Appendix A

Biodiversity Net Gain Supplementary Planning Document

Fareham Borough Council

3-1-2023

1. Introduction

Purpose of this Supplementary Planning Document

1.1 The purpose of this Supplementary Planning Document (SPD) is to enable developers and planners to understand how Biodiversity Net Gain (BNG) will apply to planning applications in Fareham. The document sets out the core concepts of BNG and Biodiversity Metrics and provides additional details as to the steps developers need to take to submit the correct information to support their planning applications.

1.2 This document is intended to apply to the whole of the Fareham Borough excluding Welborne.

1.3 To assist the reader, certain information is highlighted through the document as 'key points': these are key pieces of information for the reader to understand and consider when providing BNG. However, the SPD should be read as a whole.

1.4 This SPD will be regularly reviewed to ensure it has regard to the BNG approach through national legislation and national and local policy.

What is Biodiversity and Why Does It Matter?

1.5 Biodiversity is the variety of plant and animal life which is found in a place. It encompasses the whole range of mammals, birds, reptiles, amphibians, fish, insects and other invertebrates, plants, fungi, and micro-organisms such as protists, bacteria and viruses. It is essential for the processes that support all life on Earth, including humans.

1.6 A healthy and abundant biodiversity is vital to support the ecosystems we rely on, including food production through crop pollination and soil nutrients, flood protection through rainfall absorption and the slowing of water flow, and air filtration, through the removal of pollutants and combating climate change. An implication of losing biodiversity is that we will struggle to maintain the ecosystem services needed to sustain life.

State of Biodiversity in the UK

1.7 The 2019 State of Nature report[1] provided a detailed picture of biodiversity in the UK. It found that the UK has experienced a decline in species abundance of 13% on average since 1970, whilst 15% of species within the UK are threatened with extinction. Since 1970, the abundance of UK priority species has declined by 60%.

[1] Hayhow DB, et al. (2019) The State of Nature 2019. The State of Nature partnership. Available at: State-of-Nature-2019-UK-full-report.pdf (nbn.org.uk) [Accessed 10/10/2022]

1.8 The 2019 State of Nature report also identified the major pressures and causes of biodiversity loss in the UK as:

- Agricultural management
- Climate change
- Urbanisation
- Pollution
- Hydrological change
- Invasive non-native species, and
- Woodland management.

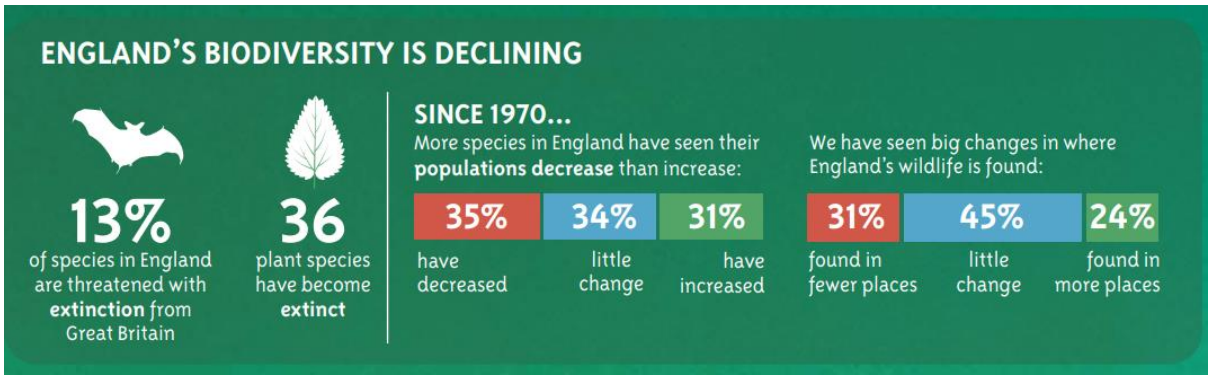

Figure 1: The Biodiversity Network State of Nature 2019

1.9 Urbanisation and land management regimes are the major pressures on UK biodiversity. The Government has sought to tackle losses in biodiversity from these pressures through legislation and national planning policy mandating net gains for biodiversity.

2. Legislative and policy background

The Environment Act 2021

2.1 The Environment Act 2021 will introduce new provisions into the Town and Country Planning Act 1990 which are anticipated to take effect in November 2023. Planning permission for qualifying development will be subject to a deemed condition requiring Biodiversity Net Gain to be delivered and maintained for a minimum period of 30 years.

The National Planning Policy Framework

2.2 The National Planning Policy Framework 2021[2] (NPPF) says, at paragraph 174 that:

> *Planning policies and decisions should contribute to and enhance the natural and local environment by:*
>
> *d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; ……*

2.3 At paragraph 179, the NPPF states that plans should:

> *b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.*

2.4 Finally, at paragraph 180, the NPPF states that when determining planning applications, local planning authorities should apply the following principles:

> *a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; […]*
>
> *d) 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.*

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2 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf

Priority Species and Habitats under the Natural Environment and Rural Communities Act. 2006.

2.5 Priority habitats are those identified in a list published by the Secretary of State pursuant to section 41 of Natural Environment and Rural Communities Act. 2006 and include as examples: standing water, rivers and streams, broadleaved woodland, acid, neutral and calcareous grassland, and coastal saltmarsh. Applicants should refer to the full list of Priority Habitats[3].

2.6 Priority species are those identified in a list published by the Secretary of State pursuant to section 41 of Natural Environment and Rural Communities Act. 2006 as being the most threatened, with the list comprising more than 1,000 entries split into 9 taxonomic groups including birds, terrestrial mammals, fish and fungi. Applicants should refer to the full list of Priority Species[3].

The Fareham Local Plan 2037

2.7 The Fareham Local Plan includes Policy NE2: Biodiversity Net Gain which states that:

> Policy NE2: Biodiversity Net Gain
>
> The development of one or more dwelling or a new commercial/leisure building should provide at least 10% net gains for biodiversity from the existing baseline value of the site and should be maintained for a minimum of 30 years.

2.8 As stated in paragraph 9.28 of the Fareham Local Plan 2037, it is recognised that the Environment Act 2021 has only recently been enacted and the implementation of Biodiversity Net Gain is still subject to the Secretary of State enacting secondary legislation. Despite this, paragraph 179b of the NPPF states that plans should "*identify and pursue opportunities for securing measurable net gains for biodiversity*". Therefore, the Council in having Policy NE2 in the emerging Local Plan expects relevant development proposals to achieve demonstrable net gains in line with the NPPF.

