

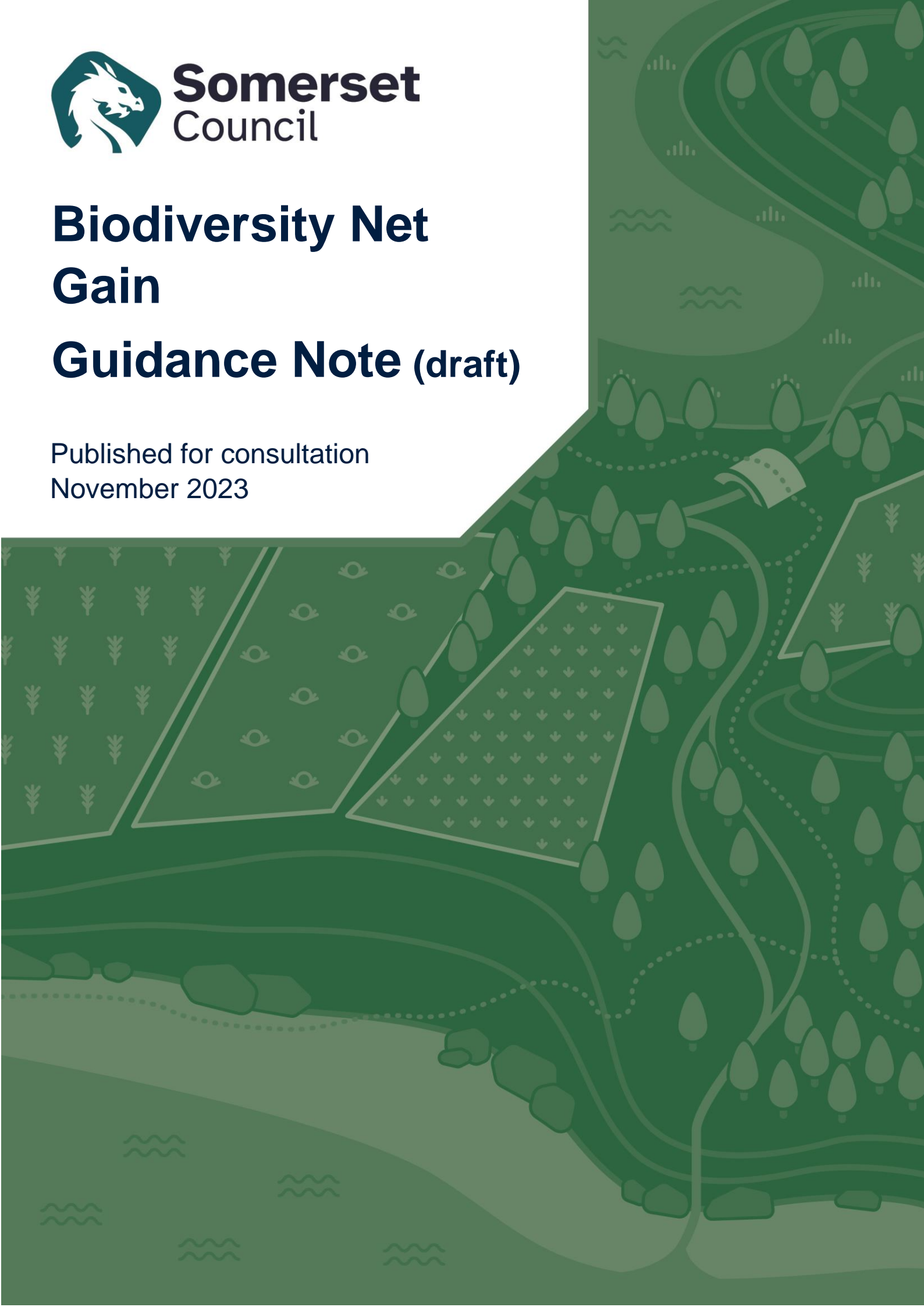


Somerset
Council

Biodiversity Net Gain

Guidance Note (draft)

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| Prepared by | Graeme Thompson, MRTPI BA(Hons), Principal Planning Policy Officer James Mansfield, ACIEEM, Principal Ecologist Barbra Lakin, Biodiversity and Landscape Officer | 18/10/2023 |
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Thanks also to CIEEM, and the Planning Advisory Service for their excellent advice and guidance as well as the many other local authorities whose comments and questions in forums and webinars over the last year have helped to clarify many issues, and whose guidance documents have been used as inspiration in the production of this document including Devon, Dorset, Buckinghamshire, Bath & North East Somerset, South Oxfordshire, Vale of White Horse, East Devon, Greater Cambridge, Horsham, Cornwall, Greater Manchester, Leicestershire and Rushmoor.



Executive Summary

Biodiversity Net Gain (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**. Secondary legislation and national guidance are anticipated to be published by the end of November 2023.

The requirement to demonstrate and deliver at least 10% BNG and the core processes involved in doing so are set nationally and will be mandatory for most development proposals seeking planning permission in England. However, there are limited areas where the requirement can be tailored to local circumstances. **This document provides guidance and advice on calculating and delivering BNG in a Somerset context**. It aims to ensure a consistent and efficient approach aligned to local policy context, by making clear the requirements and processes in Somerset.

The document is intended to provide technical guidance and is primarily aimed at the **development industry** (in relation to housing, non-residential, minerals and waste) as well as anyone considering **promoting land for habitat creation and enhancement** in Somerset. As such the primary audience for the document is planning applicants, developers, planning agents, ecologists, landowners, land managers, land agents and site promoters. It may also be of interest to a wide range of conservation bodies and other technical stakeholders and the general public.

The intention is that this Guidance Note **will be updated as necessary** to respond to changes in national guidance, local policy development (including Local Nature Recovery Strategy and Local Plan), teething issues and challenges which arise, and other national and local context changes as considered necessary and appropriate.

The document provides information on:

- The policy context for BNG and how its delivery fits with national and local plans, strategies and objectives ([chapter 2](#));
- What BNG is, the basics of how it works and when it applies ([chapter 3](#));
- The key stages of the process in relation to planning applications ([chapter 4](#));
- A sequential approach to be followed in determining whether BNG should be provided on-site, off-site or via statutory credits ([chapter 5](#));
- A holistic approach to BNG with alignment to six Somerset BNG Principles, linked to objectives in existing adopted plans, strategies and projects ([chapter 6](#));
- How to consider 'strategic significance' within the BNG Metric in order to deliver nature recovery in Somerset ([chapter 7](#));
- How BNG will be secured from new development ([chapter 8](#));



- How the Council will enable off-site delivery mechanisms to come forward in Somerset ([chapter 9](#));
- How monitoring and enforcement of BNG is proposed to work ([chapter 10](#)); and
- Proposed planning validation requirements ([Appendix 4](#)).

Consultation

We are seeking views on this Guidance Note and the proposed validation requirements from planning applicants, developers, planning agents, ecologists, landowners, land managers, land agents, site promoters, nature conservation bodies, other technical stakeholders and the general public.

The Consultation runs for 4 weeks from Monday 6th November 2023 until Monday 4th December 2023.

BNG is an incoming national mandatory requirement, but there are limited areas where the requirement can be tailored to local circumstances. We are seeking views specifically on:

- Our proposed processes for dealing with BNG through the planning process (including validation requirements and approach for securing BNG from new development);
- Our proposed approach for tailoring BNG locally through use of the Somerset BNG Principles, definition of strategic significance and the sequential approach;
- Our proposed approach for enabling off-site delivery mechanisms in Somerset;
- Our proposed approach for monitoring BNG; and
- The draft conclusions of the accompanying SEA / HRA Screening Report

To respond to the consultation, we encourage you to use the consultation portal:



[Consultation portal](#)

Here you can find the following:

- Draft BNG Guidance Note
- Strategic Environmental Assessment / Habitat Regulations Assessment Screening Report
- Consultation Statement and
- Online survey



Alternatively, you can email responses or write to us at:



localplanningpolicy@somerset.gov.uk



BNG, Somerset Council, County Hall, Taunton, Somerset, TA1 4DY

Or you can respond directly through comments on social media:



@SomersetCouncil

Paper copies of the consultation documents are also available for public viewing at:

- 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



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1. Introduction

- 1.1 Biodiversity refers to the biological diversity or the variety of life found in a particular place across all its genetic, species and ecosystem forms. The biodiversity of an area is a direct indicator of its natural health and vitality. Biodiversity provides essential services for humans including food production, climate change adaptation, flood regulation, crop pollination plus numerous other benefits including enhancing human mental and physical well-being.
- 1.2 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.
- 1.3 This document 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.

Purpose and audience

- 1.4 This 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.
- 1.5 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.
- 1.6 The document sets out Somerset Council's draft approach for BNG in Somerset. Somerset Council is Local Planning Authority (LPA) for most of the county. However, it should be noted that Exmoor National Park is a separate



LPA. Somerset Council as Minerals and Waste Planning Authority covers the full Somerset Council area. As such, this document is relevant to planning applications within Somerset Council's remit as both Local and Minerals and Waste Planning Authority. Reference to the LPA implies the Council's dual statutory roles unless otherwise specified. This Note will, however, guide the Council's approach and roles in BNG delivery across the full council area.

Future updates

- 1.7 The guidance builds on relevant legislation and national guidance and also draws on a number of other sources of information including that of other bodies and local authorities. Further information is provided within the policy context section. It should be noted that at the time of publishing this draft guidance for consultation the secondary legislation and Government guidance on BNG has not yet been published. As such, this Guidance Note has been produced based on the best understanding that Somerset Council currently has about how BNG will work nationally, based on the provisions set out within the Environment Act 2021, Government consultation on regulations and implementation of BNG in January 2022, and the Government response to the consultation published in February 2023 as well as wider understanding based on engagement with the Planning Advisory Service and other local authorities. The Guidance Note will be updated post-consultation in response to both comments received and publication of the secondary legislation and national guidance which are currently expected at the end of November 2023.
- 1.8 The intention is that this Guidance Note will be updated as necessary to respond to changes in national guidance, local policy development (including Local Nature Recovery Strategy and Local Plans including Minerals and Waste Plans), teething issues and challenges which arise, and other national and local context changes as considered necessary and appropriate.

Structure of the document

- 1.9 This document provides information on: the policy context for BNG (chapter 2); what BNG is and the basics of how it works (chapter 3); the key stages of the process in relation to planning applications (chapter 4); whether BNG should be provided on-site, off-site or via statutory credits (chapter 5); the key principles which should underpin delivery of BNG in Somerset (chapter 6); how to consider strategic significance in Somerset (chapter 7); how BNG will be secured (chapter 8); off-site delivery mechanisms (chapter 9); and how monitoring will work (chapter 10).



