

NE1 - Biodiversity Net Gain

What are we trying to achieve?

11.1 To ensure that development in the District contributes towards delivering net gains for biodiversity so that biodiversity across the District is measurably improved by the end of the plan period.

Justification for approach

11.2 Historically, planning policy has focused primarily on protecting important designated habitats and species. A State of Nature Report published in 2023 suggests that there has been a 19% decline in average abundance of wildlife since the 1970s. Therefore, it is increasingly apparent that the UK's biodiversity decline is so severe that increased efforts to bring about recovery, as opposed to merely arresting loss, are essential. Since 2012 the NPPF has incorporated the principle of Biodiversity Net Gain (BNG) achieved through development, meaning that developments must not only fully mitigate any loss of biodiversity but go further to provide a gain, so the environment is left in a better state than before the development. To ensure the delivery of such an objective, the Environment Act 2021 introduced a requirement for development to deliver a minimum 10% biodiversity net gain above the ecological baseline for the application site. The Act also introduced Local Nature Recovery Strategies which will guide the delivery of Biodiversity Net Gain projects. The Kent and Medway Local Nature Recovery Strategy is currently being prepared and is expected to be finalised in 2025.

11.3 Biodiversity Net Gain is measured using DEFRA's Statutory Biodiversity Metric, which works by placing a value on habitats based on their distinctiveness, area, condition and contribution to an ecological network, and in doing so, allowing the biodiversity value (expressed as 'biodiversity units') before and after a development takes place to be measured. In this way, the level of biodiversity gain or loss can be clearly seen by comparing the two values.

11.4 NE1 sets out how local considerations should be addressed in the delivery of Biodiversity Net Gain, seeking on-site BNG to ensure the provision of biodiverse green space in development, a contribution to local nature recovery objectives and to prevent the denuding of biodiversity in developed areas. The Policy seeks to ensure that development takes into account a local locational hierarchy for off-site BNG, along with local and national guidance and datasets, including the Local Nature Recovery Strategy and the Dover District Green Infrastructure Strategy. The Kent Habitat Survey, the Kent Biodiversity Strategy and the Biodiversity Opportunity Area (BOA) in which the site is located are also relevant.

11.5 To guide delivery of BNG in the District, a Dover District Biodiversity Net Gain Strategy will be produced as SPD/supplementary planning guidance to the Local Plan. This will give clarity to applicants about what should be submitted as part of a planning application and will set out the Council's approach to securing BNG through development. In advance of this being produced, reference should be made to the latest guidance, including Planning Practice Guidance and DEFRA guidance on Biodiversity Net Gain. Applicants should adhere to the Biodiversity Net Gain – Good Practice Principles for Development, a practical guide (CIEEM, CIRIA, IEMA, 2019) and British Standard BS42020 Biodiversity-Code of Practice for Planning and Development, or subsequent revisions.

11.6 Biodiversity Net Gain does not supersede any existing habitats or species legislation/guidance. It is simply an additional tool and therefore legal and policy provisions relating to development impacts on the natural environment, including protected sites and species, and priority species and habitats, still need to be considered in addition to Biodiversity Net Gain. A development cannot avoid this requirement by virtue of delivering a net gain. Furthermore, proposals for BNG will be expected to demonstrate the application

of the Biodiversity Gain Hierarchy and Biodiversity Net Gain will not be applied to irreplaceable habitats. In accordance with additionality principles Biodiversity Net Gain must be in addition to any habitat enhancement and / or creation required to mitigate or compensate for impacts of development on biodiversity.

11.7 Improving resilience for biodiversity is an important part of the mitigation and adaptation response to the impacts of climate change. Resilience can be improved by projects which seek to create new habitats and enhance existing habitats. Projects which seek to connect fragmented habitats and improve the ability of species to move through the environment in response to predicted climate change are particularly important for nature recovery and biodiversity resilience. Biodiversity Net Gain will contribute to demonstrating climate change adaptation required by Policy SP1.

