

Biodiversity Net Gain Guide

June 2023

Biodiversity Net Gain (BNG) is an initiative that requires every new development in England to have a measurable increase in biodiversity compared to the pre-development baseline (before the development took place). BNG aims to ensure all new developments contribute to conserving and enhancing the natural environment, whether it's at the original site or elsewhere.

The Department for Food, the Environment and Rural Affairs (Defra) confirmed in February 2023 that BNG will become mandatory.

Whether you're a developer, landowner or natural capital investor, this guide provides an overview of what you need to know regarding Biodiversity Net Gain.

What is BNG, and when and where will it be mandatory?

BNG is a development or land management approach that seeks to enhance the natural environment and leave it in a better state than before development. BNG aims to protect and enhance biodiversity, which has been declining in the UK due to habitat loss, pollution, and other factors.

From November 2023, in England only, BNG will become mandatory for most building development (see below for exemptions) under the Town and Country Planning Act, as set out in the Environment Act 2021. The Act states that BNG policy requires developers to achieve a minimum of 10% net gain in biodiversity after development, though this amount will vary across local planning authorities (LPAs).

Developers are expected to prioritise on-site solutions to achieve BNG, such as creating new habitats or enhancing existing ones within the development site. However, off-site solutions are an option, and developers may also be able to purchase statutory credits as a last resort to achieve their net gain target.

"To ensure the long-term sustainability of the biodiversity enhancements, a BNG site must be secured and managed for at least 30 years via planning obligations or conservation covenants. This means that where they are provided on-site, developers must consider the long-term management of biodiversity enhancements as part of their planning and implementation processes," says Mark Topliff of Knight Frank's Rural Research team.

Why is BNG being implemented?

The often-quoted statistic is that since the 1970s, **41 per cent of all UK species surveyed** have declined. BNG is one of the government approaches to reverse that decline.

But the general public is also becoming increasingly concerned and even demanding change. As a proxy of this sentiment, of the **top seven organisations** that are linked to habitat conservation (National Trust, RSPB, Wildlife Trusts, National Trust for Scotland, Woodland Trust, Greenpeace and Wildfowl and Wetlands Trust) UK membership increased by 403,000 or five per cent between 2021 and 2022.

Through BNG, developers can also positively impact local communities and the economy by contributing to more visually appealing landscapes, preserving cultural and historical sites, and creating new opportunities for education and recreation. These biodiverse ecosystems can also help reduce greenhouse gas emissions by storing carbon, working towards mitigating climate change.

What type of sites will need to implement BNG in November 2023?

Defra has confirmed that the mandate will be effective for all large domestic, industrial, commercial and mixed-use sites from November 2023. It applies in England only.

However, the requirement for BNG for small sites has been delayed to April 2024. Small sites are fewer than ten houses or less than 0.5ha, commercial sites with floor space below 1,000 square metres or site areas below one hectare.

National Significant Infrastructure Projects (NSIPs) remain in scope for BNG, but their implementation is scheduled for November 2025.

Are there any exemptions to implementing BNG?

Some exemptions apply to the BNG requirements, including development affecting:

- habitats below a minimum threshold of 25 metres squared or five metres for linear habitats like hedgerows
- householder applications
- biodiversity gain sites
- small-scale self-build and custom housebuilding

For the latter exemption, Defra state that they will be aiming "to define this exemption in a way that addresses the risks of exempting large sites made up of many custom plots and will keep this under review."

How do you calculate the biodiversity on a site?

Natural England (NE) has a **tool and guidance** that must be used to assess habitats and calculate the value of biodiversity. The current metric, introduced in March 2023, is 4.0. The NE Biodiversity Metric tool is a habitat-based approach used to evaluate an area's value to wildlife.

The metric uses habitat features such as the presence of particular plant species, the quality of vegetation, the diversity of vegetation structure, and the presence of water bodies to calculate a biodiversity value or BNG units. The assessed number of units then provides a baseline to calculate the required uplift (net gain). The metric tool can then be used to assess which type of habitats will achieve the new total number of BNG units that must be provided as part of the development.

It should be noted that the metric tool does not consider the indirect impacts of a development and so an Environmental Impact Assessment may still be required.

What if a site's biodiversity has recently been degraded?

Where habitats on a site have been degraded since 30 January 2020, the pre-degradation habitat should be taken as the baseline. If the baseline date can't be agreed upon, the default is 30 January 2020. This is to prevent sites that have been deliberately or accidentally manipulated from benefiting more from BNG.

How will BNG sites be monitored and enforced?

Full details are not yet available, but developers and land managers will use the Biodiversity Gain Site Register to record progress on a BNG site. The current planning enforcement regime will be the principal means of enforcement.

Defra is due to publish further guidance on monitoring and enforcement of BNG.