2.9 The approach taken towards BNG in Policy NE2 is based upon the emerging legislation contained within the Environment Act 2021, the commitments within the 25 Year Environment Plan and the guidance contained within the National Planning Practice Guidance and the Good Practice Principles for Development produced by the Chartered Institute of Ecology and Environmental Management[4] as well as the responses from Natural England to the various stages of the formulation of the Fareham Local Plan 2037.

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[3] Habitats and species of principal importance in England - GOV.UK (www.gov.uk)

[4] https://cieem.net/wp-content/uploads/2019/02/C776a-Biodiversity-net-gain.-Good-practice-principles-for-development.-A-practical-guide-web.pdf

3. Biodiversity Net Gain: An Overview

What is Biodiversity Net Gain?

3.1 Biodiversity Net Gain (BNG) is an approach to development that aims to leave biodiversity in a measurably better state than it was beforehand. Where a development will have an impact on biodiversity, developers need to provide an increase in appropriate natural habitat and ecological features over and above that being affected. This can be achieved through the creation of new habitats or by enhancing existing natural habitats.

Figure 2: a simplification of the concept to illustrate the point of BNG

Original image taken from Biodiversity Net Gain: An Introduction to the benefits, Natural England 2022

3.2 To achieve BNG, developments should seek to:

- Value the environment in decision-making
- Leave the environment in a better state than they found it
- Create more habitat for wildlife

3.3 The idea behind BNG is that developers will have to quantify their proposed development's anticipated impact on biodiversity as part of their planning application. They will be required to identify, and subsequently fund, a long-term plan that can deliver at least a 10% improvement to the biodiversity of the site's species and habitats, either on-site, or, if this cannot be achieved partially or entirely, they must do so off-site.

Relationship between BNG and the Mitigation Hierarchy and Local Nature Recovery Strategies

3.4 Development proposals must comply with relevant planning policies requiring the protection and enhancement of ecological features such as trees, hedgerows and streams within the application site boundary, and incorporate green infrastructure and open space within development design. In accordance with paragraph 180a of the NPPF, proposals must also follow the 'mitigation hierarchy' which seeks to limit the negative impacts of development on biodiversity from the outset.

3.5 According to the mitigation hierarchy, avoidance of harm to biodiversity must always be sought in the first instance. Where avoidance of harm is not possible, minimisation of the negative impact of the development should be sought, followed by restoration where negative impacts cannot be avoided or minimised. As a last resort, offsetting of the negative impacts through compensation must be provided.

3.6 The need to provide BNG does not override the various existing statutory legal and policy protections in place for designated (protected) sites, protected or priority species and the habitats that support them, and irreplaceable or priority habitats. Therefore, it is important to note that the requirement for BNG is in addition to adherence to the mitigation hierarchy as shown in figure 3 below.

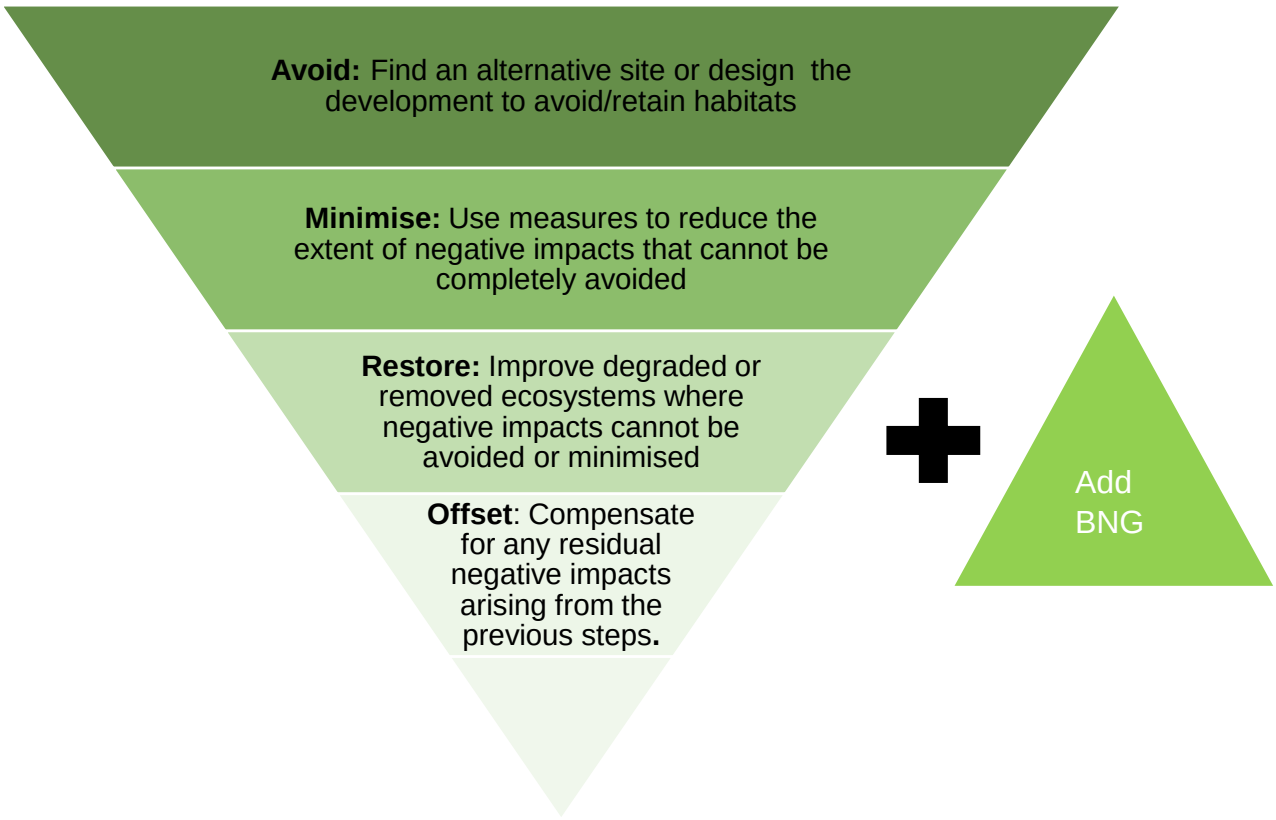

Figure 3: Mitigation Hierarchy

3.7 The potential impact of new development on a protected site or species and priority habitats (see paragraphs 2.5 and 2.6) inside or outside the development site boundary has to be considered in the usual way in accordance with statutory obligations. Compensation and mitigation needed to comply with legislation in connection with designated sites, protected or priority species and priority habitats are unlikely to contribute towards BNG. BNG is required in addition to any mitigation/compensatory measures required for these features.