NE1 - Biodiversity Net Gain

- 1 Development proposals must provide a minimum of 10% biodiversity net gain (BNG).
- 2 Proposals for BNG should be delivered on-site, taking into account local green infrastructure priorities set out in the Local Nature Recovery Strategy, the Dover District Green Infrastructure Strategy and the Kent Biodiversity Strategy. Only if it can be demonstrated that ecologically meaningful BNG that contributes to the local green infrastructure network cannot be practically and/or feasibly achieved within the site boundary, will the Council consider off-site alternatives in line with the biodiversity gain hierarchy.
- 3 Where off-site biodiversity gain is proposed, the Kent and Medway Local Nature Recovery Strategy, once published, should be used to guide the locations of BNG. In addition, the following locational hierarchy should be followed where possible:
 - (i) Within Dover District;
 - (ii) Within neighbouring local authority areas;
 - (iii) Within Kent and Medway;
 - (iv) Within the North Downs or North Kent Plain National Character Area;
 - (v) Elsewhere in England.Only when it is demonstrated that there is no possibility of delivering BNG within the above locational hierarchy will the purchase of statutory credits be supported.
- 4 Development proposals must provide sufficient BNG information to satisfy the Council that the BNG requirement is capable of being successfully discharged. This should include a draft Biodiversity Gain Plan and draft Habitat Management and Monitoring Plan that follow the DEFRA and Natural England templates which should also include the following local considerations:
 - (i) The method of BNG delivery (for example on or off site);
 - (ii) Evidence to demonstrate that the biodiversity gain hierarchy and locational hierarchy set out in criteria 3 of this Policy has been followed;
 - (iii) The Statutory Biodiversity Metric should have regard to the Interim Strategic Significance Guidance for BNG in Kent and Medway (as updated), until superseded by the Local Nature Recovery Strategy;
 - (iv) Where baseline habitat of high or very high distinctiveness is retained on-site, the draft Habitat Management and Monitoring Plan should include proposals to secure its management to ensure that no deterioration would occur that results in reduced overall BNG;

(v) In deciding whether any on-site BNG is 'significant' regard shall be had to local guidance on its definition, to inform future management and monitoring requirements.

- 5 BNG proposals will be secured by condition and/or legal agreement with the Council or a conservation covenant with a responsible body. Where legal agreements are with the Council this will include a requirement to cover the Council's costs associated with the long-term monitoring of the BNG delivery.
- 6 Proposals to create biodiversity sites in appropriate locations, including biodiversity enhancement sites and sites associated with delivering the key outcomes of the Dover Green Infrastructure Strategy, and the Local Nature Recovery Strategy when published, will be supported.
- 7 The Council will encourage BNG that helps deliver nature-based solutions to climate change as well as biodiversity loss, such as the restoration and creation of ecosystems to protect shorelines, protect communities from flooding, or increasing carbon sequestration.

Implementation

11.8 This Policy reflects the Council's legal duty as set out in the Environment Act 2021 to ensure that all new built development delivers a net gain in biodiversity of at least 10% against the ecological baseline, measured using the Statutory Biodiversity Metric. Proposals for BNG must therefore be in accordance with legislative requirements. The policy applies to all proposals that are not exempt through the statutory framework. Development that falls outside the scope of mandatory Biodiversity Net Gain should still seek to provide biodiversity benefits in accordance with Policy SP14 and Policy PM1 and NPPF.

11.9 Some types of development are exempt from mandatory biodiversity net gain requirements. These are set out in The Biodiversity Gain Requirements (Exemptions) Regulations 2024, and include householder applications, small self-build and custom housebuilding and habitats below a 'de minimis' threshold. Policy NE1 applies to all development that is not exempt by these regulations (or any future amendments). To qualify for the self-build and custom build BNG exemption, planning applications must clearly demonstrate that the development meets the custom and self-build legal definition, and planning permissions must be secured as custom and self-build housing.

11.10 Biodiversity Net Gain will be a material consideration in decision making and applicants are encouraged to ensure that the biodiversity gain objective has been considered at an early stage in the site selection and development design and layout stages. The Council's pre-application advice service is available to give feedback on a proposed strategy for achieving the biodiversity gain objective.

