

BNG Guidance Note

Consultation Statement

November 2023



Somerset
Council

Version	Purpose	Date
1	For consultation	24/10/2023

Contents

Introduction	3
Consultation Summary	5
Previous engagement	9

Introduction

Biodiversity Net Gain (from here on referred to as BNG) is an approach to development, and/or land management, that aims to leave the natural environment in a **measurably** better state than it was beforehand. It is intended to deliver measurable improvements for biodiversity by creating or enhancing habitats in association with development. A national mandatory BNG requirement is currently expected to come into effect from January 2024.

The BNG Guidance Note provides guidance and advice on calculating and delivering BNG in Somerset, ensuring a consistent and efficient approach aligned to local context, making clear requirements and processes for BNG in Somerset.

The Guidance Note is primarily aimed at planning applicants, developers, planning agents, ecologists, landowners, land managers, land agents and site promoters to help guide them through the consideration of BNG in relation to their proposals and the planning system. However, it also deals with off-site delivery mechanisms and so will be of relevance to landowners and promoters of habitat banks and other off-site solutions creating biodiversity units to order. Some prior knowledge of the subject is necessary.

Furthermore, the document sets out the Council's approach to aligning BNG with other plans and objectives in Somerset, particularly in advance of publishing the Local Nature Recovery Strategy. As such, the document may be of interest to a wide range of conservation bodies and other technical stakeholders as well as the general public.

This Consultation Statement explains how Somerset Council are undertaking public consultation to inform the development of the BNG Guidance Note and support effective implementation of the incoming national requirement. The statement will be updated following consultation to explain how the engagement, feedback and responses received have influenced the development of the Guidance Note and been taken into account.

This draft statement covers:

- Which bodies and persons are being invited to make comments;
- How those bodies and persons are being invited to make comment;
- The material subject to consultation;
- A summary of early engagement and how this has influenced the development of the Guidance Note to date.

The final statement will also cover:

- A summary of the responses received; and
- A summary of how the responses influenced the development of the Guidance Note.

The Council has an adopted [Statement of Community Involvement](#) (SCI). The SCI outlines that the Council is committed to effective community engagement and seeks to use a wide range of methods for involving the community in the plan making process. Somerset Council's Statement of Community Involvement was adopted in October 2023.

In relation to plan preparation, the SCI primarily relates to the preparation of Development Plan Documents (DPDs), Strategic Environmental Assessment (SEA) and Sustainability Appraisal (SA), Supplementary Planning Documents (SPDs) and Neighbourhood Plans.

As the BNG Guidance Note is not any of these types of documents and is not formally required by any legislative, regulatory or administrative provisions, there are no mandatory steps, methods or bodies for consultation to comply with. However, the SCI explains that guidance documents intended to be adopted as a material consideration (as this is) are expected to broadly follow the same process as SPDs, though they may vary according to the specifics of the guidance.

The Guidance Note includes information on proposed changes to the local validation checklist (locally defined requirements which must be submitted alongside planning applications in order to validate them and begin consideration). In relation to updating the local validation checklist, the National Planning Practice Guidance states that *"where a local planning authority considers that changes are necessary, the proposals should be issued to the local community, including applicants and agents, for consultation"*. There are no further detailed requirements on the length or nature of this consultation.

The Guidance Note is accompanied by a draft Strategic Environmental Assessment / Habitat Regulations Assessment Screening Report. The purpose of this Report is to determine whether the Guidance Note should be subject to:

- a Strategic Environmental Assessment (SEA) in accordance with European Directive 2001/42/EC (SEA Directive) and associated Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations); or
- a Habitat Regulations Assessment (HRA) in accordance with Article 6(3) of the EU Habitats Directive and with Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

The SEA Regulations require the Council as 'responsible authority' to consult the consultation bodies (Natural England, Historic England and Environment Agency) before making a determination of whether or not a plan or programme is likely to have significant environmental effects. There are no further detailed requirements on the length or nature of this consultation.

The Habitat Regulations require the Council as 'plan making authority' to consult Natural England in determining whether a plan is likely to have a significant effect on

a European site or a European offshore marine site, and have regard to any representations made by that body within such reasonable time as the authority specifies.

The Town and Country Planning (Local Planning) (England) Regulations 2012 require the following in relation to preparation of SPDs:

- Depending upon the subject of the Supplementary Planning Document the Council may invite specific groups or organisations with specialist interest in the subject matter to engage in workshops or provide specific evidence to support production of the Supplementary Planning Document or Guidance.
- When the Council has produced its draft Supplementary Planning Document it will undertake press, Council website and social media coverage of the draft and contact those on its consultation portal inviting comments on the draft. There will be a minimum period of 4 weeks to make representations.
- The comments on the Supplementary Planning Document will all be published on the Council website (with personal contact details redacted).
- A summary of the issues raised and how they are addressed will also be posted on the website.
- The Council will publicise the adoption of the Supplementary Planning Document in the local press, social media and on the Council website. It will inform those who have requested notification of adoption.