3.8 Local Nature Recovery Strategies (LNRS) are spatial strategies that will establish priorities and map proposals for specific actions to drive nature's recovery and provide wider environmental benefits. Once produced, LNRSs and associated maps can be used to target delivery of Biodiversity Net Gain through identifying areas and opportunities for the creation, enhancement and recovery of habitats. BNG measures could therefore contribute to the locally identified objectives and targets for recovery of nature that may be set out in the LRNS.

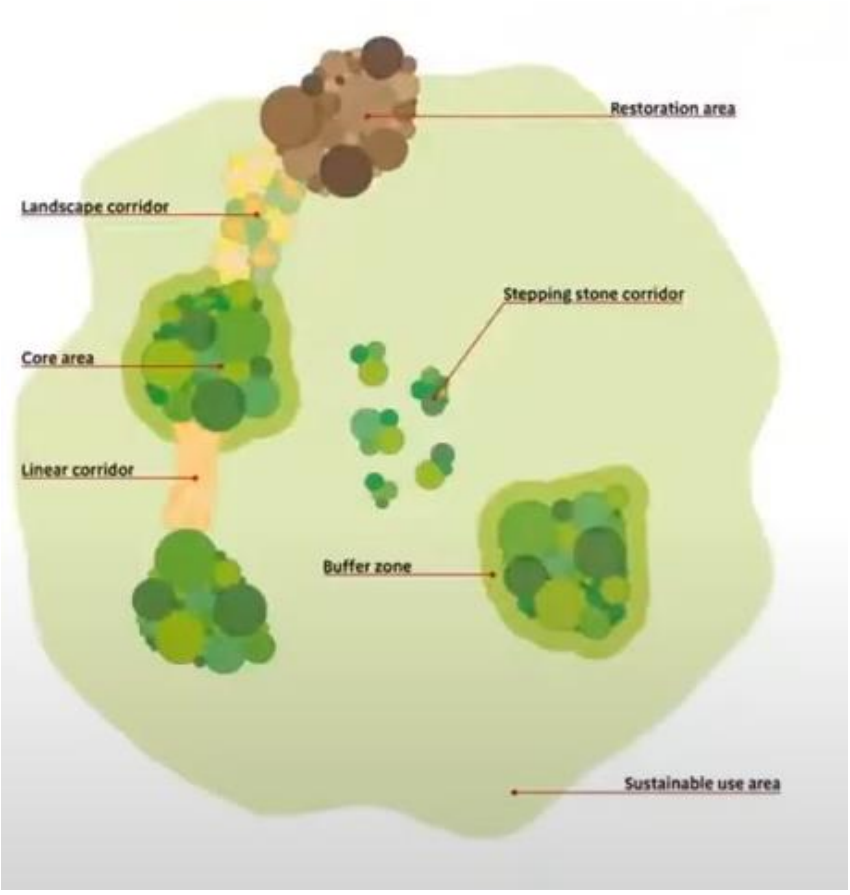

Figure 4: Nature Recovery Network.

Illustration from Making Space for Nature: a review of England's wildlife sites and ecological network. Report to DEFRA

BNG and Irreplaceable Habitats and Protected Species

3.9 Development cannot provide BNG to compensate for any losses or impacts to internationally and nationally designated sites and other irreplaceable habitats or features, defined in the NPPF Glossary such as ancient woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen.

3.10 However, internationally and nationally designated sites (such as SPAs/SACs, SSSIs NNRs and LNRs) and irreplaceable habitats may potentially be used for off-site BNG providing the net gain is appropriate, suitable and accords with the conservation objectives of those sites. However, it should be noted that the Government intends to produce further guidance on the circumstances in which these wildlife sites can be used for BNG. BNG on these sites is likely to be harder to achieve due to the existing high ecological baseline.

3.11 There is potential for stacking of environmental benefits particularly where development requires mitigation for protected species or to achieve nutrient neutrality as examples. However early consultation with Natural England and the Council's Ecologist is strongly advised where stacking of environmental benefits is proposed to ensure that there is no impermissible double counting involved.

3.12 Locally protected non-statutory sites such as Sites of Importance for Nature Conservation (SINCs) and Country Parks can be used for off-site BNG.

3.13 A thorough understanding of a proposed development site's habitat, the presence of protected and priority species, and the potential impacts arising from proposed development, including on biodiversity outside the application site is needed. As ecological expertise will be required, it is suggested that applicants enlist the help of a suitably qualified ecologist such as those listed under the directory on the Chartered Institute of Ecology and Environmental Management (CIEEM)[5] to undertake this task.

[5] Finding a Consultant | CIEEM: https://cieem.net/i-need/finding-a-consultant/

4. Which Planning Applications Will Biodiversity Net Gain Apply to.

4.1 The Local Plan Policy NE2 'Biodiversity Net Gain' in Fareham's Local Plan 2037 requires one or more dwelling or a new commercial/leisure building to provide at least 10% net gains for biodiversity from the existing baseline value of the site which are to be maintained for a minimum of 30 years.

4.2 This requirement applies to both major and minor development as defined in the NPPF (including redevelopment) and is also applicable to both greenfield and brownfield development. Policy NE2 Biodiversity Net Gain in the Fareham Local Plan 2037 does not apply to Householder Development such as extensions, alterations, outbuildings within the curtilage of a residential dwelling.

4.3 The Council's approach to 10% minimum BNG provision is in recognition that even small-scale development can result in losses and negatively impact on the overall level of biodiversity in Fareham.

How to achieve Biodiversity Net Gain: The Biodiversity Metric.

4.4 In order to calculate how the minimum 10% increase in biodiversity is to be achieved, biodiversity losses and gains associated with development and land management practices need to be measured in a consistent, robust, and transparent way. To achieve this, DEFRA has created a Biodiversity Metric to measure biodiversity losses and gains which is mandated in Schedule 14 of the Environment Act 2021. DEFRA has also produced a simplified version of the Biodiversity Metric called the Small Sites Metric which can be used by small scale development subject to certain criteria being met.