2. Policy context

National context

- 2.1 The **Environment Act 2021** achieved Royal Assent in November 2021. It is game-changing legislation for improving the environment and leaving it in a better state than we found it. Part 6 refers to biodiversity gain in planning. Schedule 14 of the Act makes provision for 10% biodiversity gain to be a deemed condition of planning permission in England, demonstrated using the national Biodiversity Metric and approval of a Biodiversity Gain Plan, and maintained for at least 30 years after the development is completed. It establishes that biodiversity gains can be delivered on-site, off-site on sites registered on the national Biodiversity Gain Site Register, or through purchasing of national Biodiversity Credits. Secondary legislation is required to make the provisions in Schedule 14 a statutory requirement and to make provisions about a number of matters.
- 2.2 The Government has confirmed an intention for the **secondary legislation and national guidance** to be published at the end of November 2023 and come into effect from January 2024. The legislation and national guidance have not yet been published but are expected to be so during consultation on this Guidance Note. Secondary legislation will include important details such as confirming exemptions, definition of irreplaceable habitat, establishing the Biodiversity Gain Sites Register, processes to be followed, details of what the Biodiversity Gain Plan must include and the process for outline planning applications and phased developments) as well as transitional arrangements. This Guidance Note will be updated once this information is published.
- 2.3 The Environment Act 2021 also introduced changes to the **Natural Environment and Rural Communities Act 2006** which strengthen the duty on local authorities to conserve *and enhance* biodiversity as well as establish what actions they need to take to comply with this duty and monitor and report on actions taken and the specific expected gains in relation to approved Biodiversity Gain Plans.
- 2.4 The **National Planning Policy Framework (2023, NPPF)** sets out expectations in relation to local planning policy and the determination of planning applications within the scope of contributing to the achievement of sustainable development (economic, social and environmental). Paragraph



180(a) establishes a requirement for development to follow the mitigation hierarchy (1. avoid, 2. mitigate unavoidable impacts, 3. As a last resort and if unavoidable, compensate for impacts). Paragraph 180(d) states that *“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”*. Paragraph 179(b) states that Local Plans should *“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”*.

- 2.5 The **25 Year Environment Plan** published in 2018 sets out government action to help the natural world regain and retain good health. It aims to deliver cleaner air and water in our cities and rural landscapes, protect threatened species and provide richer wildlife habitats. It calls for an approach to agriculture, forestry, land use and fishing that puts the environment first. It establishes a series of environmental goals to be achieved over the 25 years of the plan:
1. Clean air.
 2. Clean and plentiful water.
 3. Thriving plants and wildlife.
 4. A reduced risk of harm from environmental hazards such as flooding and drought.
 5. Using resources from nature more sustainably and efficiently.
 6. Enhanced beauty, heritage and engagement with the natural environment.
 7. Mitigating and adapting to climate change.
 8. Minimising waste.
 9. Managing exposure to chemicals.
 10. Enhancing biosecurity.

The Plan sets out key areas for actions to be focused around:

- Using and managing land sustainably
- Recovering nature and enhancing the beauty of landscapes
- Connecting people with the environment to improve health and wellbeing
- Increasing resource efficiency, and reducing pollution and waste
- Securing clean, productive and biologically diverse seas and oceans
- Protecting and improving the global environment.

- 2.6 Through the 25 Year Environment Plan the Government set out policy and aspiration to (amongst other things):
- Embed a net environmental gain principle for development, with an immediate ambition to mainstream use of existing biodiversity net gain



approaches within the planning system, before in the future expanding the net gain approaches used for biodiversity to include wider natural capital benefits, such as flood protection, recreation and improved water and air quality. The implementation of BNG in January 2024 is the first step in responding to this Government policy ambition.

- Develop a Nature Recovery Network to protect and restore wildlife, and provide opportunities to re-introduce species that we have lost from our countryside. The development of Local Nature Recovery Strategies (LNRS) stems from this ambition.
- Establish a new Environmental Land Management system (ELMs) of paying farmers public money for public goods, with the principal public good to invest in being environmental enhancement. This included using private payments for eco-system services, reverse auctions and conservation covenants. BNG and the LNRS are key opportunities to focus efforts from multiple different rural payment schemes, including ELMs, towards achieving local environmental objectives.

- 2.7 The Government's **Environmental Land Management system (ELMs)** is effectively a mechanism for implementing new agricultural and rural payments policy. The schemes will pay land managers and farmers for providing environmental goods and services alongside food production. The schemes included within ELMs are still under development, with a transitional period between former and current rural payment schemes and the new schemes underway. The three schemes currently anticipated from Government include:
- Sustainable Farming Incentive (SFI),
 - Countryside Stewardship (CS), and
 - Landscape Recovery.

A series of Test and Trial schemes are underway and in development to help understand how parts of the future schemes could work across a range of regions and sectors. It is important to consider the relationship between BNG and ELMs to optimise delivery of both schemes. Further information about local Test and Trial delivery as well as successful Landscape Recovery bids for Somerset are included within the local context section below.

- 2.8 Natural England's [National Habitat Networks Mapping](#) seek to apply the best evidence and principles and to use the best available nationally consistent spatial data to map habitats at a national scale alongside areas where action may be undertaken to build greater ecological resilience. This national level habitat data will be key to focusing BNG in the right locations in the interim before the Local Nature Recovery Strategy is in place.



Local context

Council Plan

- 2.9 The [Somerset Council Plan 2023-2027](#) sets out the council's overarching vision for the next four years: "*Somerset Council will build a fairer, greener, resilient, more flourishing Somerset that cares for the most vulnerable and listens to you*". It sets clear priorities against which the Council will measure all our policies and actions over the coming years against the backdrop of four overarching priority themes:
- A Greener, More Sustainable Somerset
 - A Healthy and Caring Somerset
 - A Fairer, Ambitious Somerset
 - A Flourishing and Resilient Somerset
- 2.10 Biodiversity Net Gain (BNG) clearly responds to the corporate priority to build a greener, more sustainable Somerset. This priority explains that addressing the climate and ecological emergencies will be at the heart of the Council's decision making. In particular, BNG will help to ensure healthy ecosystems, but if utilised effectively to deliver improvements in the right locations and with the right mix of associated actions and benefits it can also build a more equitable society, increase wellbeing, improve resilience to future challenges, and develop a thriving green economy.
- 2.11 The Council Plan expects action on addressing the climate and ecological emergencies to be integrated into all its work, and for this to underpin its aspiration for Somerset to become a leader in green technologies, the circular economy and renewable energy. It expects that where the Council has control, it will manage landscapes to protect habitats and improve biodiversity and use its policies and voice to support and encourage others to do the same. It recognises the potential value of farming and food production in developing natural capital responses and delivering ecosystem services including improvements for biodiversity. It recognises the critical role of planning in supporting nature restoration and recovery.
- 2.12 On its own, delivering BNG purely for the purpose of increasing biodiversity by (at least) 10% to meet a mandatory requirement will deliver upon the first Council Plan priority, but is unlikely to deliver significantly on other priorities. However, taking a holistic view and actively planning to deliver on other complementary objectives alongside, can in turn enable BNG to respond to other Council Plan priorities, and in some cases all three other priorities. Examples of this more holistic consideration are indicated in Figure 1, below:



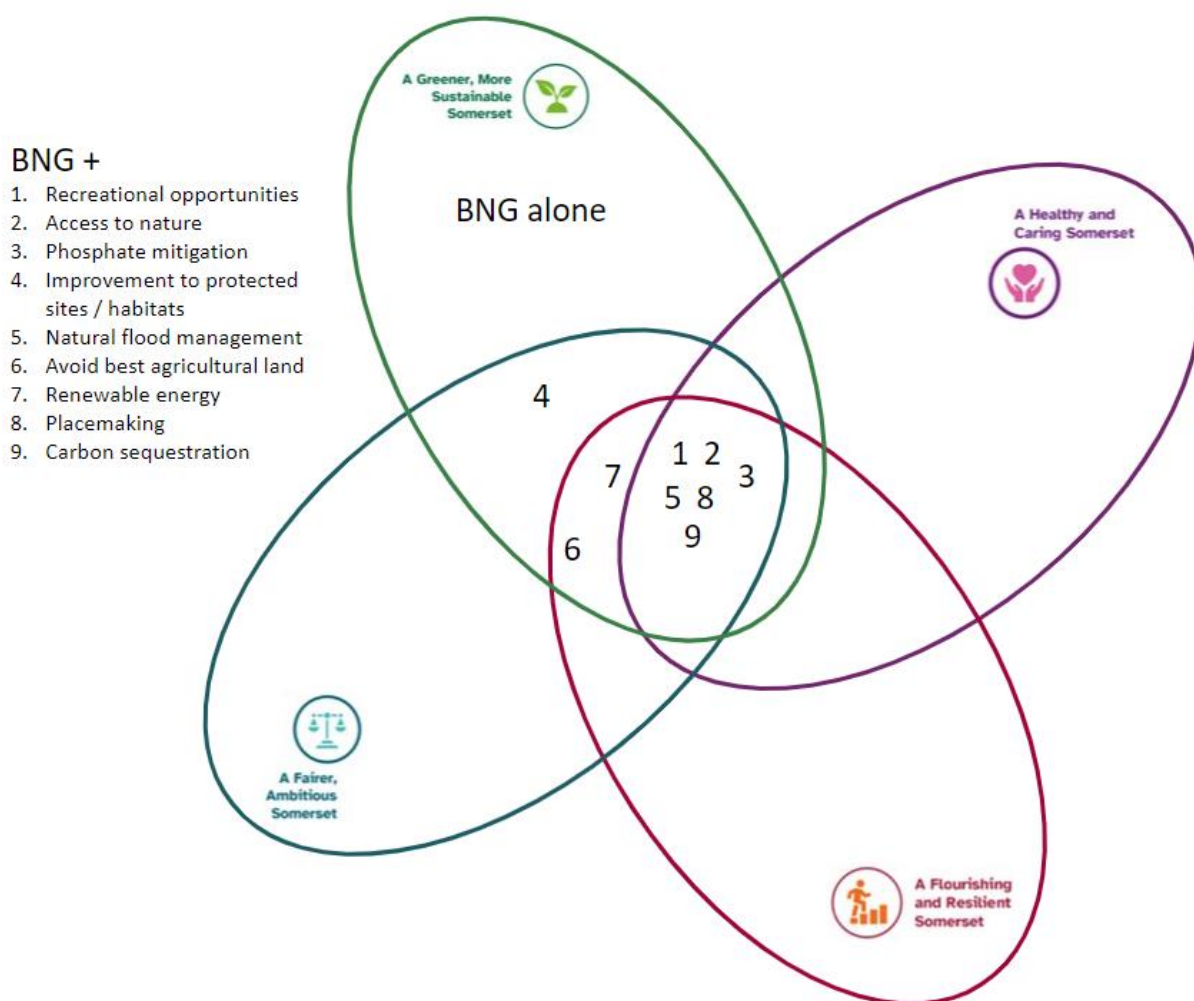


Figure 1 - The Council Plan encourages holistic consideration of BNG alongside other priorities

- 2.13 There are a wide range of existing and emerging strategies, plans and projects taking place within Somerset which it will be important to take account of and begin to explore opportunities for alignment with. Doing so will improve the Council's ability to optimise BNG delivery as part of a holistic, landscape scale approach, and in turn deliver improved outcomes for biodiversity, bioabundance and wider natural capital value.
- 2.14 In addition, it is important to remember that sustainability is defined by three mutually dependent and interrelated objectives: environmental, social and economic. The Council Plan and its priority themes respond directly to this. Delivering BNG in the right places with the right objectives and through the taking into account of wider sustainability in land-use decisions it can be ensured that BNG contributes towards a sustainable future.

