



# Northumberland County Council

## **The Introduction of Biodiversity Net Gain Northumberland County Council Planning Service Position Statement, January 2022**

### Introduction

The Environment Bill was enacted on 9 November 2021, commencing a two-year countdown to the introduction of mandatory biodiversity net gain requirements for most planning applications.

Although the Bill has been enacted, much of the detail concerning the operation of mandatory net gain falls to be established through secondary legislation and statutory guidance. Amongst other things this includes:

- Procedures concerning the approval of net gain plans by LPAs
- Exemptions to the requirement
- Definition of irreplaceable habitat
- The establishment of a national register of net gain sites
- Rules concerning additionality when habitat is also being provided for other reasons such as for mitigation for impacts on species
- How BNG applies to phased development, retrospective applications or to amendments.

The metric to be used in net gain calculations (currently Defra metric 3.0) still needs to be subject to consultation and confirmation by Parliament.

### Timescales

As you will be aware, Defra has launched a [consultation](#) regarding the regulations that will set out the details of how the biodiversity net gain system will operate.

Sometime over the next few months local authorities will be informed of the new burdens funding that they will receive to enable them to prepare for and manage the net gain process and to implement other Environment Act obligations such as Local Nature Recovery Strategies and biodiversity planning and reporting.

In spring 2022 Government will make the net gain regulations following consideration of the consultation responses received.

In spring 2023 the register that all net gain sites must be recorded on will go live, as will the sales platform for net gain credits that can be purchased by developers when net gain sites cannot be found locally.

In autumn 2023 biodiversity net gain will become mandatory for all development other than any specifically exempted by the Regulations.

#### Northumberland County Council's Preparations

Ecologists in the Planning Service are already preparing for the introduction of net gain, but there is a limit as to how much can be done until the regulations have been made and the statutory guidance published, and until the resources have been made available through new burdens funding to develop this work.

However, guidance is being drafted and this will be finalised once the regulations have been made and then taken forward as a Supplementary Planning Document on biodiversity net gain. The Council also intends to be proactive in ensuring there is a good supply of net gain sites locally, in ecologically appropriate locations. This will involve extensive engagement with landowners, agents and planning consultants over the coming 12-24 months concerning the supply of sites, and we hope to be able to develop a system whereby developers can discharge their off-site net gain obligations through a payment to the Council, which will then procure the necessary work.

#### Net gain in Northumberland during the transition period

The NPPF already sets out that planning decisions should provide biodiversity net gain and encourages approaches that demonstrate measurable (i.e. metric-based) net gain, although it doesn't require a specific percentage gain to be achieved. It is anticipated that the draft Northumberland Local Plan will be adopted shortly, and Policy ENV 2 1b identifies the need to secure net gain through new development, without specifying a percentage (as this would have pre-empted the Environment Act). This will generally remain the position for the time-being, although the Planning Service will seek to agree a more formal metric-based approach for certain larger or more sensitive developments at the pre-app stage.

Where a metric-based approach hasn't specifically been agreed, applicants are still welcome to adopt one using the Defra metric 3.0 if they wish, and this will be recognised as meeting NPPF objectives if it does demonstrate a net gain. However, during this transitional period the Council may not be able to provide all of the support that we hope to have in place by autumn 2023, for example in identifying net gain sites or providing a payment-based system, but this can be discussed on a case-by-case basis.

Whether it is being brought forward through a metric-based or more traditional approach, it is important that the habitat that is being created or enhanced is managed and protected over a long time period, and the minimum of 30 years set out in the Environment Act clearly shows minimum expectations, although in many cases for the lifetime of the development will be the most appropriate time period.

Where sites are degraded or cleared in advance of ecological assessment work being undertaken in connection with a new development, or have been cleared or degraded since 30 January 2020, the Environment Act empowers LPAs to use the habitats present on the site prior to that clearance work as the baseline for net gain purposes. This is to ensure that the ecological value of land is not deliberately degraded to reduce the baseline value in net gain assessments.

It is essential to bear in mind that net gain assessments are just one aspect of ecological impact assessment; they do not replace it. The mitigation hierarchy still applies and so the priority remains to avoid impacts on important habitats. Furthermore, the metric only takes account of direct losses of habitat; impacts on species and indirect effects such as disturbance to nearby habitats or populations of important species will still need to be addressed as part of the overall ecological impact assessment.

One technical point for users of the metric to note – as Northumberland doesn't yet have a Local Nature Recovery Strategy, when choosing the strategic significance of baseline and net gain sites either '*Area/compensation not in a local strategy/no local strategy*' or '*Location ecologically desirable but not in a local strategy*' should be selected, with justification provided if the latter option is used.

This position statement will be updated periodically as further progress is made.

#### Useful reading

[Biodiversity Net Gain: Good Practice Principles for Development](#) (CIEEM, IEMA and CIRIA, 2019)

[Biodiversity Net Gain Good Practice Principles for Development: A Practical Guide](#) (CIEEM, IEMA and CIRIA, 2019)

[Good Practice Requirements for Delivering Biodiversity Net Gain \(On- and Off-Site\)](#) (CIEEM, July 2021)

[Biodiversity Net Gain Report and Audit Templates](#) (CIEEM, July 2021)

[BS 8683: Process for Designing and Implementing Biodiversity Net Gain – Specification](#) (BSI, August 2021)