Proposals for Major Development

4.5 Major Development as defined in the NPPF is development for housing where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.

4.6 For non-residential development it means additional floorspace of 1,000m^2 or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

4.7 Major Development proposals shall use the DEFRA Biodiversity Metric 3.1[6] (or subsequent versions) when assessing BNG for their proposals unless they can justify the use of an alternative calculator.

[6] DEFRA's Biodiversity Metric Calculation Tool (BNG Calculator v3.1) for major development can be accessed here: **http://publications.naturalengland.org.uk/publication/6049804846366720**

Proposals for Minor Development

4.8 In order to make 10% minimum BNG requirement easier to implement for minor development[7], a simplified version of the Biodiversity Metric called the Small Sites Metric can be used where both of the following criteria are both met:

1) Development Sites where:

For residential developments the number of dwellings to be provided is between 1 and 9 inclusive with a site area of less than 1 ha.

Where the number of dwellings is not known and the site area is less than 0.5 ha.

For all other development types where the site area is less than 0.5 ha;

2) Where there is no priority habitat[3] present within the development area (excluding hedgerows and arable margins).

4.9 Development that qualifies as minor development meeting the two tests above, will be able to utilise and submit the DEFRA Small Sites Metric with their proposals to demonstrate 10% net gain in biodiversity. However, as this metric is unsuitable to calculate off-site losses and gains, where calculation of off-site losses and gains is required, the full DEFRA Biodiversity Metric 3.1 (or subsequent versions) should be used.

The Biodiversity Metrics

4.10 Both metrics are designed to provide ecologists, developers, planners and other interested parties with a means of assessing changes in biodiversity value (losses or gains) brought about by development or changes in land management. It uses habitat, the places in which species live, as a proxy to describe biodiversity. These habitats are converted into measurable 'biodiversity units' which are the 'currency' of the metric.

4.11 The presence of protected[8] and priority[3] species also needs to be assessed in line with their differing legal and policy protections, and an understanding of how the existing site habitat supports them. The Biodiversity Metric quantifies biodiversity outcomes based on habitat alone; it does not account for the presence of specific species on the site. They will need to be assessed and carefully considered separately in any ecological evaluation of the site.

4.12 The Biodiversity Metric is complex and there are many factors within it which account for things such as baseline habitat quality, its distinctiveness and significance as well as built-in risk factors associated with the creation, restoration or enhancement of habitats as part of the development. Further

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[7] The DEFRA Small Sites Metric can be accessed here: http://nepubprod.appspot.com/publication/6047259574927360

[8] See relevant schedule of Wildlife and Countryside Act 1981: https://www.legislation.gov.uk/ukpga/1981/69/contents

information on factors included within the metric and its detail working can be found on the Natural England website[9].

Development on Brownfield Land

4.13 Paragraph 9.33 in the Fareham Local Plan 2037 explained that some brownfield development may be exempt from complying with Policy NE2 Biodiversity Net Gain if "*they do not contain any priority habitats and face genuine difficulties in delivering viable development*". This reflected the government's stance to brownfield development as stated in their response to a Biodiversity Net Gain: Updating Planning Requirements consultation in July 2019[10] which read "*Concerns raised about the cost sensitivity of the redevelopment of post-industrial developed land will be addressed by a targeted exemption for brownfield sites that meet a number of criteria including that they (i) do not contain priority habitats and (ii) face genuine difficulties in delivering viable development*".

4.14 However, the Government has since shifted its position regarding the targeted exemption of brownfield sites with its response to the recent consultation on Biodiversity Net Gain Regulations and Implementation in February 2023 stating "*we do not intend to specifically exempt previously developed land (though some sites will effectively be exempted by a zero baseline score in the metric)*".

4.15 The government's rationale behind no longer making any targeted exemptions for brownfield sites is that brownfield sites can be biodiverse and exempting them may result in significant loss. Furthermore, brownfield sites are seen to offer significant biodiversity value, especially in urban environments which can be easily achieved as they often have a low pre-development biodiversity value.

4.16 The Council accepts this position and therefore encourages applicants of brownfield sites to comply with the policy requirements of NE2 particularly as it is likely they will fall under the mandatory requirement for BNG in November 2023.

4.17 It is recognised that there may be in limited situations, viability considerations which might justify departure from the policy requirement. However, the Viability Assessment accompanying the Local Plan included specific costs for BNG which were taken from the Government's own impact assessment[11]. The viability assessment found that there were no viability concerns for development in the borough regarding provision of BNG. Therefore, the Council does not expect brownfield development in the Borough to experience any viability issues when providing 10% minimum BNG.

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[9] The Biodiversity Metric 3.1 July 2021: http://publications.naturalengland.org.uk/publication/6049804846366720

[10] Net gain: summary of responses and government response (publishing.service.gov.uk)

[11] Viability Assessment Addendum 2021. Section 2.4 and Table 2.4 covers Biodiversity Net Gain Report (fareham.gov.uk)

Sealed Surfaces

4.21 The DEFRA Biodiversity Metric that is to be used to assess BNG for development, gives existing sealed surfaces (such as tarmac or existing buildings) a zero score in the pre-development baseline calculation, meaning that these surfaces are effectively exempt from the percentage gain requirement, as 10% net gain on zero will be zero.

4.22 Therefore, there may be some instances where a development falls within the criteria of "*one or more dwelling or a new commercial/leisure building*" set out in Policy NE2 but may not need to provide any BNG due to its zero scoring within the DEFRA Biodiversity Net Gain Metric.

Exemptions to policy NE2

De-minimis threshold

4.18 In line with the Government's response to the recent consultation on Biodiversity Net Gain Regulations and Implementation in February 2023, the Council considers that policy NE2 Biodiversity Net Gain does not apply to development impacting habitat of an area below a 'de minimis' threshold of 25 metres squared, or 5m for linear habitats such as hedgerows.

4.19 The de-minimis threshold will be particularly relevant for development that involves the construction of new commercial or leisure buildings which, if the definition of building under the TCPA 1990 were to be applied, could include any structure or erection, and any part of a building. Without introducing the de-minimis threshold, Policy NE2 could apply to structures such as post boxes, phone masts and small areas of hard standing etc.