Local Nature Recovery Strategy

- 2.15 The Environment Act 2021 sets out that a network of Local Nature Recovery Strategies will be produced to cover the whole of England. **A Local Nature Recovery Strategy (LNRS)** must be prepared and published by the 'responsible authority', which was recently confirmed as being Somerset Council. Regulations and national guidance have now been published setting out what is expected to be included within an LNRS and the procedure for their development. It is currently anticipated that the Somerset LNRS will be published in September 2024 following close working with the Somerset Local Nature Partnership, engagement and consultation with the public and interested parties, and undertaking of the statutory steps for production.
- 2.16 The LNRS must include:
- A *statement of biodiversity priorities* for the strategy area, incorporating a description of the area and its biodiversity, opportunities for recovering or enhancing biodiversity in terms of habitats and species, the priorities in relation to these, and proposals as to potential measures relating to those priorities.
 - A *local habitat map(s)* for the whole strategy area, incorporating national conservation sites (SSSIs, NNRS, Ramsar sites, Marine Conservation Zones and European Sites), nature reserves and other areas which in the opinion of the responsible authority are or could become of particular importance for biodiversity, or where the recovery or enhancement of biodiversity could make a particular contribution to other environmental benefits
- 2.17 An LNRS is expected to identify where action to achieve BNG will have the most impact and encourage action in these locations through the way BNG is calculated (strategic significance score). All public authorities will also have to have regard to the relevant LNRS under the strengthened biodiversity duty under the Natural Environment and Rural Communities (NERC) Act 2006.
- 2.18 The Government intends for LNRS's to inform the local planning process. There is a requirement in the Environment Act 2021 for the Secretary of State to issue guidance to local planning authorities as to how they must have regard to an LNRS in complying with the strengthened biodiversity duty, though this has not yet been published. A recently agreed amendment to the Levelling Up and Regeneration Bill will strengthen the legal links between Local Nature Recovery Strategies & local plans.
- 2.19 Mapped outputs for the Somerset LNRS are unlikely to emerge until Summer 2024, but work has begun, through a series of thematic groups, to establish a list of draft priorities, outcomes and measures. These will be available towards



the end of 2023. As these begin to emerge, they may hold increased weight in determining the strategic significance score of BNG proposals, however in the meantime an interim approach to assessing strategic significance will be required.

Somerset Nutrient Strategy

- 2.20 The Somerset Levels and Moors Ramsar Site is in an unfavourable condition due to nutrient loading, particularly phosphates. The Council as Local Planning Authority is currently unable to determine any planning application that may give rise to additional phosphates within the catchment unless supported by an Appropriate Assessment under the Habitat Regulations and where an adverse impact is identified appropriate mitigation is secured to enable the development to demonstrate 'nutrient neutrality'. A similar issue applies in relation to the River Axe which flows south into Devon, and the small part of Somerset which lies within the River Axe catchment.
- 2.21 A **Somerset Nutrient Strategy** is in development, which will identify both short-term solutions to help clear the current backlog of planning applications held in abeyance, as well as longer term solutions to address existing and future growth commitments. The [Somerset Levels and Moors Phosphate Mitigation Solutions Report](#) published in February 2022 provides an interim review of potential phosphate mitigation options for new development. This refers to a range of nature-based solutions and non-catchment based interventions. A number of potential options in both categories have potential to also deliver other biodiversity enhancements as well as mitigation for impacts on biodiversity within the Levels and Moors themselves. For instance, taking land out of agricultural use, cessation of fertiliser, installation of riparian buffer strips, beaver reintroduction, wetland creation, woodland/orchard creation and installation of Sustainable Urban Drainage Systems (SuDS) could all potentially lead to enhancement of biodiversity over the status quo in a specific location, if appropriately located, designed, and delivered. The Government has confirmed that biodiversity gain units and nutrient mitigation credits can be 'stacked' on the same piece of land, however, a precautionary approach must be taken; it must align with the mitigation hierarchy, and true additionality must be demonstrated. The Council submitted a bid to the Government's Nutrient Mitigation Fund (NMF) earlier in 2023 proposing a number of projects for delivery in Somerset which would assist in mitigating phosphates impacts and simultaneously deliver added value around BNG and other objectives.
- 2.22 In August 2023, the Government announced its intention to amend the Levelling Up and Regeneration Bill to the effect of removing nutrient pollution



from the list of things under the Habitat Regulations that local authorities should consider when assessing potential for adverse effects of development upon protect sites. The Government also announced that funding through the NMF would be re-focused towards Natural England-led projects. Natural England are likely to liaise with the Council on some of the potential measures included in its NMF bid, so, there may remain opportunities for aligning nutrient mitigation and Levels and Moors restoration projects with BNG. However, at present there remains uncertainty about how this will work. It should be noted that the amendment to the Bill relating to consideration of nutrient pollution under the Habitat Regulations was rejected by the House of Lords in September 2023.

Somerset Tree Strategy

- 2.23 In June 2023, the Council published the [Somerset Tree Strategy](#), designed to help trees be a thriving part of our landscape, our ecology and our society. The strategy is comprised of five key objectives:
- Create a wood culture where everyone understands the importance of trees to the County, its natural environment, and its communities.
 - Make our trees resilient and adaptable to climate change by protecting, expanding, managing, and diversifying our existing treescapes.
 - Expand the number of trees in Somerset in urban and rural areas through planting initiatives to create cohesive connected treescapes that include woodland, parks, roadsides, and urban spaces.
 - Create a range of services and products that allow our treescapes to contribute to society through local supply chains and creating natural capital opportunities.
 - Create a sustainable and flexible governance structure that ensures successful implementation of the strategy over the next ten years.
- 2.24 The strategy sets a framework to create a coordinated and collaborative approach to increase Somerset's tree / canopy coverage whilst providing a wide variety of benefits, including alleviating flooding, increasing biodiversity and sequestering carbon and delivering on the commitment to plant 150,000 trees per year.
- 2.25 The Tree Strategy provides a useful framework which can help guide delivery of BNG in Somerset. Whilst tree planting is only one form of measure to enhance biodiversity, and it will not be appropriate in all cases, it does offer a way to deliver on multiple objectives in cases where tree planting is appropriate.



ELMs: Test and Trial

- 2.26 In July 2023, it was confirmed that a bid to the Government's **Environmental Land Management (ELMs): Tests and Trials** fund by FWAG SW in partnership with Somerset Wildlife Trust, Terranomics, University of Exeter Centre for Rural Policy Research and Somerset Catchment Partnership had been successful. The successful proposal seeks to establish a local delivery model for ELMs across Somerset, investigating the potential to partner with the Local Nature Partnership to deliver on four objectives:
- Using local priorities to set strategic direction
 - Broker private finance and wider funding opportunities.
 - Enable effective partnership working and accountability (with arm's length bodies (ALBs)).
 - Support and enable the existing collaboration and advice models in the local area
- 2.27 Within this, there are a number of anticipated project tasks and milestones envisaged including:
- Engage with key stakeholders (including farmers and landowners) to identify local ELMs priorities and how best to communicate them to different stakeholders.
 - Research the possible role of a strategic land use framework that goes beyond nature. Provide support to Somerset Council to take forward development of a Somerset Land Use Strategy.
 - Explore potential structures for Special Purpose Vehicles to facilitate and manage nature-based solutions projects.
 - Create Somerset Natural Capital investment prospectus to promote the county and the impact of investments to help in brokering funding from both public and private investors. Provision of menu of options of readily available investment opportunities for small/medium and large investors.
 - Explore how Local Delivery models can support the governance of ELMs stacked with other investment schemes.
- 2.28 Linkage with the LNRS is key to the proposals, as is securing external investment partners. As such Somerset Council is a key stakeholder in the project.
- 2.29 It is highly likely that this project will further help to develop the local priorities for the LNRS and for delivery of BNG in Somerset, aligned with other opportunities and constraints identified and explored through a Somerset Strategic Land Use Framework and through stacking of other investment schemes. Furthermore, it may assist in the consideration of options for development of off-site delivery mechanisms in Somerset.



ELMs: Landscape Recovery Projects

- 2.30 Landscape Recovery supports landowners and managers to take a large-scale, long-term approach to producing environmental and climate goods on their land. Three projects based in or partly in Somerset were successful in the first round of Landscape Recovery Projects announced by Government in September 2022. As part of this announcement a total of 22 projects across the country were awarded a share of around £12 million in development grants to help them finalise their delivery plans. The projects are at different stages of development and each have different objectives, but all demonstrated that they have pioneering ideas that will improve the rural landscape and reverse the decline in nature.
- 2.31 The **Somerset Landscape Recovery Projects** present an opportunity for BNG delivery to align with other green finance initiatives and wider landscape recovery objectives in order to deliver multiple benefits to Somerset.
- 2.32 The three Landscape Recovery Projects based in Somerset which were awarded funding in round 1 are:
- [Adapting the Levels](#)
 - **Holnicote River Corridors**
 - [The Axe Landscape Partnership](#)
- 2.33 Further bids to round 2 of the Landscape Recovery scheme are currently in development by partners within Somerset.