This consultation has been designed to comply with the SCI in the interests of good practice.

Consultation Summary

In November 2023, the Council published a draft BNG Guidance Note for public consultation. Consultation will run from 6th November 2023 until 4th December 2023.

The Guidance Note was subject to some limited early engagement with technical stakeholders, which informed the proposals within the consultation draft.

The draft Guidance Note itself is a 85 page long PDF document, supported by five technical appendices totalling a further 20 pages. The Guidance Note sets out its purpose, context, introduces the subject matter, proposes processes and set out specific proposals for the tailoring of the national requirement to the Somerset context. An executive summary has been set out at the front of the document to summarise the document at a glance.

In addition to this, the Guidance Note is supported by an SEA / HRA Screening Assessment which is also required to be subject to consultation. This is a 19 page long PDF technical document.

The purpose, objectives and general requirements and process for BNG are pre-determined via national processes including the Environment Act 2021, Natural

Environment and Rural Communities Act 2006. These will be further built on by anticipated secondary legislation (BNG regulations) later this year. There are limited aspects of the requirement and process that can be tailored to local circumstances and it is these which the consultation focuses on.

As a result, the document is technical and text heavy by nature, relating primarily to technical processes within the planning process. The focus of the consultation is specifically on the limited areas where there is scope for local tailoring of the national processes and guidance. Whilst officers have tried to ensure that it has been drafted in as accessible way as possible, and the consultation hub hosts excerpt chapters of the guidance document as well as the document as a whole, the technical specifics make this particularly difficult. Whilst the consultation is public and available for anyone to respond to, the key stakeholders for the consultation are technical.

The consultation is focused on the Council's Citizen Space portal, which presents the core information on how BNG is proposed to be tailored locally alongside the survey questions.

Purpose of the consultation

Public consultation had the following objectives:

- To meet the national requirement to consult on changes to the local validation list (no explicit consultation length defined).
- To ensure consultation is undertaken in compliance with the Council's SCI with the intention of being adopted as a material planning consideration.
- To publicise to planning applicants, agents and developers that BNG is coming as a mandatory national requirement for new development from January and how we anticipate it working in Somerset.
- To seek views from planning applicants, agents and developers on our proposed processes and local tailoring of the national requirement in order to ensure they are transparent, deliverable and realistic. Identify any flaws or issues or alternative options which the final Guidance Note and Validation Checklist will need to amend / resolve / respond to.
- To seek views from the public and natural environment stakeholders on the proposed local tailoring of BNG in order to understand whether it will deliver on local objectives and priorities. Identify any issues or unintended consequences which the final Guidance Note and Validation Checklist will need to amend / resolve / respond to.
- To seek views from landowners, land managers and land agents and other land use stakeholders on the proposed process for considering, assessing and securing off-site BNG delivery mechanisms and the parameters for a future 'call for sites'.

The scope of the consultation exercise is:

- To ensure that the proposed processes are reasonable, clear and include all necessary considerations.
- To ensure that the final version of the proposed Somerset BNG Principles are well informed.
- To ensure that the local definition of strategic significance is workable and will deliver its intended outcomes.
- To publicise criteria and process for a future 'call for sites' to support transparent and consistent approach to determining off-site delivery mechanisms.
- There is no scope to consider alternatives to the general approach or issues which are agreed at the national level and enshrined / will be enshrined in law (including the 10%, exceptions, Metric, key structure of the process etc.).
- The Guidance Note covers the whole county of Somerset, though from a planning perspective the guidance only covers the Somerset Local Planning Authority (LPA) (which includes the scope of the local, minerals and waste planning authorities). For general development this excludes the area within the Exmoor NPA which is its own LPA).

Who are we consulting?

As a non-statutory plan, there is no statutory list of bodies and organisations that the Council is required to consult in its preparation. In relation to the proposed changes to the local validation checklist, the Council is required to consult the local community, including applicants and agents. In relation to the SEA / HRA Screening Report, the Council is required to consult Natural England, Historic England and the Environment Agency.

A list of Specific Consultation Bodies and General Consultation Bodies the Council seeks to involve in plan-making is included in Appendix A of the SCI. All those on this list have been included in this exercise.

In addition, the Council is committed to ensuring that local groups, organisations and individuals are provided with the opportunity to be involved in the preparation of planning policy documents.

The Council has a database of consultees, who have expressed an interest in being involved with the development of local plans and planning policy. This database is used to keep individuals, companies and organisations informed on the production of the Local Plan and other planning policy documents. New consultees are added to the consultation database by signing up to receive email updates on local planning policy through the Plan-It Somerset newsletter. The General Data Protection Regulations are followed to ensure that personal data is only required and retained where proportionate and necessary, is only gathered where explicit consent has been provided, is kept securely and is not disclosed to others. All bodies and

persons identified within this database were emailed with notification of the consultation.