4.20 The Council recognises the importance of ensuring that the application of the Biodiversity Net Gain requirement is proportionate to the size of the development and the resulting impact on habitats. Therefore, the Council considers that Policy NE2 Biodiversity Net Gain does not apply to commercial or leisure development of a size below a 'de minimis' threshold of 25 m^2.

Exemptions arising from future legislation

4.23 The Secretary of State also has the power to define further exemptions to the legal requirement to provide 10% minimum BNG. The February 2023 response from Government on the consultation on Biodiversity Net Gain (BNG) regulations and implementation[12], indicated that the Government intends to use regulations to make further exemptions. Any further exemptions specified in emerging legislation may be a material consideration when determining planning applications.

[12] Government response and summary of responses - GOV.UK (www.gov.uk)

5. How to Assess Biodiversity Net Gain

5.1 As with all ecological surveys, impact assessments and mitigation, assessing and providing BNG should be carried out by suitably qualified ecologists. It is suggested that applicants enlist the help of an ecologist that is listed under the directory on the Charted Institute of Ecology and Environmental Management (CIEEM)[5] to ensure they have the necessary skill set to undertake BNG assessments.

5.2 Planning and budgeting for BNG at an early stage in the development process is essential, and appropriate ecological assessment is crucial to the effective and viable delivery of BNG.

Key Point: Delivering BNG both onsite and off-site should focus on the restoration or creation of priority habitats (habitats which have high distinctiveness) and "trading up" habitat of lower quality for nature (e.g. enhance to medium - high distinctiveness) where possible. Habitats that are of high distinctiveness would generally be expected to be offset with "like for like" i.e., the compensation should involve the same habitat as was lost.

The trading down of habitats must be avoided. i.e., replacement of habitat of high distinctiveness with creation or restoration of a habitat of medium distinctiveness. For more guidance seek ecological advice.

Establishing Baseline Biodiversity Value Onsite

5.3 The pre-development biodiversity value of a proposed development site or 'baseline' is to be assessed at the point that planning permission is applied for. This shall be achieved through a combination of desktop data searches through the Hampshire Biodiversity Information Centre and onsite ecological surveys. It should be noted that the same survey requirements are already required as part of normal planning application process[13].

5.4 The information from the data search and surveys should be fed into the DEFRA Biodiversity Metric or Small Sites Metric by the applicant or the applicant's ecologist. The metric will then produce a baseline value score for the site before development against which impacts and biodiversity uplifts can be measured post development.

5.5 Please see section 6 for information on what is required to be submitted with a planning application.

[13] https://www.fareham.gov.uk/planning/applications_and_advice/localrequireddocs.aspx#Ecological%20Assessment

Key Point: Site clearance resulting in the degradation of the ecological baseline could be a wildlife offence and could result in prosecution.

Under the Environment Act 2021, in circumstances where a site has been cleared resulting in the degradation of the ecological baseline in advance of a BNG assessment, the Local Planning Authority is required to use the ecological baseline that was present at January 2020 for the purposes of measuring BNG.

Calculating the post development Biodiversity Value

5.6 Information on the 'post development' scenario is then fed into the DEFRA Biodiversity Metric or Small Sites Metric by the applicant or the applicant's ecologist to account for the impact of the development including any on site measures to retain, enhance or create biodiversity. This will create a post development value/score.

5.7 The value of biodiversity units 'post development' is deducted from the baseline value to quantify the extent of change. If at least 10% or more net gain can be achieved onsite, there is no need to consider any further measures.

5.8 If the calculation does not result in a sufficient net gain in biodiversity units, the development proposal can be revisited to improve the number of biodiversity units obtained or, if there is no scope for additional on-site compensation or enhancement, off-site measures will need to be considered.[14]

5.9 Section 7 sets out the Council's sequential approach to the provision of BNG.

[14] Note the Small Sites Metric cannot be used to measure off-site BNG. The Full DEFRA Biodiversity Metric will have to be used.

6. Information Required to be Submitted with a Planning Application.

Planning Application Validation: Provision of a Biodiversity Gain Plan

6.1 The Environment Act intends to impose a pre-commencement condition on every grant of planning permission that a Biodiversity Gain Plan (BGP) be submitted to and approved by the Local Planning Authority demonstrating how the development will achieve 10% minimum BNG.

6.2 However, in accordance with the Council's Local Information Requirements[15], the Council will require the submission of a Biodiversity Gain Plan for applications for Full Planning permission, Hybrid Applications and Outline Applications.

6.3 A Biodiversity Gain Plan would not necessarily be required to validate Reserved Matters applications because the BNG requirement will have already been agreed and conditioned at the Outline Stage. However, if there has been a change in the BNG Plan that was approved at the Outline Application and what is submitted at Reserved Matters stage, this may warrant a reassessment of BNG provision to ensure 10% minimum BNG is still being achieved. The Council will determine this on a case-by-case basis.

6.4 Where a development is to be phased, a Biodiversity Gain Plan must be submitted at the outline stage, which shows how individual phases deliver a predetermined proportion of the biodiversity value. Reserved matters applications will then be required to demonstrate exactly how each phase will meet its biodiversity requirements.

6.5 To note. If BNG was not required at the granting of outline permission, it will not normally be a consideration at the reserved matters stage.

6.6 Undetermined planning applications at the time the Local Plan is adopted, will be required to provide BNG in line with policy NE2.

6.7 Prior to adoption of this SPD, applicants are encouraged to comply with the requirements set out in this SPD.

[15] Conditional List of Documents Required by Fareham (Local Information Requirements)

Information to include within the Biodiversity Gain Plan

6.8 Development that is required to provide at least a 10% net gain in biodiversity must include within their Biodiversity Gain Plan:

- A statement on how the mitigation hierarchy has been adhered to before BNG has been applied.
- Quantification of the pre- and post-development biodiversity value of the site using either the DEFRA biodiversity metric or, if appropriate, the Small Sites Biodiversity Metric (or alternative method and if so, the reasons why that is appropriate).
- Detailed pre- and post-development plan of habitats on site showing habitat types and a condition assessment. If off-site BNG is proposed, plans of the off-site areas are also required.
- Details along with justification to demonstrate how a gain of at least 10% BNG can be achieved ensuring that the proposed habitat is provided onsite in the first instance followed by either a combination of onsite and partial off-site or completely off-site within the Borough and as last resort off-site outside of the borough.
- An Excel copy of the completed relevant Biodiversity Metric to demonstrate how metric conclusions were reached alongside an explanation of the condition scores set out in accordance with the DEFRA guidance.
- Justification that any habitat being created is suitable for the area taking into account local biodiversity priorities, opportunities and targets identified through mechanisms such as Local Ecological Network Mapping and future Local Nature Recovery Strategies.
- Confirmation whether the metrics trading rules have been satisfied and if not, justification should be provided to show how trading down has been avoided.
- Details of how opportunities to connect new habitats to the wider ecological network will be maximised, to avoid fragmentation or isolated pockets of habitat.
- Information on financial costs to clearly show how BNG will be implemented, managed, and monitored for a minimum of 30-years with timescales for audit reporting back to the Council.