Somerset Wetlands Super National Nature Reserve

- 2.34 In May 2022, the Government announced the merger of six National Nature Reserves (NNRs) to form the first ‘Super National Nature Reserve’ in the country in the **Somerset Wetlands**. This designation combined the previous Bridgwater Bay, Ham Wall, Huntspill River, Shapwick Heath, Somerset Levels and Westhay Moor NNRs. The SNNR protects 6,140 hectares of precious saltmarsh, heath and wetland habitats, home to nationally significant wildlife populations.
- 2.35 The establishment of the SNNR was followed by the announcement of the **Somerset Wetlands Nature Recovery Project (NRP)**. This project has the SNNR at its heart, but is about working with local partners and landowners across a wider 60,000 hectares to enhance nature recovery through habitat creation and investing in strategic solutions that make the wetlands more sustainable and the landscape more resilient to climate change. The NRP is



being led by a strong delivery partnership, which includes the Royal Society for the Protection of Birds (RSPB), Somerset Wildlife Trust, Farming and Wildlife Advisory Group South West (FWAG), Hawk and Owl Trust, Wildfowl and Wetlands Trust (WWT) and Environment Agency. Somerset Council have recently joined as an official partner of the project.

- 2.36 The long-term ambition of the project is to restore ecological processes across the whole of the Somerset Levels and Moors landscape - from the peat moors near Taunton, Glastonbury and Muchelney to the sea at Bridgwater Bay. Managing the wetlands sustainably will support livelihoods and the local economy, including boosting green leisure and tourism, and help support farm businesses through the agricultural transition. It will also maintain the extensive peatlands of the Somerset Wetlands as a carbon store, helping to reduce pollution and improve resilience to floods and drought. The project also plans in the future to increase the nature connectedness of communities in the nearby urban centres, such as Bridgwater and Taunton, through increasing access opportunities, interpretation, and outreach to new audiences.
- 2.37 A new management plan for the SNNR and masterplan for the NRP are currently in production. BNG will be a key tool to delivering on the objectives for both.

Mendip National Nature Reserve

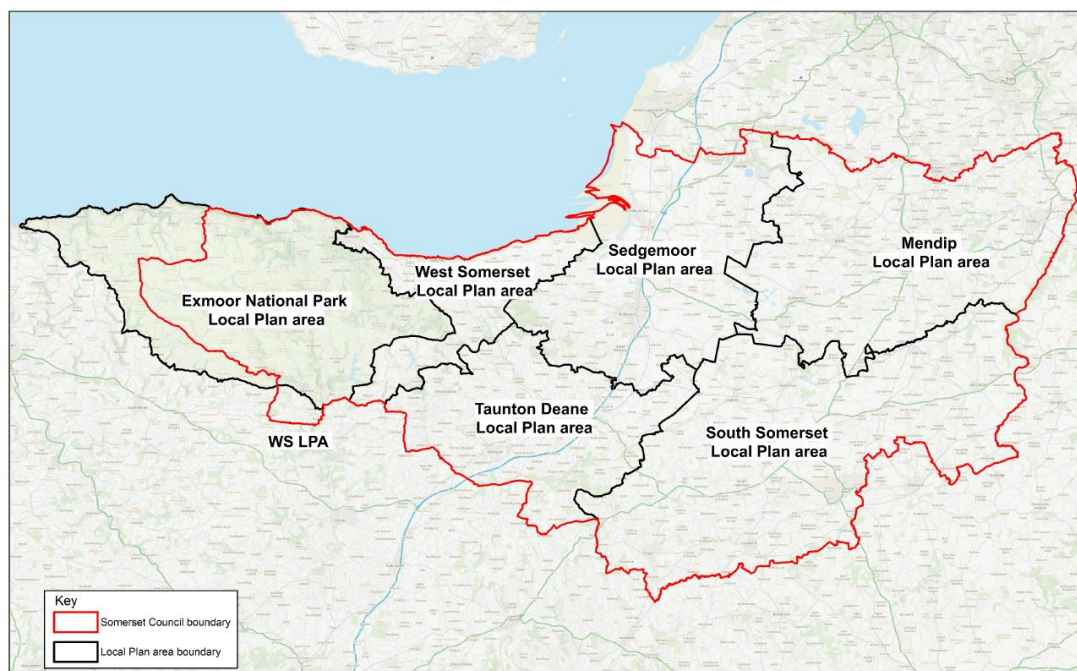
- 2.38 In May 2023, the Government announced the south facing slopes of the Mendip Hills as one of the 'King's Series' of five new National Nature Reserves across the country. This new SNNR was officially created in October 2023.
- 2.39 The new **Mendip National Nature Reserve** draws together all the existing important wildlife sites along the south facing slopes from Brean Down across to Wells, taking in important sites like Crook Peak and Cheddar Gorge. The declaration means the land will be managed for conservation for the future. Farmers have been doing important work in-between the wildlife sites and their land supports crucial links for wildlife even though they will not form part of the new National Nature Reserve.

Local Planning Policy Context

- 2.40 In Somerset there are a large number of adopted Local Plans forming the development plan. This is due to the fact that Somerset has only recently



become a single unitary authority, and previously there were four separate district local planning authorities alongside the County Council's minerals and waste planning authority functions. Exmoor National Park Authority is also (and remains so) a separate Local Planning Authority in its own right. A [Planning Policy Statement](#) published in March 2023 sets out all of the plans relevant within the Somerset Local Planning Authority area. Figure 2, below identifies the different local plan areas of Somerset alongside the separate Exmoor National Park Authority.



Somerset Local Plan areas

Date: September 2023

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AC0000861332 Somerset Council



Figure 2 - Map showing the various local plan areas within Somerset - note Exmoor National Park Authority is a separate Local Planning Authority

2.41 The **adopted development plan in Somerset** includes the following plans:

- Mendip Local Plan Part I: 2006-2029 (2014)
- Mendip Local Plan Part II: Sites and Policies (2021)
- Mendip Policies Map (2021)
- Sedgemoor Local Plan 2011-2032 (2019)
- Sedgemoor Policies Map (2019)
- Taunton Deane Core Strategy 2011-2028 (2012)
- Taunton Town Centre Area Action Plan (2008)
- Taunton Deane Site Allocations and Development Management Plan (2016)
- Saved Policies from the Taunton Deane Local Plan to 2011 (2004)
- Taunton Deane Policies Map (2016)

- West Somerset Local Plan 2032 (2016)
- Saved Policies from the West Somerset District Local Plan 2006 (2006)
- West Somerset Policies Map (2016)
- South Somerset Local Plan 2006-2028 (2015)
- Saved Policies from the South Somerset Local Plan 1991-2011 (2006)
- South Somerset Policies Map (2015)
- Somerset Minerals Plan to 2030 (2015)
- Somerset Minerals Policies Map (2015)
- Somerset Waste Core Strategy to 2028 (2013)
- “Made” Neighbourhood Plans.

- 2.42 Existing Local Plans in Somerset include various policies in relation to protecting, compensating for loss of, mitigating impacts upon and enhancing wildlife, biodiversity and habitats, as well as wider environmental objectives. However, existing plans were developed before the mandatory BNG requirement was established by the Environment Act 2021 and the latest version of the National Planning Policy Framework. As such, the policy requirements vary between the different former authority plans as to how exacting they are and the range of considerations to be taken into account in designing development proposals. Some policies refer only to protection and mitigation, others refer also to enhancement and provision of net gains.
- 2.43 None of the plans include requirements which go above and beyond the national mandatory requirement for 10% BNG. However, they do include other expectations which should influence how development comes forward, such as reference to Local Biodiversity Action Plans, Green Infrastructure Strategies and other environmental strategies as well as general design guidance. In some cases, development plan policies are supplemented with specific guidance documents or Supplementary Policy Documents.
- 2.44 It is important that development proposals respond to development plan policies as well as meeting national mandatory net gain requirements. These policies should inform development proposals and should influence *how* BNG is proposed to be delivered in different parts of Somerset.
- 2.45 Even where planning application sites are exempt from the national mandatory 10% BNG requirement, the Council still expects applicants to achieve a net gain and other biodiversity enhancements, in line with the NPPF and relevant development plan policy.
- 2.46 In all cases, the requirement for BNG does not change existing legal or policy protections for protected sites or species, or priority species or habitats and the need to follow the mitigation hierarchy.



- 2.47 Please check the Local Plan and any associated guidance relevant to the location of a development proposal. **A full local planning policy review is included in Appendix 1.**
- 2.48 Going forwards, a **new Local Plan** is in preparation covering the Somerset Local Planning Authority area (i.e. Somerset Council area with the exception of the area covered by the Exmoor National Park Authority). The new Local Plan is expected to supersede existing Local Plans and is required to be in place by 2028. This presents an opportunity to ensure the new spatial strategy, plan objectives and associated policies and allocations are made with updated requirements such as BNG taken into account and with up to date local strategies such as the LNRS informing them. The new Local Plan is likely to include policies setting out local priorities and expectations relating to the delivery of both of these, which will evolve over the coming years. It may also include specific environmental-led allocations, for instance identifying areas for protection and enhancement of biodiversity and other environmental objectives aligned with the LNRS and potentially aligned with any Somerset Strategic Land Use Framework that may evolve.
- 2.49 The Somerset Waste Plan and Somerset Minerals Plan are currently under review. In the case of the Minerals Plan in particular, it is important to understand how BNG fits with and works alongside wider policy requirements around site restoration, aftercare and after-use and understanding the role of sites in maintaining the connectivity and resilience of ecological networks.
- 2.50 Neighbourhood Plans are a statutory part of the development plan. In some cases, Neighbourhood Plans may include specific local objectives and policies relating to biodiversity and other environmental protection and enhancement. Where relevant, these should further influence BNG delivery.

Other local context

- 2.51 There are a wide range of other plans, strategies and projects covering Somerset or areas of, which will have relevance to the delivery of BNG in Somerset. Some are owned by the Council, some are owned by other organisations. Some of these (such as the Exmoor Nature Recovery Vision, Somerset Ecological Network Report and Pollinator Action Plan) are likely to directly influence the priorities and opportunities to be identified by the LNRS. Others are likely to work alongside the LNRS and there may be synergies for delivery between them. The list of relevant plans, strategies and projects are included in **Appendix 2.**



3. BNG explained

The Basics

- 3.1 The purpose of BNG is to ensure that development comes forward in a way which means that habitats for wildlife are left in a measurably better state than they were in before the development.
- 3.2 Achieving BNG means that natural habitats will be extended or improved as part of a development or project. Development will be designed in a way that provides benefits to people and nature and reduces its impacts on the wider environment.

Moving from “no net loss” to “net gain”

- 3.3 As shown in Figure 3, below, BNG goes beyond compensation for impacts as a result of development (i.e. no net loss), and results in an overall net gain in habitat. The system assumes that increasing the right kind of habitat in the right location with the right management and maintenance arrangements will result in net gains in biodiversity.

