced within the Metric and match with the habitat descriptions.</p>
BNG Metric (for applications providing 10% through the purchase of off-site habitat banks credits or statutory credits)	<p>For applicants wanting to buy off-site units, the metric must be accompanied by a statement from the application on where the units will be sourced from, the type of units required and confirmation that the units are available to buy.</p> <p>For statutory credit purchase the applicant will need to provide a statement with the planning application as part of the validation process. This statement should include details of how the BNG hierarchy has been followed and why the purchase of statutory credits for the application will be undertaken. Each LPA will consider the purchase of the statutory credits as a viable option as part of the planning process and confirm whether this approach is acceptable for the application, in line with Government Guidance (Statutory biodiversity credits - GOV.UK (www.gov.uk)).</p>
Outline Planning Applications	For outline applications, all minimum information requirements should be provided in line with the UK Government guidance. Information on how the 10% net gain will be achieved (draft) should be submitted with the application, so the viability of the application and its ability to achieve the 10% net gain can be assessed.

Glossary

Biodiversity Gain Hierarchy – a sequence of priority actions that should be followed for the avoidance of adverse effects from development on on-site habitats, and where these cannot be avoided, for mitigation of those effects, and then for providing compensation.

Biodiversity Gain Plan - a document which sets out how a development will deliver biodiversity net gain and allows the planning authority to check whether the proposals meet the biodiversity gain objective, to be secured pre-commencement of development.

Biodiversity Net Gain (BNG) - a way of creating and improving biodiversity by requiring development to have a positive impact ('net gain') on biodiversity. 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). This statutory framework is referred to as 'biodiversity net gain' in Planning Practice Guidance to distinguish it from other or more general biodiversity gains.

Conservation Covenants – a new type of voluntary but legally binding agreement enabled through the Environment Act (2021). They are designed to secure the long-term conservation of the natural or heritage features of the land covered by the agreement.

Habitat Management and Monitoring Plan (HMMP) – a plan which sets out how the improved significant on-site and off-site habitats will be managed for the long term.

Local Biodiversity Action Plan (LBAP) – the Nottinghamshire LBAP is a framework for the conservation and recovery of nature, comprising of Species Action Plans and Habitat Action Plans.

Local Nature Recovery Strategy (LNRS) - a new England-wide system of spatial strategies established by the Environment Act 2021 with the purpose of helping to reverse the ongoing decline of nature in England by establishing priorities for nature recovery and identify locations to create or improve habitat most likely to provide the greatest benefit for nature.

Mitigation Hierarchy – a framework used to avoid, mitigate against or compensate for impacts on biodiversity, and embedded in the National Planning Policy Framework.

National Character Area (NCA) – a subdivision of England based on a combination of landscape, biodiversity, geodiversity and economic activity following natural, rather than administrative, boundaries.

Nature Recovery Network (NRN) – a commitment in the Government's 25 Year Environment Plan and enacted by the Environment Act (2021), the NRN will be a national network of wildlife-rich places which will be expanded, improved and connected across cities, towns, countryside and coast.

Off-site Biodiversity Gain Site – land outside the red-line boundary of a development used for the delivery of BNG. Any land used for off-site BNG must be registered and secured through a planning obligation or conservation covenant.

Section 106 Agreement – an agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 to secure planning obligations that are considered necessary to make a development acceptable in planning terms.

Small Sites - small sites are defined as not major developments under the Town and Country Planning (Development Management Procedure) (England) Order 2015).

Small Sites Metric - used to calculate biodiversity value for the purposes of biodiversity net gain for 'small sites', published by the Secretary of State.

Statutory Biodiversity Metric – a biodiversity accounting tool that is used for the purposes of calculating Biodiversity Net Gain. Published by the Secretary of State.

The UK Habitat Classification System (UKHabs)- a habitat classification system for terrestrial and freshwater habitats in the UK. This classification system is used for input into the Statutory Biodiversity Metric.