6.9 Proposals for development that is exempt from providing BNG will not need to provide a Biodiversity Gain Plan. However, as part of an application it could provide details of smaller measures designed to form part of wider more general biodiversity enhancements separate from the BNG requirement.

Approval of the Biodiversity Gain Plan

6.10 To enable the Council to approve the Biodiversity Gain Plan and thus determine the planning application, it needs to be satisfied after consulting its own Ecologist that:

- Any ecological reports and survey data underpinning BNG assessments are valid;[16]
- The pre-development biodiversity value of the onsite habitat is as specified in the Biodiversity Gain Plan;
- The post-development biodiversity value of the onsite habitat is at least the value specified in the Biodiversity Gain Plan;
- If the plan specifies off-site BNG:
    - the registered off-site BNG is specified (and, if the BNG site is conditional, that any conditions attaching to it have been met or will be met by the time the development commences. The Council, in these instances, may use a pre-commencement condition ensure compliance with any specified conditions with the BNG site), and
    - the registered off-site biodiversity gain has the biodiversity value specified in the plan.
- The Biodiversity Net Gain of at least 10% has been achieved;
- Sufficient implementation, management and monitoring arrangements are in place and secured via an appropriate mechanism for a minimum period of 30 years.

[16] For all relevant planning applications, the Charted Institute of Ecology and Environmental Management (CIEEM) advice note on the Lifespan of Ecological Reports & Surveys should be referred to for guidance on the validity of ecological reports and survey data used to determine BNG. Generally speaking, ecological reports and survey data that are less than 12 months old are likely to still be valid in most cases. However, it will be down to the discretion of the Council's Ecologist to determine whether the ecological reports and survey data underpinning BNG assessments remain valid.

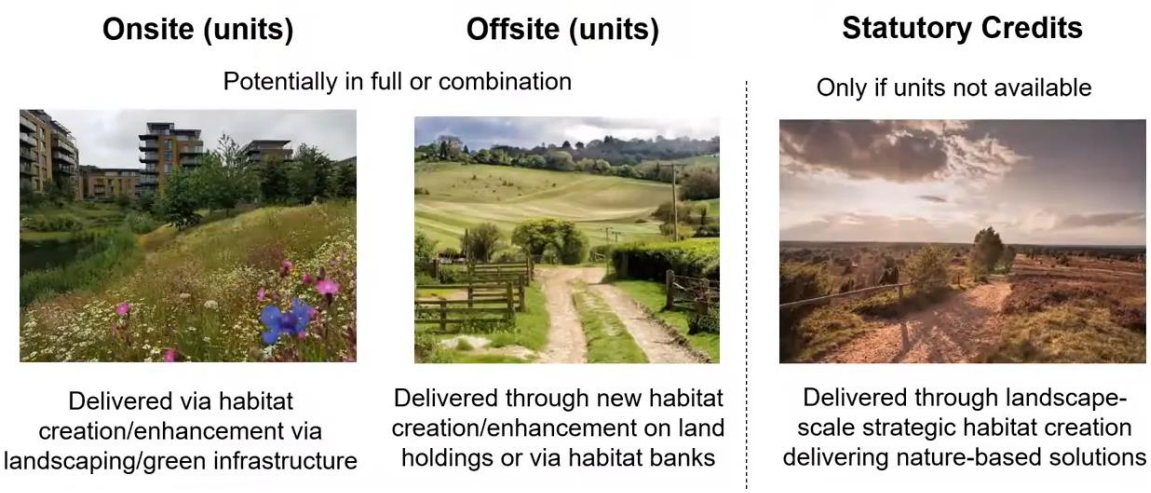
7. Providing and Securing Biodiversity Net Gain – the sequential approach

Key Point:

Biodiversity Net Gain shall be provided following a sequential approach:

- Onsite in the first instance,
- A combination of partial onsite and off-site or total off-site solutions within 'reasonable proximity' to the development,
- Complete off-site provision within 'reasonable proximity' of the development,
- Complete off-site provision within the Borough,
- Complete off-site provision outside of the Borough within the Solent subregion,
- As a last resort, the Environment Act 2021 will allow applicants to purchase Statutory Biodiversity Credits under the national scheme for the purpose of meeting BNG.

The Council will seek evidence through the Biodiversity Gain Plan of how this sequential approach has been followed, as part of the justification of any off-site BNG.



Source: Natural England

All measures for BNG (both onsite and off-site) should contribute to the delivery of future Local Nature Recovery Strategies (LNRS), making use of opportunity areas identified within the Local Ecological Network Map for the Borough to ensure habitats are integrated and connected to the wider ecological network.

7.1 The reason for having a geographical sequential approach to BNG provision is so that habitats are not lost or become fragmented within the area of development.

7.2 It is also to ensure that the occupiers of the new development and surrounding residents can benefit from the ecosystem services that being close to nature provides.

Providing and Securing On-site Biodiversity Net Gain

7.3 Where the metric calculations demonstrates that at least 10% or more net gain can be achieved onsite, there is no need to consider any further measures.

7.4 Onsite BNG measures shall be located so that they are connected to the wider ecological network[17] enabling greater habitat connectivity and linkages. Applicants should seek the support of an ecologist to ensure this is achieved.

7.5 Where a Biodiversity Gain Plan has been submitted detailing how and where BNG is to be provided on site, planning conditions will be used to secure the actions for habitat creation or enhancement as well as the proposed maintenance and monitoring programme. Further details on the monitoring requirements for BNG are provided in section 8.

Providing and Securing Off-Site Biodiversity Net Gain in the Borough

7.6 If it is not possible to achieve 10% minimum BNG completely onsite, and off-site measures are required, the same assessment process has to be undertaken to establish the biodiversity unit values on the off-site land pre-development and post-development to calculate how many units the 'net gain delivery site' can contribute as compensation.