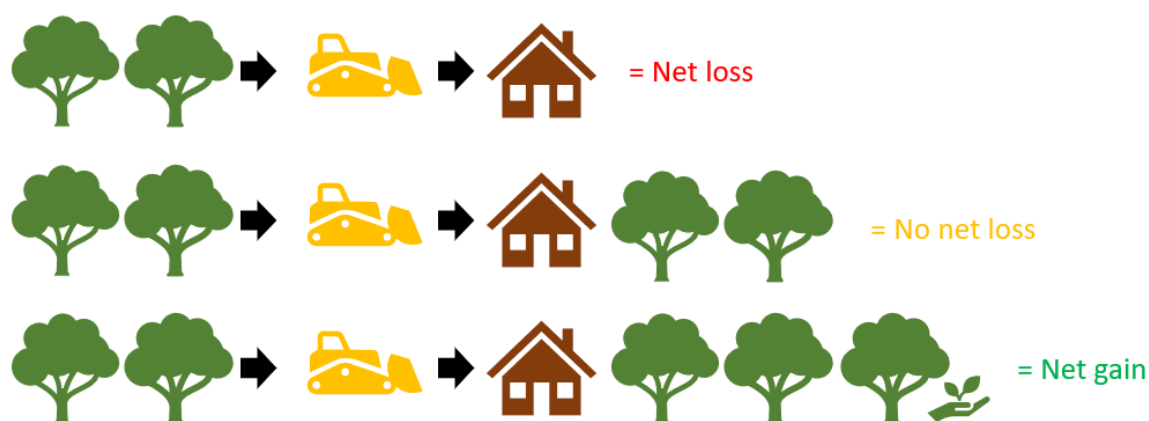


Figure 3 - Moving from "no net loss" to "net gain"

BNG complements existing protections

- 3.4 The statutory requirement to deliver at least 10% BNG secured for a period of at least 30 years, does not supersede, replace or in any way reduce or undermine existing statutory and policy protections and requirements relating to wildlife, habitats, protected species, protected sites or irreplaceable habitat.
- 3.5 The mitigation hierarchy (see Figure 4, below) remains a critical element of national and local policy and is essential for delivering the most sustainable and appropriate solutions for the natural environment. The mitigation hierarchy requires that developments first seek to avoid impacts on biodiversity; minimise impacts where they cannot be avoided; mitigate any impacts that cannot be avoided or minimised; and as a last resort, compensate for losses which cannot be avoided, minimised or mitigated. Use of the mitigation hierarchy can help to minimise the gains required by a development.

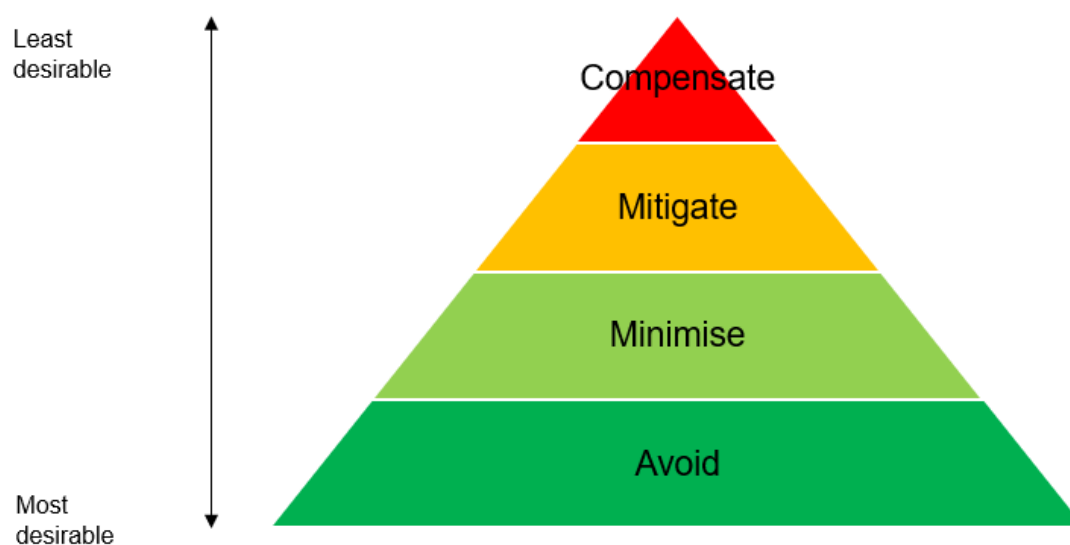


Figure 4 - The mitigation hierarchy

Where applicable, BNG is mandatory and cannot be negotiated away

- 3.6 Furthermore, the requirement to deliver BNG does not affect the weight that should be given to other planning considerations, matters of planning policy, or legal obligations. Delivering the 10% set out in legislation is mandatory and therefore there is no scope to allow a reduction below 10% on viability grounds.

- 3.7 However, in this being the case, there is a risk that the costs involved in delivering BNG could impact on the viability of other policy requirements in new development. National BNG policy has been in development for some time, and so costs involved should by now already be getting factored into the price paid for land, but the way that BNG is delivered can have a big effect on the costs involved.

BNG should inform location and design of developments

- 3.8 BNG should not be thought of as an additional requirement of development to be tacked on to a scheme designed through other processes. Consideration of the requirement to deliver BNG should be integral to the site selection and design process.
- 3.9 The Council has a range of existing planning and design guidance documents which should be consulted by applicant teams and used to inform the early stages of developing the design concept and proposals for the site. Following the processes and guidance within these documents can lead to well considered and integrated BNG solutions. Use of national statutory biodiversity credits in particular should be avoided as far as possible and only used as a last resort. This can help to reduce costs and improve outcomes not only for BNG, but also for wider policy aims in new development.

The Metric

- 3.10 BNG utilises a nationally approved Biodiversity Metric which is an assessment and accounting tool designed to assess or audit the biodiversity unit value of an area of land; calculate the losses and forecast gains in biodiversity unit value resulting from interventions which affect habitats; compare different proposals for a site, allowing more objective assessments of potential biodiversity changes; and be used to calculate biodiversity units and percentage biodiversity change.
- 3.11 The Metric uses habitats and 'biodiversity units' as a proxy for biodiversity. These 'units' are the currency of the Metric. The units fall into one of three 'modules': area units, hedgerow units and watercourse units. Each of the three types of units is distinct and must be valued separately. The Metric is used to calculate the total number of 'units' for each habitat category, and the required gain that must be achieved for each.
- 3.12 The Metric is technical by nature and should only be completed by a 'competent person', defined by the Biodiversity Metric User Guide as being



“someone who can demonstrate they have acquired through training, qualifications or experience, or a combination of these, the knowledge and skills enabling that person to perform specified tasks in completing and reviewing metric calculations”. The Council expects that this to be demonstrated via CIEEM accreditation. Special training and accreditation in the River Condition Assessment methodology is required to undertake a River Condition Assessment, required if completing the Watercourse module of the Metric.

- 3.13 The Metric must be completed in line with the Metric Rules and informed by the Metric Principles. These Rules and Principles are set out within the Biodiversity Metric User Guide along with definitions and requirements and other guidance. This note does not seek to duplicate national guidance. A competent person should always complete the Metric in line with the User Guide. The Metric itself, User Guide and other information is available at <https://publications.naturalengland.org.uk/publication/6049804846366720>.

BNG liable developments

What applications will BNG apply to?

- 3.14 As outlined within the Environment Act 2021 Schedule 14, achieving at least 10% Biodiversity Net Gain (BNG) will become a legal requirement for development granted planning permission under the Town and Country Planning Act 1990 (unless specific exemptions apply). The Government intends to implement this requirement for major planning applications from January 2024. There are likely to be transitional arrangements identified within the secondary legislation, however these are not yet known.

Major development is defined as follows:

- Residential development:
 - 1) Where the number of dwellings being proposed is ten (10) or more;
 - 2) If the specific number of dwellings to be provided is not known, a site area exceeding 0.5 hectares.
- Non-residential development:
 - 1) The provision of a building or buildings where the allocated floor space being created as a result of the development is 1,000 square metres or more;
 - 2) Where the development has an area of 1 hectare or more;
 - 3) Change of use applications over 1,000 square metres or more
 - 4) All full applications concerning mineral extraction and waste development.



Small sites

- 3.15 The Government intends for the mandatory BNG requirement to extend to small sites from April 2024. **Small sites** are defined as follows:
- Residential development:
 - 1) Development where the number of dwellings proposed is between one and nine inclusive on a site and has an area of less than one hectare;
 - 2) If the number of dwellings is unknown, then the site area must be less than 0.5 hectares.
 - Non-residential development:
 - 1) Development defined as less than 1,000 square metres of proposed floor space or
 - 2) Sites smaller than one hectare.
- 3.16 Small sites are able to utilise a simplified Small Sites Metric (SSM) which helps to streamline the process and reduce burdens on such sites, which are more generally delivered by SME developers.
- 3.17 However, if a small site sits within Priority Habitat Protected under Section 41 of the NERC Act 2006; protected sites; and/or European Protected Species site within the site, then the Site will not qualify under the 'Small Site Metric' characterization and instead the full Biodiversity Metric should be used. Small sites must also use the full Biodiversity Metric if they are reliant upon use of any off-site gains.

Exemptions

- 3.18 There are a number of exemptions to the above. Prior to submitting an application, check whether the development may be exempt. Currently the following exemptions are expected to apply:
- development impacting habitat of an area below a 'de minimis' threshold of 25m², or 5m for linear habitats such as hedgerows¹;
 - householder applications;
 - biodiversity gain sites (where habitats are being enhanced for wildlife);
 - small scale self-build and custom housebuilding; or
 - is a Review of Old Mineral Permission (ROMP) application.
- 3.19 Mandatory national BNG does not apply to permitted development and prior approval applications. For permission in principle applications (PIPs), BNG information will be required at the technical details application stage (unless

¹ However, if an application sits within a Priority Habitat that is protected under Section 41 of the Natural Environment and Rural Communities (NERC) Act, then the development cannot be subject to exemption even if it meets these criteria.



this is amended by subsequent DEFRA guidance) rather than with the PIP application. BNG will also not apply to listed building consent applications, but please note that if these are made jointly with a full application which is not exempt from BNG, then BNG will be required for the full application.

- 3.20 Mandatory BNG will apply to new applications submitted after the implementation date. This means, only major applications submitted after January 2024, and small site applications submitted after April 2024 will be required to demonstrate 10% BNG. BNG will not be applied retrospectively to planning applications that have been submitted or have already been granted permission prior to the implementation dates respectively. For example, if an outline consent for a major application was granted before January 2024 without a requirement to provide 10% net gain, the subsequent reserved matters application(s) will not need to incorporate 10% net gain.
- 3.21 National mandatory 10% BNG will not apply to Section 73 applications to vary the conditions imposed on an existing permission approved prior to the implementation of national requirements (expected to apply to applications submitted after January 2024). However, where an application is submitted and approved post January 2024 and required to meet national mandatory 10% BNG, any subsequent Section 73 application seeking to vary the conditions imposed on the existing permission and which will alter the post-development biodiversity value, *will* be required to achieve national mandatory 10% BNG.
- 3.22 Even where planning application sites are exempt from the national mandatory 10% BNG requirement, the Council still expects applicants to achieve a net gain and other biodiversity enhancements, in line with the NPPF and relevant development plan policy.
- 3.23 In all cases, the requirement for BNG does not change existing legal or policy protections for protected sites or species, or priority species or habitats and the need to follow the mitigation hierarchy.
- 3.24 Applicants are encouraged to make use of the Council's Pre-application Service to further understand the specific requirements in relation to their site. Further information can be found at <https://www.somerset.gov.uk/planning-buildings-and-land/pre-application-advice/>.