What is the difference between biodiversity units and credits?

Biodiversity units are the output of the Biodiversity Metric. The term also refers to the sale of off-site biodiversity units.

Credits refer to the statutory credits that are the last resort option for developers if they can't deliver the BNG they need on-site or via purchasing off-site biodiversity units.

Land developers - What does BNG mean for you?

Roland Brass of Knight Frank's Planning team says, "BNG should be considered from the outset for any proposals, and environmental improvements could be used to strengthen the case for development. Planning applications should be supported by a biodiversity gain plan complete with the Biodiversity Metric calculations. This plan outlines how net gain in biodiversity will be achieved and managed for a minimum of 30 years after development."

If you are planning a phased development, you will require a biodiversity gain plan for each phase of the project, subject to approval prior to commencement.

Where the development impacts habitats within the project boundary, developers must replace them with habitats of equal or better biodiversity or greater size. This means they must ensure that the new habitats are comparable or higher quality to those lost during the development and that the habitat area is not reduced due to the development.

All high distinctiveness habitats require re-creation on a like-for-like basis should they be lost. In contrast, there is more flexibility for lower distinctiveness habitat types regarding what habitat can be delivered if they are lost.

Roland explains that "we are also seeing more councils ask for details of potential BNG sites/sites for environmental improvements as part of Call for Sites consultations. Previously they generally asked about land for housing or employment only, but they are now considering a much broader range of options in some authorities."

It should also be noted that there is no change to existing legal protections for habitats, so these will still need to be adhered to where necessary.

You should not count habitat creation or enhancements towards your BNG if you're already required to do this, for example, to comply with restocking conditions relating to a tree felling licence or a restocking notice, marine licensing or remediation under the environmental damage regulations.

You can count River Basin Management Plan (RBMP) mitigation towards your total BNG. If you're already providing RBMP mitigation to prevent deterioration as part of your development, you should do at least 10% of your BNG through separate activities. If you're providing RBMP enhancement as part of your development, you will not need to do separate activities to reach your total BNG.

Who can assess a site's biodiversity?

The Biodiversity Gain Plan will require a competency statement for a named person who has completed the assessment and metric calculation. So, developers must employ a 'competent person' to conduct the habitat survey and assessments and use the approved metric.

A 'competent person' is defined as being able to confidently identify the positive and negative indicator species for the range of habitats likely to occur in a given geographic location at the time of year the survey is undertaken. For a full metric application, the competent person should be an ecologist. However, in circumstances where the development fits with the criteria to use the Small Sites Metric, it is not necessary for the metric to be completed by an ecologist but by someone competent to use it.

It is important to have the right competent person because baseline surveys and management proposals detailing the delivery of the gain are carefully scrutinised during the planning process. Isabel Swift, who works with clients on BNG, says: "Where these assessments and plans are seen as deficient, it can cause significant additional delays and costs at planning. For landowners who are trying to create units to sell, they may find that poor assessments and reports are not approved and must be re-done.

"Working with ecologists on a management plan is important, it is an opportunity to decide on the objectives and the landscape being created and establish how much input and management it requires" adds Isabel.

What if the development needs to offset off-site?

Once BNG is mandatory, if you are planning to offset BNG units off-site, only land registered on the Natural England Biodiversity Gain Site Register can be used to satisfy the local planning authority. This is due to be available by November 2023.

It is preferred if the off-site option is within the same Local Planning Authority or National Character Area.

When there are no options to provide the necessary BNG on-site or off-site, the developer can purchase statutory credits. But the developer will need to prove that other options have been explored. Charlie Dugdale of Knight Frank's Development Partnerships explains, "Natural England will set up a BNG credit scheme of last resort for developers, but the pricing will be intentionally uncompetitive. It will be interesting to see whether the credit price provides a ceiling for the private market."

What about excess BNG units generated above the mandated amount?

Developers can sell any BNG units above the LPA's minimum requirement generated on-site. Still, there will be no centralised trading facility for units, and the private market will determine prices. These excess units can be used as off-site gains for another development.

Can a local planning authority set a BNG target higher than 10%?

Yes, the Environment Act allows local authorities to set a BNG higher than the minimum. Some local authorities have already mentioned that they are considering a higher requirement, and it will be interesting to see how many will pursue this. But they will need to set it out in policy in the authority's Local Plan. The Local Plan should be based on evidence, i.e., viability has been tested, and the BNG target checked against other policies in the plan.

Landowners - What does BNG mean for you?

Landowners can **sell biodiversity units** to developers looking for off-site solutions. If you are considering offering your land as part of BNG, the key steps to think about are:

1. Find out what habitats your local area needs.
2. Consider how you can combine biodiversity net gain with other environmental payments.
3. You will need to **calculate how many biodiversity units** you will have on your site.
4. Price of your units. Factor in any potential risks and long-term management costs.