7.7 The change in biodiversity units on the development site is then added to the change in units on the delivery site to provide a total change in biodiversity units for the development. The total change in units needs to be sufficient to ensure a 10% minimum net gain is achieved.

7.8 It is the applicant's responsibility to find a suitable location for the delivery of off-site BNG. Off-site BNG provision shall be focused within reasonable proximity to the development unless it can be demonstrated that there are no opportunities available. If this is not possible, the next step is to identify off-site BNG delivery sites within the rest of the borough of Fareham.

7.9 Reasonable proximity means within a distance that the habitats to be created or enhanced are functionally linked to the wider habitats and ecological network around the development and in the area whilst ensuring that the trading down of habitat is avoided. This will be assessed by the Council's Ecologist in consultation with Natural England if required.

7.10 To assist in this, the Council, as landowner, may be able to identify BNG opportunity areas where BNG improvements can be made if contributions are

[17] There is a Hampshire wider Local Ecological Network Map available from the Hampshire Biodiversity Information Centre - Microsoft Word - Mapping the Hampshire Ecological Network Updated March 2020 (hants.gov.uk)

provided. In these cases, contributions would be secured through a section 106 planning obligation, depending on the scope of contributions and if they would fall within the parameters of section 106.

7.11 Applicants are also able to seek and provide their own off-site BNG measures in the borough. They will need to demonstrate they have sought to provide off-site BNG within reasonable proximity to the development in the first instance before exploring opportunities to deliver BNG elsewhere in the Borough.

7.12 As part of its review of the Biodiversity Gain Plan, the Council will assess that BNG is being achieved and that the off-site habitat being created satisfies the trading rules (see section 5). The Council will also need to satisfy itself that the off-site BNG delivery site is within 'reasonable proximity' to development. In all instances, a degree of flexibility is required when providing off-site habitat and the Council intends to take a sensible approach to assessing the suitability of off-site BNG proposals in the Borough.

7.13 Where developers have provided an off-site BNG solution, a legal agreement between the landowner and/or provider of the off-site solution, applicant and the Council may be required. The purpose of the legal agreement is to secure the actions set out in the Biodiversity Gain Plan ensuring that the BNG is delivered and subsequently managed and monitored for at least 30 years. The legal agreement will also include a provision for the responsibility of undertaking the works to achieve BNG to be passed on to any subsequent landowner(s).

Providing and Securing Off-Site Biodiversity Net Gain outside of the Borough

7.14 Where it has been clearly shown there are no available opportunities to deliver BNG off-site in the borough, applicants can provide BNG outside of the borough but within the Solent sub-region, or as a last resort purchase statutory BNG credits once national schemes are available.

7.15 The Council is aware of the national statutory credits scheme developed by Natural England, but there may also be other future habitat bank schemes developed by third parties, such as the Partnership for South Hampshire (PfSH).

7.16 Applications that intended to provide BNG outside of the Borough or purchase statutory credits will be reviewed on a case-by-case basis to ensure they have complied with the sequential approach to BNG provision.

7.17 Where developers have provided an off-site BNG solution, a legal agreement between the landowner and/or provider of the off-site solution, applicant and the Council may be required. The purpose of the legal agreement is to secure the actions set out in the Biodiversity Gain Plan ensuring that the BNG is delivered and subsequently managed and monitored for at least 30 years. The legal agreement will also include a provision for the responsibility of undertaking the works to achieve BNG to be passed on to any subsequent landowner(s). In these instances, the relevant Local Planning Authority in whose jurisdiction

the BNG delivery site is located, may also need to be a signatory to the legal agreement.

National and Local Off-site BNG Register

7.18 As required by the Environment Act 2021, Natural England is in the process of developing a national net gain sites register which will be a key component of the national mandatory BNG requirement. The register is expected to include information about any site that is being used to deliver BNG.

7.19 The register is to be publicly accessible and detail the baseline biodiversity value of the delivery site and the expected future biodiversity value of that site. It will also contain information about who owns the site, and it will enable such sites to be traced back to the individual development whose BNG requirement they are helping to fulfil.

7.20 The register will ensure that the same parcel of land cannot be claimed as the means for delivering BNG by multiple developments. Sites can only go on the national register if there is underlying s106 Legal Agreement or a Conservation Covenant in place to secure the gains.

7.21 In instances where the off-site delivery site in question is on the National Register for BNG, separate legal agreements between the Council, the applicant and the landowner or provider of the BNG delivery site, may not be required as a legal agreement pertaining to its use as a BNG delivery site or a Conservation Covenant will already be in place.

7.22 In advance of the national register, the Council intends to produce its own local register for BNG sites which is based on the principles of the national off-site register being developed by Natural England. This Local Register will include land suitable for habitat creation and enhancement for the delivery of off-site BNG both under private and public ownership. The intention is that this Local Register will be kept under review, should additional sites come forward for consideration as a BNG delivery site, and that it will feed into the national register when it is available.

Management and Maintenance of BNG

7.23 In accordance with Local Plan Policy NE2 Biodiversity Net Gain, all qualifying development (see section 4) will need to make provision for the ongoing management and maintenance of Biodiversity Net Gains for a minimum period of 30 years. This will be secured through a planning condition for onsite BNG and s.106 legal agreement for off-site solutions. Therefore, the Council will expect applicants to include details in their Biodiversity Gain Plan regarding the management and maintenance of BNG.

8. Monitoring and Compliance

8.1 To ensure Biodiversity Net Gain is being achieved in line with the agreed Biodiversity Gain Plan, monitoring and recording the progress towards reaching Biodiversity Net Gain wherever and however this is secured is required. The delivery of BNG takes time and is reliant on being implemented successfully. To ensure progress is reported, it is essential that future audit reporting is agreed and/or secured at the point at which planning permission is granted. It will be important to determine who is responsible for the production of the reports, the relevant timescales at which the reports are due and what details they will contain.

Monitoring for BNG Onsite or on privately-owned land in the Borough

8.2 For BNG being provided onsite or off-site away from development on land which is not Council-owned, the production and submission of audit reports shall be the responsibility of the developer or where agreed, the landowner using the assistance of a qualified ecologist.

8.3 Table 3 within the CIEEM Biodiversity Net Gain Report and Audit Templates (2021) contains the type of details that should be included in an audit report that is to be submitted to the Council by a qualified ecologist. This template suggests that topics such as survey methods, current conditions on site and a detailed evaluation of the project's compliance with the principles of BNG should be included in the audit report.