Retrospective applications

- 3.25 Where unauthorised activities haven been undertaken after the 30th of January 2020 and a retrospective planning application is required, available



information will be used to help the Council determine what the biodiversity value of the site was prior to those activities taking place. Once a baseline habitat value has been determined, 10% BNG will need to be provided above the value of the habitat baseline prior to unauthorised activities taking place. Habitat provisions must be provided within a reasonable time frame of the retrospective planning permission being granted.

Mineral and waste applications

- 3.26 Minerals and waste planning applications are also subject to BNG requirements. All minerals and waste applications are considered to be major applications. As such, it is currently expected that the national requirement for full minerals and waste applications to deliver at least 10% BNG will come in from January 2024 alongside other major development. However, further national guidance is necessary to understand how this will work in detail. Reviews of Old Minerals Permissions (ROMPs) are expected to be exempt from the requirement to deliver national mandatory BNG.
- 3.27 Minerals (and some waste) development differ in nature from other forms of development (long-term, phased and temporary developments, able to achieve significantly greater than 10% net gain through restoration, aftercare and after use). The Government has stated that it intends to address concerns from the minerals industry about how BNG fits with their sector's long development timelines, and the process's ability to recognise the value of habitats created incidentally through mineral operations, through guidance and policy. As yet this national guidance and policy has not been published, but this Guidance Note will be updated to reflect once available. Given the potential uplifts over 10% BNG that may be provided, there may in some circumstances be potential for such uplifts to be sold as off-site biodiversity units to other developments. This is explored further in chapter 9 of this document. However, the logistics of how this will be achieved will be the subject of further national guidance.
- 3.28 It is recommended that minerals and waste applicants and agents engage early with Somerset Council as Minerals and Waste Planning Authority in consultation with Somerset Ecology Services to discuss the specifics of their scheme and a case-by-case approach will be taken.



Further detail

Irreplaceable Habitats

- 3.29 BNG does not override existing protections for irreplaceable habitats (such as ancient woodland and ancient or veteran trees), as set out in the National Planning Policy Framework (para 180c). Impacts to these habitats will be considered on a case-by-case basis, outside of the BNG system. In most cases, proposals that would result in the loss or deterioration of irreplaceable habitats, will be refused unless the need for and public benefits of the development clearly outweigh the loss. If you have irreplaceable habitat within your development site, then you should engage with the Council's ecology service at an early opportunity ahead of submitting any planning application.
- 3.30 The Environment Act 2021 includes provision to exempt irreplaceable habitats from the BNG requirement. DEFRA has published an [interim list of irreplaceable habitats](#). There is expected to be public consultation on irreplaceable habitats in 2024. The interim list of habitats considered to be irreplaceable are:
- Ancient woodland
 - Ancient and veteran trees
 - Blanket bog
 - Limestone pavements
 - Coastal sand dunes
 - Spartina saltmarsh swards
 - Mediterranean saltmarsh scrub
 - Lowland fens
- 3.31 Where irreplaceable habitat is retained and enhanced on-site (as is expected) this should be recorded in the Metric calculations. Any enhancements to irreplaceable habitat should also be recorded in the Metric and can count towards meeting the 10% BNG requirement.
- 3.32 Impacts on irreplaceable habitats or indeed losses, cannot be offset by BNG or dealt with through the Metric, and therefore a tailored approach will be required. However, by its nature, such habitats are considered to be irreplaceable and it is extremely difficult and in some cases impossible to re-create. Any compensation plan must meet local policy requirements and should aim to reflect the same type of habitat being lost. It is expected that off-site biodiversity units and statutory biodiversity credits will not be able to be used to compensate for the loss of irreplaceable habitat. The pending secondary legislation and national guidance are expected to provide further



clarity regarding application and enforcement in relation to irreplaceable habitats.

Protected Species

- 3.33 Development impacts on protected sites and species, as well as priority species and habitats all still need to be considered in relation to habitat losses. Therefore, BNG does not change existing protections, and so the current legal and policy provisions relating to development impacts need to be considered. Section 99 of the Government Circular 2005/06 on biodiversity and geological conservation states that '*It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.*' Additionally, Natural England advice requires that all developments likely to affect European Protected Species should have surveys carried out to inform the planning decision. They cannot be conditioned. This was confirmed in case law through *Woolley v Cheshire East Borough Council and Millennium Estates Limited* [2009] EWHC 1227 (Admin).
- 3.34 It is envisaged that BNG will provide a wide scope of benefits to much of the UK's wildlife. However, the successful incorporation of BNG in a proposal cannot be seen as a waiver to the consideration of the proposal's (and indeed, the BNG's) impacts on protected species. If the on-site habitats are used by protected species, then these should be approached and managed the same way (i.e., following the mitigation hierarchy) as they are now. BNG and Species Habitat Evaluation Procedure Metric calculation would then be in addition to these considerations (see below).
- 3.35 The Biodiversity Metric is a habitat-based approach, using habitat as a proxy for biodiversity. Species-based features such as bird and bat boxes are not included within the metric, instead it focuses on the habitats such species need to forage and complete their life cycles. The provision of such species features within developments is still encouraged by Somerset Council through existing policies and design guidance, as does the National Planning Policy Framework (para 174d).

Stacking of environmental benefits

- 3.36 Natural England have stated that it is acceptable to use sites (i.e. the same parcel of land) to generate BNG in addition to nutrient neutrality



habitat/credits, Great Crested Newt habitat and Suitable Alternative Natural Greenspaces (SANGs). This has been more commonly referred to as 'stacking' or 'bundling'.

- 3.37 DEFRA and Natural England have provided further information in relation to the stacking of various green finance initiatives/nature markets. This sets out that in addition to the above, under specific circumstances it is possible for land to be used to generate BNG or nutrient mitigation schemes even where the land benefits from the Basic Payment Scheme; Sustainable Farming Incentive, Countryside Stewardship, Environmental Stewardship or Landscape Recovery payments; selling carbon credits under the Woodland Carbon Code or Peatland Code; or sells enhancements for Corporate Social Responsibility. However, in all cases, specific requirements exist in relation to ensuring explicit and demonstrable additionality. Landowners should seek their own advice on whether or not it is possible to stack BNG on their land in their own circumstances.
- 3.38 Beyond these specific schemes, it is important to understand the general opportunity for multifunctional and holistic nature-based solutions. As explained in chapter 2 of this document, the Council expects BNG solutions to consider this wider holistic approach and seek to ensure that multiple benefits are realised through proposals. This is further incentivised through the Somerset BNG Principles (chapter 6) and approach to strategic significance (chapter 7).
- 3.39 If habitat is being delivered to achieve other environmental requirements (this currently includes achieving nutrient neutrality, fulfilling the minimum requirements of a District Level License for Great Crested Newts habitat creation and the implementation of SANGs), then this could contribute to BNG units up to (but not beyond) no net loss of BNG. However, if additional habitat is created or enhanced on the same land beyond what is already being delivered for the purposes of non-BNG outcomes, then this can count towards BNG and take your overall units being produced into positive net gain territory.

Relationship with use of the Somerset Species Habitat Evaluation Procedure

- 3.40 The Government's Environmental Improvement Plan, published in January 2023, sets out plans for significantly improving the natural environment. Some of the Government's commitments include halting the decline in species abundance by 2030, and increase species abundance by at least 10% from 2030, surpassing 2022 levels, by 2042.



- 3.41 The Biodiversity Metric focuses on units being generated through the creation/enhancement of more biodiverse habitats than those lost due to a development, and less so on the abundance of certain habitats that may be important to local species populations. Many species rely more on the abundance of prey or food species rather than diversity, i.e., certain habitat which in turn attract their targeted prey species (for example, Noctuid moth abundance the main prey of female Greater Horseshoe bats during the maternity period and over 90% of the prey hunted by Barbastelle bats are abundant in unmanaged homogenous grassland).
- 3.42 Diverse habitats considered as being of a higher value through the Biodiversity Metric usually result in a smaller area of more diverse plant species than those lost to development. This can result in a reduction in the abundance of important food plants. This could mean that the prey that rely on those specific food plants will not be there in as many numbers as before, as the food source which was once present in abundance may be in part or completely removed. This will likely have a knock-on effect to species of conservation importance, such as bats, as they may not have sufficient prey to hunt, thereby increasing the risk of a population being able to survive.
- 3.43 The Somerset Species Habitat Evaluation Procedure (SHEP) provides a solution to this shortfall. The methodology is employed for calculating the value of the habitats on a site for important species, the result of which is used in determining the amount of habitat replacement that would be required to mitigate for that lost to land use change.
- 3.44 If there are protected species utilising habitat onsite, the SHEP Metric should be completed separately and in addition to the statutory Biodiversity Metric for BNG purposes, and focus on calculating the required compensatory habitat for the specific species. The SHEP works alongside the Biodiversity Metric to ensure that the 'Favourable Conservation Status' of local populations of important species are not adversely affected. Please note, that the required replacement habitat to achieve 'no net loss' which will satisfy the SHEP, is unlikely to fulfil the proposal's requirements for 10% net gain, meaning more habitats will likely be required to satisfy those requirements.
- 3.45 The final version of the SHEP is currently in development, and so more information will be released soon.
- 3.46 It should be noted that where Habitat Regulations Assessment or other legislative requirement stipulates that an application is also required to deliver mitigation and/or compensation for likely significant effects upon a protected site/species, transparency must be provided over which on-site and off-site



enhancements are related to the habitat mitigations and compensations, and which are related to net gains and counted for BNG purposes². This should draw directly on information within any associated Ecological Impact Assessment.

Habitat degradation ahead of planning application submission

- 3.47 Site clearance (in this context, deliberately clearing habitat of value prior to submitting and application) is considered in the Environment Act 2021, under Schedule 14, para 6, meaning habitat condition can be back dated with a cut-off dated of the 30th of January 2020.
- 3.48 In addition to this, under the British Standard BS42020:2013, section 6.4.8, it states that a retrospective impact assessment will be required where it is obvious that habitats at a site have been cleared or damaged prior to assessment by an ecologist. This means the applicant is not creating a blank slate as far as the updated impact assessment is concerned. If sufficient evidence is provided to demonstrate the deliberate damage or complete removal of habitats on an application site, the worsened condition will not be taken into consideration, and information will be gathered to ascertain the past habitat value of the site, which will form the BNG Baseline that the proposals will have to deliver against.