Any land manager considering offering their land as a biodiversity gain site will need to register it with Natural England. They will be appointed as the Biodiversity Gain Site Register Operator, responsible for establishing and maintaining the register, with a fee for registration intended for cost recovery. Taking advice on the process early on will be important, as it will mean you are best placed to choose the right areas on which to target your BNG. The right advisors will also mean you can give a brief which meets your objectives and generates a plan which is appropriate and achievable, thereby minimising risk.

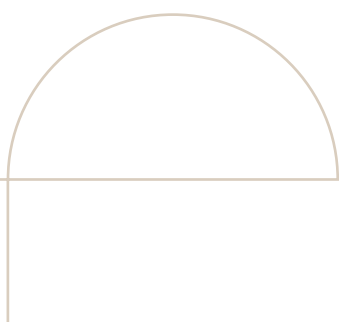
Can I 'stack' payments or units from other schemes on the same land?

Land managers can sell biodiversity units and nutrient credits from the same nature-based intervention, subject to meeting eligibility criteria and not selling credits for other ecosystem services.

However, as Harry Howard-Jones explains, "the recent announcements from Defra have confirmed a landowner can 'stack' BNG payments with other payments for ecosystem services including on the same parcel of land. This will be the subject of further guidance, which will initially run until 2025."

"Defra has been clear that stacking will only be permitted where BNG and nutrient mitigation is delivered by a given nature-based intervention, not other ecosystem services such as carbon offsetting."

So, you cannot stack carbon and BNG on the same land for the same activity (i.e. planting a woodland). You can only stack on top of carbon if you can further enhance the habitat, and it does not affect the carbon value.



What level of income can I expect from selling BNG units?

Offering your land to provide BNG offsetting off-site needs careful consideration. Be clear on your motivation - is it going to be a way to diversify your farm or estate, and what impact it may have on inheritance tax, for example?

The gross income level will depend on the model you follow. However, **The Land Trust** has previously mentioned that BNG units have fetched around £10-£25,000 per unit, although James Shepherd, in our Rural Consultancy team, expects local demand and supply will be what ultimately sets unit prices. Every BNG unit will not be the same; some will deliver gain in high-priority habitats or for specific habitat types and must be replaced by the same types or better. As such, it is reasonable to expect that those units sold for higher priority habitats will fetch more than those in moderate priority habitats, for example. "We anticipate between one and nine units per hectare of agricultural land being typically deliverable in the right locations, with prices potentially reaching more than £40,000 per unit, especially in high demand and short supply areas." Shepherd also advocates "that whatever price is settled on, it should be sufficient to ensure landowners and land managers receive an equitable share of any off-site commercial gains. Further, the true costs of that offsetting need to be fully accounted for to provide sufficient funds for managing and monitoring gain sites for at least a 30-year period."

But Tom Heathcote, Head of Agri-consultancy, cautions landowners and farmers looking to the BNG market as another source of income that "it won't necessarily be a silver bullet. If you are in the right place at the right time, then great, but don't rely on it."

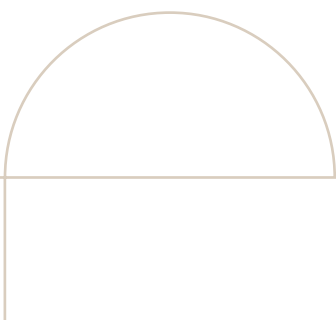
Will BNG be just another 'greenwashing' scheme?

Developers will need to prove that they have delivered a gain in biodiversity at a site. The public and investors will need to be assured that beneficial changes have been achieved and that it is not just another attempt to greenwash the actions of developers. Tom Heathcote says "that the experts doing the habitat assessments, such as the ecologists, are key to this process. These specialists will need to have the utmost integrity and suitable accreditation as the assessments can be subjective."

"It will also be important that developers show what actions they have taken to enhance nature as part of their developments to portray a positive image regarding their approach to the environment."

How can Knight Frank help businesses with BNG?

Knight Frank advises commercial and residential property developers, local authorities, investors and rural landowners of all types. We have a broad range of specialists who can advise and support clients with BNG projects. Please find their details on the next page.



Key Contacts

Rural Consultancy

James Shepherd

james.shepherd@knightfrank.com

Isabel Swift

isabel.swift@knightfrank.com

Harry Howard-Jones

harry.howard-jones@knightfrank.com

Agri-Consultancy

Tom Heathcote

tom.heathcote@knightfrank.com

Development Partnerships

Charlie Dugdale

charles.dugdale@knightfrank.com

Planning

Roland Brass

roland.brass@knightfrank.com

Research

Andrew Shirley

andrew.shirley@knightfrank.com

Mark Topliff

mark.topliff@knightfrank.com