8.4 The frequency of audit reporting will depend upon the scale of the project and habitats being created or enhanced. This should be set out in the Biodiversity Gain Plan which will be secured through planning conditions by the Council for onsite BNG provision and via s.106 legal agreement for off-site BNG provision.

8.5 However, in all cases audit reports will be needed:

- following any changes to project design post-consent - significant changes may require a full review of earlier stages of the process;
- immediately following project implementation, for example, the completion of construction or at the end of a landscape establishment phase; or
- when the majority of created habitats are expected to have reached their target condition. The metric sets out what condition each type habitat should have achieved over periods of time – this can be used to track whether the site is achieving the net gain envisaged.

8.6 Where there are large gaps in time between different habitats reaching their target condition, it may be necessary to timetable additional audit reports.

8.7 The monitoring information collected by the Council will be used to inform the Council's planning monitoring reports as well as feeding back to government as

part of the new requirement to produce Biodiversity Reports as set out in Section 103 of the Environment Act 2021.

Monitoring for BNG Off-site on Council Owned Land

8.8 For BNG being provided off-site on Council owned land, the production and submission of audit reports shall be the responsibility of the Council, who may choose to enlist the services of organisations such as Hampshire and Isle of Wight Wildlife Trust or Hampshire Biodiversity Information Centre to help with the monitoring and reporting.

Monitoring for BNG Off-site Outside of the Borough

8.9 Where, as a last resort BNG, is to be provided outside of the borough, the production and submission of audit reports shall be the responsibility of the developer or where agreed, the landowner, using the assistance of a qualified ecologist.

8.10 Reports are to be submitted to the Council with the same details and frequency as BNG being provided onsite or privately off-site within the borough, and as specified in the Biodiversity Gain Plan.

Compliance

8.11 Government guidance states that the planning compliance regime should be the principal way of enforcing BNG. As with all other planning legal agreements and planning conditions, where legal agreements and planning conditions regarding BNG are not met either partially or in full, the Council will take the appropriate and necessary action to ensure compliance.

9. Optional Biodiversity Enhancements for Development not Legally Required to Provide BNG.

9.1 Development such as householder applications, permitted development and others which are exempt from the 10% minimum BNG requirement (see section 4) can form a large proportion of planning applications received by the Council, and collectively could make a sizeable contribution to overall biodiversity enhancement and conservation in the Borough.

9.2 Therefore, the Council strongly encourages all applicants to provide smaller wildlife features and planting such as bat boxes and swift bricks, garden ponds and hedgerows, which can be included as part of a wider biodiversity enhancement and mitigation plan, separate to 10% minimum Biodiversity Net Gain commitment.

9.3 Applicants can demonstrate these smaller wildlife features on a simple plan or statement to show that they are contributing to the wider objective of conserving and enhancing biodiversity.

9.4 Applicants may wish to use the DEFRA Metric(s) to quantify their net gain/enhancements or even demonstrate they are achieving 10% minimum BNG, even though they are not required to do so.

9.5 The list below provides some options available to development sites that are exempt from the 10% minimum BNG requirement but are still strongly encouraged to provide biodiversity enhancements. Some of the enhancements below refer to habitat creation and therefore could be input into the DEFRA metrics to quantify the level of BNG being provided but others cannot as these metrics only quantify BNG from habitat and habitat creation and would not account for biodiversity features such as bird boxes.

- Green roofs with a diversity of plant species (could be a small section of the development if not all of the roof area);
- Brown roofs with a range of substrates (could be a small section of the development if not all of the roof area);
- Rough or natural stone walls with holes for invertebrates and small birds to use;
- Species-rich native hedgerows as boundary features;
- Habitat creation for locally relevant wildlife habitat types (this can be beneficial on a small scale if it adds to the habitat resource locally);
- Pond creation (not fish-stocked), with an irregular shallow sloping edge (these should be combined with stone and log piles close by to provide refuge for amphibians;
- Green walls with planting locations built in, or a planting framework added externally;
- Nectar-rich native planting and native species with berries within formal landscaping;
- Native wildflower mixes as an alternative to amenity grassland or verges;

- Garden boundaries with gaps to allow small animals to move between them (hedgehog highways);
- Integrated bird or bat box features;
- Early flowering plants that provide a nectar source for early invertebrates such as bees;
- South facing banks with some bare ground (particularly beneficial for reptiles and invertebrates);
- Habitat corridors across a site to make a connection with wider habitats;
- Architectural features that provide nesting or roosting habitat (such as slit holes)
- Range of bug hotels with dead wood and stone piles, or purpose built bug boxes or bee bricks;
- Information packs and interpretation material for the development end users;
- Habitat creation that targets locally important species with isolated habitat patches;
- Biodiversity focused design of sustainable urban drainage, for example with open and naturally vegetated swales.

9.6 Some biodiversity enhancements can be relatively low cost and simple to integrate into development such as bird or bat boxes or native hedgerow planting as part of the landscaping of the development. With regards to bird or bat boxes however, Ciria's 'Biodiversity Net Gain: Good Practice Principles for Development'[18] notes that although these types of features can be beneficial in the right location, they are often included without sufficient consideration of the type of boxes that would most benefit local biodiversity, whether the site is close to wider habitat needs such as foraging habitat, and whether there are the necessary habitat connections to enable species to commute to and from the nesting or roosting boxes.

9.7 Therefore, if bird or bat boxes are to be included, the following questions should be answered to help determine whether their installation will offer a positive enhancement.

- Which species are local nature conservation priorities, and are the boxes the right specification for these species?
- Has the correct height and orientation for the box been specified, and is there a clear flight path to the box?
- Are there records for the target species locally?
- Does the wider area have the right habitat, and habitat that is connected for the species?
- Is there a shortage of nesting or roosting locations for the species?
- Will the operation of the site create disturbance or detractors that will deter the target species (e.g. light, noise, odour, people movement, pets etc.)?

[18] https://cieem.net/wp-content/uploads/2019/02/C776a-Biodiversity-net-gain.-Good-practice-principles-for-development.-A-practical-guide-web.pdf

9.8 Further guidance on the appropriate use of bat and bird boxes is available from the Bat Conservation Trust and RSPB and the Hampshire and Isle Wight Wildlife Trust.