² The Government has confirmed that off-site mitigation and compensation for protected sites and species may count towards mandatory BNG, but at least 10% of the BNG must be provided through other activities.



4. Key stages

- 4.1 The application of BNG to development proposals can be boiled down to six key stages:
- 1) Development site selection
 - 2) Pre-application
 - 3) Submission and validation
 - 4) Consideration
 - 5) Pre-commencement
 - 6) Commencement and Monitoring
- 4.2 This chapter provides a basic introduction to each stage alongside a process flow diagram to assist landowners, applicants and developers in understanding the steps involved in implementing BNG for their proposals. Further, more detailed information can be found in subsequent chapters relating to application of key aspects. The guidance does not seek to duplicate nationally available information, but rather supplements this with information and process relevant to local application of BNG in Somerset.
- 4.3 Note, for minerals and waste applications, some, though not necessarily all of the process described in this chapter will apply. Applicants /agents should engage early with Somerset Council as Minerals and Waste Planning Authority to discuss the specifics of their scheme and a case by case approach will be taken.

Process flow diagram

- 4.4 A process flow diagram is included in **Appendix 3**. This summarises the key stages and processes involved in the application of BNG to development proposals. Subsequent sections of this chapter set out further detail.

Development site selection

- 4.5 The prospective applicant should consider the location, context and appropriateness of developing their site from an ecological perspective. This can help to understand the broad potential feasibility of developing the site and to scope out the range of constraints, opportunities and impacts. Ecological advice should be incorporated into site selection from the outset.



This should include locating and designing development to have minimum impact on existing site habitats and focusing development on areas of low distinctiveness. The mitigation hierarchy should always be applied and impacts upon protected, irreplaceable and priority habitats avoided. The applicant should consult the **Somerset BNG Principles** set out in chapter 6 and use these to help inform site selection and option preferences.

- 4.6 If wildlife impacts are likely, the applicant should **appoint a Chartered Ecologist** to produce an Ecological Impact Assessment, the scale of which will be proportionate to the scale of potential impacts. Baseline ecological surveys should be undertaken and the statutory Biodiversity Metric used as early as possible to identify options with the least impact. Identify which option will be of greatest benefit to wildlife and reduce the need and cost for additional BNG compensation.
- 4.7 Use of the relevant area **Biodiversity Checklist** (below) can be helpful in ascertaining whether protected species or habitats which may support protected species might be present on the site.
- [East area \(formerly Mendip\)](#)
 - [North area \(formerly Sedgemoor\)](#)
 - [South area \(formerly South Somerset\)](#)
 - [West area \(formerly Somerset West & Taunton\)](#)

Pre-application

- 4.8 Through careful site selection, application of the mitigation hierarchy, application of good practice and design principles, the applicant, developer and consultant ecologist will ensure that ecological impacts are avoided and minimised, appropriate mitigation, compensation and BNG requirements are identified and included from the outset in the project design.
- 4.9 Applicants are encouraged to **make use of the Council's Pre-application Service** to further understand the specific requirements in relation to their site. Further information can be found at <https://www.somerset.gov.uk/planning-buildings-and-land/pre-application-advice/>.
- 4.10 Through the pre-application service, the planning case officer, green infrastructure / landscape officer and ecology case officer will liaise internally, and with any consultant ecologist where such a resource has been appointed by the applicant to provide advice referencing this BNG Guidance Note and any site-specific habitat retention, enhancement and creation opportunities.



- 4.11 For larger and more complex sites, the LPA may request that the applicant signs up to a **Planning Performance Agreement (PPA)** which can provide improved certainty for both parties and ensure enhanced bespoke levels of service from the Council in exchange for proportionate and reasonable costs being covered by the applicant. PPAs can cover all or just part of a development process, but work best when covering the full period from pre-application through to delivery. Where a PPA is agreed, appropriate and costed LPA and Ecology Service resourcing will be identified within it.
- 4.12 Also for larger and more complex sites, the LPA may request that the development proposal is referred to the Council's **Quality Review Panel**. This provides prospective applicants with a chance to understand how their site can respond to its context and opportunities to deliver high quality development. Engagement with this process at the pre-application stage is the most productive, economic and advantageous way to approach things, as this can assist in designing in appropriate responses from the outset rather than trying to retrofit responses into recommendations around elements of a fixed design. This can be particularly helpful in terms of designing in a site's approach to BNG. Further information can be found at <https://www.somerset.gov.uk/planning-buildings-and-land/pre-application-advice/somerset-quality-review-panel/>.
- 4.13 Prospective applicants should use the guidance in chapter 5 of this document to understand the most appropriate BNG response for their site. **On-site BNG is the starting point**, but there will be cases and reasons why off-site BNG or a combination of on- and off-site will be necessary or more desirable. The guidance in chapter 5 sets out a sequential approach to be followed. If it looks likely that off-site BNG will be necessary in part or in whole, then applicants should begin to explore options for how and where this will be secured.
- 4.14 Prospective applicants should further refer to the guidance on **Somerset Key BNG Principles** (chapter 6) and **Strategic Significance** (chapter 7) in the evolution of their development design and in arriving at their proposed approach to BNG.

Submission and validation

- 4.15 An applicant must have established a **proposed approach to delivering at least 10% BNG** by the time a planning application is submitted. This does not mean that the applicant has a fully developed Biodiversity Gain Plan or Habitat Management and Monitoring Plan, but that it has sufficient



understanding of how it will approach compliance with the statutory requirement, and justifications associated.

- 4.16 A **BNG Statement** must be submitted containing all necessary “biodiversity gain information” as set out within the Environment Act 2021 and any subsequent secondary legislation. This will need to be accompanied by a number of other related documents.
- 4.17 The Government intends to update the national list of validation requirements as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015 to reflect the nationally required information to support validation of relevant planning applications. This secondary legislation and Government Guidance on the matter are yet to be published. However, the provisions as set out in the Environment Act 2021, in the Government’s 2022 consultation on BNG Regulations and Implementation, and in the Government response to the consultation responses, give a good idea of the level of information that is likely to be required nationally.
- 4.18 The headline list of **validation requirements** below sets out an interpretation of these national requirements and the documents Somerset Council considers are necessary to be submitted in order to validate a planning application and demonstrate compliance with these and our local guidance set out in this document. The list will be further reviewed as and when Government publishes the guidance and legislation:
- Wildlife / Ecology Survey
 - Biodiversity Checklist
 - Arboriculture Report
 - BNG Statement
 - Completed Biodiversity Metric
 - BNG plans and drawings
 - GIS data
 - Declaration Form
 - Completed SHEP / HEP Metric
- 4.19 **Appendix 4** to this Guidance Note includes further information on anticipated validation requirements including the specific requirements for inclusion within the BNG Statement, plans and drawings, GIS data and declaration form.
- 4.20 The Council is consulting on the validation requirements as part of this consultation on the Guidance Note. The final version of the validation checklist requirements will take account of comments received during consultation, and any relevant secondary legislation and Government guidance as it is published. The validation requirements will subsequently be adopted by the



Council as an addendum to or as part of revisions to the existing Local Validation Checklists.

- 4.21 On receiving an application, the LPA's validation officers will check:
- whether an application is BNG 'liable'
 - whether all of the above listed validation requirements have been submitted
 - whether the headline results page of the submitted Metric identifies any errors or red flags
 - whether the declaration form includes all necessary aspects for the type of application submitted.
- 4.22 If any of the above information is missing or inadequate then the application will be returned to the applicant / agent. If all information is provided in a suitable format in line with validation checklist requirements, then the application will be validated and passed to the planning case officer for consideration and ecology case officer consulted.

Consideration

- 4.23 Once validated, the planning case officer and ecology case officer begin to review the submitted information. Officers will consider whether sufficient information has been provided to answer the following questions:
- Has the Metric been completed properly?
 - Has the mitigation hierarchy been followed?
 - Has the proposal followed the sequential approach and provided appropriate justification?
 - Does the development and associated BNG align with the Somerset BNG Principles?
 - Has the strategic significance multiplier been applied and justified appropriately?
 - Have they got a clear strategy for securing any off-site gains?
 - Have they been clear about how gains will be achieved across the whole site through future phases (where relevant)?
 - Are their proposals for securing the gains, management, maintenance and monitoring appropriate?

If any information is considered missing or sub-standard then further information may be requested and the planning case officer will request an appropriate extension of time to accommodate for this.



- 4.24 If significant on-site gains are planned or there is any reliance upon off-site gains or statutory credits, then the means of securing these gains must be identified in any emerging S106 Heads of Terms.
- 4.25 The ecology case officer reviews the submitted information in detail and will liaise with the planning case officer. The ecology case officer will then confirm whether or not the on-site BNG is acceptable, and whether there is reasonable justification for reliance in part or in whole upon off-site BNG. At this point, the planning case officer and ecology case officer may meet with the applicant and their consultant ecologist to discuss any issues or ways that the BNG response could be improved upon.
- 4.26 For larger and more complex sites, the LPA may request that the development proposal is referred to the Council's **Quality Review Panel**. This provides applicants with a chance to further explain the logic in their approach to BNG alongside other aspects of the development proposal. Panel comments may highlight opportunities and aspects for the development to respond to in order to deliver high quality development. Panel comments are a material consideration in the determination of planning applications. Further information can be found at <https://www.somerset.gov.uk/planning-buildings-and-land/pre-application-advice/somerset-quality-review-panel/>
- 4.27 If revisions are required to the scheme or supporting evidence, these will be requested and an appropriate extension of time to accommodate for this.
- 4.28 Where off-site BNG is adequately justified as being necessary but has not yet been proposed, the developer will need to consider its off-site options in line with the guidance set out in chapter 5 of this document. Where the applicant has included a specific proposed off-site solution, the planning case officer and ecology case officer will liaise and confirm whether or not the proposal conforms with the guidance included within this document. If this cannot be confirmed, then the applicant may need to consider alternative options. Only as a last resort and where appropriate justification is provided in line with the guidance in chapter 5, will the LPA accept a reliance upon statutory credits.
- 4.29 Once the planning case officer is satisfied that information is accurate, satisfactory and sufficient with reference to statutory requirements, adopted policy and in relation to this Guidance Note, the application can proceed towards determination. The appropriate route for securing the BNG proposals will be followed (see chapter 8). Sufficient certainty and specificity over the intended BNG solution will be required to include reference to any appropriate conditions or S106 legal agreement as appropriate.