11.11 An applicant must submit sufficient information with the planning application to ensure the Council can be satisfied that the biodiversity gain condition is capable of being discharged. This should include a draft Biodiversity Gain Plan incorporating information on how BNG is intended to be delivered, being one of the following options, or a combination of them:

- On-site
- Off-site, via a developer-controlled project
- Off-site, via an independent BNG provider
- Off-site, via a Habitat Bank
- Using Statutory Credits

11.12 With the exception of proposals that deliver BNG via a Habitat Bank or Statutory Credits, a draft Habitat Management and Monitoring Plan (HMMP) should also be submitted. This information will minimise potential delays in discharging the general biodiversity gain condition after planning permission is granted. To ensure all relevant information is submitted, the applicant is encouraged to use the Biodiversity Gain Plan template and HMMP template.

11.13 The ecological information submitted to meet these requirements must be prepared by persons who have sufficient technical competence and experience. They should be able to provide evidence of qualifications or training on request, in accordance with BS 42020: 2013.

11.14 BNG will be measured using the Statutory Biodiversity Metric. If an applicant wishes to deviate from the published methodology this must be ecologically justified and agreed with the Council at the earliest possible stage.

11.15 Local considerations should be embedded into the Biodiversity Metric. The metric includes the 'strategic significance' component which will be informed by the Kent and Medway Local Nature Recovery Strategy when it is finalised. In the meantime, the metric spreadsheet should be completed in accordance with the Interim Strategic Significance Guidance for BNG in Kent and Medway (as updated).

11.16 Only if it can be clearly demonstrated that ecologically meaningful Biodiversity Net Gain cannot be achieved within the development site boundary will the Council consider off-site provision, or Statutory Biodiversity Credits as a last resort. An example of a proposal that may not be ecologically meaningful would be a lowland meadow habitat close to homes which has multifunctional purposes (such as play space, or a water detention basin) that prevent the habitat achieving its intended condition.

11.17 Off-site provision should be discussed and agreed in the first instance with the Council and will be expected to be strategically located for nature conservation, in accordance with local priorities.

11.18 Proposals for BNG must be acceptable to the Council in terms of design and location and should take into account local priorities set out in the Local Nature Recovery Strategy, the Dover District Green Infrastructure Strategy and the Kent Biodiversity Strategy. Proposals should have appropriate delivery and funding mechanisms that are capable of being secured by condition and/or legal agreement or conservation covenant.

11.19 Planning permission is granted subject to a general condition which will require a Biodiversity Gain Plan to be submitted and approved in writing before development can commence. With the exception of proposals that deliver BNG via a Habitat Bank or Statutory Credits, a fully-funded Habitat Management and Monitoring Plan (HMMP) should accompany the Biodiversity Gain Plan. This will clearly set out how the legal requirements for BNG proposals will be delivered, managed and monitored. All off-site and significant on-site habitat must be secured for 30 years.

11.20 Guidance on the definition of 'significant' is being prepared locally and will also be provided in the Biodiversity Net Gain SPD/guidance. Examples could include distinctive retained habitats being enhanced, structural landscape planting, and new woodlands, hedgerows, ponds and wetlands.

11.21 The biodiversity gain condition will not be discharged if the applicant cannot provide robust evidence to demonstrate that the post development biodiversity units will exceed the pre-development value of on-site habitat by at least a 10% net gain. In some circumstances additional conditions relating to Biodiversity Net Gain can be imposed, including where there are significant on-site enhancements and monitoring arrangements.

11.22 Biodiversity Net Gain proposals and ongoing management will be secured by condition and/or legal agreement with the council or a conservation covenant with a responsible body. In some cases, the Habitat Management and Monitoring Plan will be included within the legal agreement.

11.23 The Council will set specific and proportionate monitoring requirements as part of planning conditions and obligations used to secure the maintenance of off-site and significant on-site habitat enhancement for at least 30 years, in accordance with legislative requirements. This will include a requirement to cover the Council's costs associated with the long-term monitoring and reporting of the Biodiversity Net Gain proposals. The fees will be proportionate to the scale and types of habitat enhancements proposed.

11.24 Where it is possible to achieve, the Council will encourage the delivery of a greater than 10% biodiversity net gain.