In addition to the above, A number of specific consultees were identified as key stakeholders and also invited to comment, including:

- Developers (housing, non-residential, minerals and waste)
- Planning agents
- Land managers
- Land agents
- Minerals site operators
- Significant landowners
- Natural England
- Environment Agency
- Somerset Wildlife Trust
- RSPB
- Local Nature Partnership
- Woodland Trust
- Forestry Commission
- Somerset Catchment Partnership
- FWAG SW
- Wildlife & Wetlands Trust
- National Trust
- Wessex Water
- Hawk & Owl Trust
- Exmoor NPA
- Quantock Hills AONB
- Blackdown Hills AONB
- Mendip AONB
- Cranborne Chase AONB
- Dorset AONB
- Heart of the South West Local Enterprise Partnership
- Historic England
- Canal and Rivers Trust
- City, Town and Parish Councils
- Local Community Networks

How we are consulting

Consultation on the draft BNG Guidance Note will run from 6th November 2023 until 4th December 2023. During this time, a variety of methods are planned to be employed. This section of the report details each of these methods.

Responses to the consultation can be made:

- Online via the Council's [consultation portal](#), which contains a survey;
- By email to localplanningpolicy@somerset.gov.uk;

- By post to BNG, Somerset Council, County Hall, Taunton, Somerset, TA1 4DY.

To publicise the consultation, the Council is:

- Emailing notification of the consultation to all bodies and persons identified within the consultation database, developers and agents signed up for the Council's regular 'agents forum' and otherwise those identified as key stakeholders;
- Making the above consultation documents available for inspection at the following locations:
 - Bridgwater House, Bridgwater, TA6 3AR (Monday – Friday 8.45am to 5.00pm)
 - Council Offices, Cannard's Grave Road, Shepton Mallet, BA4 5BT (Monday – Friday 8.30am to 5.00pm)
 - Petters Way Council Offices, Yeovil, BA20 1AS (Monday – Tuesday and Thursday – Friday 9.00am to 4.00pm, first Wednesday of the month 11.00am to 4.00pm and every other Wednesday 9.00am to 4.00pm)
 - Deane House, Belvedere Road, Taunton, TA1 1HE (Monday – Friday 8.30am to 5.00pm)
 - West Somerset House, 20 Fore Street, Williton, TA4 4QA (Monday to Friday 8.30am to 5.00pm)
 - County Hall, Taunton, TA1 4DY (Monday – Friday 8.00am to 6.00pm, Saturday 09:00am to 4.00pm)
 - 'Hub' libraries: Taunton, Minehead, Frome, Bridgwater, Yeovil, Glastonbury.
- Publishing the documents on the Council's website on a new page linked from <https://www.somerset.gov.uk/planning-buildings-and-land/biodiversity-and-planning/> and on the consultation portal at <https://somersetcouncil.citizenspace.com/planning/bng-guidance-note>. The Council's Consultation webpage at <https://somersetcouncil.citizenspace.com/> also contains information directing people to the consultation portal.
- Publishing a press release via the Council's website, including articles in the Council's Somerset Environmental and Ecological News (SEEN) newsletter and social media posts, raising interest, communicating the consultation and encouraging participation.
- Presenting the Guidance Note to a meeting of the Council's 'agents forum'.

Previous engagement

Development of the draft BNG Guidance Note has been informed by earlier engagement activities.

In May 2022, the previous district councils and county council began working in partnership with Somerset Wildlife Trust, Somerset Environmental Records Centre, Exmoor National Park Authority and Natural England to explore development of a BNG Guidance Note. A number of working group meetings were held and work began in drafting a document, though this was paused awaiting further information from Government.

In July 2022, the previous district councils and county council were invited by Natural England to contribute to and join the steering group for development of a BNG project relating to the Somerset Coast, Levels and Moors Nature Recovery Project (NRP). This project aimed to better understand the scale of BNG required in Somerset; how BNG could help to deliver on the aims and objectives of the NRP and align with other initiatives including carbon credits, nutrient credits and Local Nature Recovery Strategy; and improve developer awareness of BNG and the NRP. This project involved working closely with Natural England, their consultants Bidwells and Somerset Wildlife Trust in the steering group.

The above project involved a developer workshop which was held at Deane House Council offices on 23rd March 2023. This was a hybrid session which was attended in-person by 24 developer representatives, with a further 50+ representatives attending on-line. Presentations were given by Natural England, the Council and Bidwells, with a Q&A session following. In-person attendees then took part in breakout sessions focusing around challenges and barriers to delivering BNG; organisational biodiversity targets; resourcing and understanding BNG; interest in working with conservation sector to deliver requirements. Slides were circulated to attendees afterwards along with an FAQ sheet responding to questions posed both in the room and online. Findings from the session informed development of the draft BNG Guidance Note for consultation.

In September 2023, Council officers presented emerging thoughts around a local definition of strategic significance to the Nature Recovery sub-group of the Local Nature Partnership. Feedback helped to shape the consultation document and proposals within.