Pre-commencement

- 4.30 Following determination, the applicant / developer works up the final detail of their BNG proposal in line with the approved BNG Statement and other approved plans of the application. The final Metric is completed in full.
- 4.31 Where reliant upon an off-site solution, the applicant / developer secures the necessary biodiversity units and the off-site provider supplies a proof of purchase / allocation certificate.
- 4.32 A Habitat Management and Monitoring Plan (HMMP, see **Appendix 6**) and Biodiversity Gain Plan are developed for all on-site and off-site gains using the national templates. Any agreements or arrangements with third parties relied upon for management, maintenance or monitoring should be established. Once prepared, the applicant / developer submits these documents alongside any other necessary information to the LPA seeking discharge of necessary conditions and/or S106 legal agreement planning obligations.
- 4.33 Upon receipt of necessary documentation, the planning case officer and ecology case officer review submitted information.
- 4.34 The national deemed condition relating to submission and approval of the Biodiversity Gain Plan can be discharged once the planning case officer is satisfied that:
- Pre-development biodiversity value of on-site habitat is correct.
 - Post-development biodiversity value of on-site habitat is what the BGP says or more.
 - Any reliance upon off-site gain is allocated to the development and has the value as specified in the BGP.
 - Any reliance upon statutory credits have been purchased.
 - The development will deliver at least 10% BNG
 - Any other matters to be specified in the forthcoming Regulations
- 4.35 Depending on the specifics of the site and the associated planning permission, there may be other BNG and ecology related pre-commencement conditions and planning obligations to be discharged which will be considered and discharged as appropriate.



Commencement and Monitoring

- 4.36 The developer must submit a commencement notice to the LPA advising the LPA of the proposed date of commencement. This notice must be received by the LPA prior to development commencing. Understanding an accurate date of commencement is important to monitoring compliance with any BNG associated legal agreements and planning conditions.
- 4.37 The Government have suggested that on-site biodiversity gains should be secured for delivery within 12 months of the development being commenced or, where not possible, before occupation. The Government's intention here is understood to be for this to influence application of conditions, planning obligations and conservation covenants rather than for it to be an inflexible rule. Developers must comply with the conditions of planning permission and any associated S106 legal agreement. The Government is expected to publish further guidance on this topic.
- 4.38 Off-site biodiversity gains allocated to a development do not have to have been completed prior to registration on the National BNG Sites Register or sale/allocation to the development. However, in order to minimise delays between development impacts and the delivery of compensatory habitat, the Government is expected to require off-site works to commence as soon as is feasible, and no more than 12 months after the discharge of the mandatory pre-commencement biodiversity net gain condition.
- 4.39 The development and any associated BNG should be delivered in line with any associated planning conditions, S106 legal agreements and approved Biodiversity Gain Plan and Habitat Management and Monitoring Plan. Monitoring returns should be submitted to the LPA and Ecology Service of Somerset Council as per agreed within the above.
- 4.40 The Council will monitor and enforce compliance as necessary. The Councils proposed monitoring approach is set out in chapter 10 of this document.



5. On-site, Off-site or Credits?

Spatial hierarchy

- 5.1 The Government has stated a preference for on-site gains over off-site gains (with the exception of intertidal developments) and said that the secondary legislation and guidance will incentivise this approach. It has also stated that it will incentivise local off-site provision in strategically significant locations through the Biodiversity Metric.
- 5.2 These approaches, alongside the intentional uncompetitive pricing of statutory Biodiversity Credits, are intended to ensure as much as possible, habitat creation occurs close to where biodiversity is lost, but in appropriate locations. Consultation responses to the Government's consultation indicated a strong desire for further guidance on what constitute appropriate off-site biodiversity gains for a given development.
- 5.3 The Biodiversity Metric User Guide includes a series of Metric Principles. Principle 7 states that "*Created and enhanced habitats should seek, where practical and reasonable, to be local to any impact and deliver strategically important outcomes for nature conservation*". It also includes two key definitions: "spatial risk"³, and "strategic significance"⁴. These are essential for delivering on the above.
- 5.4 The Metric User Guide does not include specific thresholds for when it is appropriate to deliver on-site gains, off-site gains, or rely upon statutory biodiversity credits. Secondary Legislation and national guidance are expected to provide further information on their application, as such the Council's approach below is subject to change in response to these.
- 5.5 The spatial risk score to be used in the Metric is set out in Table 7-1 of the User Guide and is effectively fixed. The Council cannot change the definition of spatial risk. However, this Guidance Note sets out guidelines which build on the sequential nature of the national spatial risk definitions. These should, in combination with the guidance on application of the Somerset BNG Principles

³ Spatial risk represents the relationship between the location of biodiversity loss (on-site) and where the off-site habitat is being delivered. This is applied to off-site interventions only.

⁴ Describes the local significance of the habitat based on its location and the habitat type.



(see chapter 6), and Strategic Significance (see chapter 7), further assist in focusing the right kinds of habitat creation and enhancement in the right locations.

Sequential approach

- 5.6 BNG best practice is to deliver on-site (i.e. within the red line boundary of a planning application). In line with the above, the Council expects, where practical and reasonable, for BNG to be delivered close to any biodiversity losses being incurred. However, the practicality and reasonableness of delivering BNG on-site will vary site by site. As such it is not considered appropriate to establish specific thresholds for when on-site or off-site gains are allowed, rather a sequential approach (identified in Figure 5, below) should inform decision making about what is most appropriate for the delivery of BNG on a given site.
- 5.7 The sequential approach below should be considered alongside compliance with the Somerset BNG Principles (see chapter 6) and consideration of Strategic Significance (see chapter 7), which should also help guide appropriate delivery.

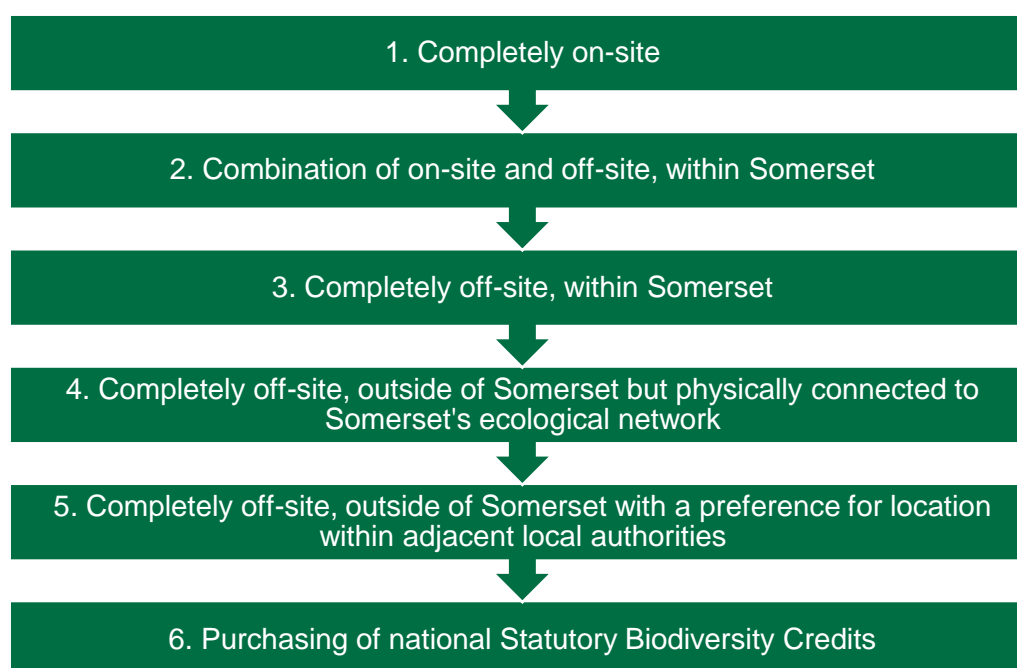


Figure 5 - The sequential approach



- 5.8 The Biodiversity Statement should be used to initially set out and justify the approach to BNG for a development proposal. This should set out how this sequential approach has been followed. This should be refined and updated within the Biodiversity Gain Plan further along the process to reflect and justify any changes in approach.

On-site considerations

- 5.9 Opportunities are likely to exist within most development proposals to retain, create and manage habitats for biodiversity and provide BNG on-site. Bearing in mind the requirement to comply with the mitigation hierarchy, this may be easily achievable in some circumstances through the enhancement of retained habitats, establishment of appropriate buffers and creation of habitats to increase connectivity.
- 5.10 BNG should not be thought of as an additional requirement of development to be tacked on to a scheme designed through other processes. Consideration of the requirement to deliver BNG should be integral to the site selection and design process.
- 5.11 The Council has a range of existing planning and design guidance documents which should be consulted by applicant teams and used to inform the early stages of developing the design concept and proposals for the site. Following the processes and guidance within these documents can lead to well considered and integrated BNG solutions. This can help to reduce costs and improve outcomes. Applicants should make use of the Council's [pre-application service](#) and where relevant the [Quality Review Panel](#) to assist in the on-site design of schemes.
- 5.12 However, it is recognised that on many sites practical, sustainable ecological enhancement may not always be possible or viable. On-site multifunctional green spaces required by other planning policies will inevitably have potential to deliver some level of habitat and biodiversity enhancement, but this will usually not be the primary function, for example recreational space or Sustainable Urban Drainage Systems. This can have potential to lead to compromises in habitat condition and long-term value of the new habitats. In these circumstances off-site BNG may well provide a more sustainable option. Whilst a key policy aim of mandatory BNG is to improve people's access to nature, this needs to be balanced against the risk of overwhelming the core biodiversity goals of the policy, which may favour placing at least a proportion of BNG off-site, away from such significant/regular public access and other



concerns associated with proximity to urban development including lighting and cat predation etc.

- 5.13 Smaller sites tend to, by their nature, have a lower net to gross ratio in terms of their developable area meaning they have less opportunity to accommodate BNG on-site. However, smaller sites also may be more likely to lead to lower levels of biodiversity and habitat loss, and therefore may be able to accommodate low level enhancements on-site alongside purchasing of off-site biodiversity units or as a last resort statutory biodiversity credits. However, location of development, and the nature of low level enhancements of on-site gains are likely to mean that it is difficult to achieve higher scores for strategic significance. As such, small sites may in some circumstances, where appropriate, be advised to consider purchasing off-site biodiversity units in place of the on-site element. However, any approach for small sites purchasing off-site units would not be eligible to use the Small Sites Metric (designed to reduce the burdens of the process for SME developers). As such, a pragmatic approach should be taken.
- 5.14 Larger sites tend to, by their nature, have a higher net to gross ratio in terms of their developable area meaning they have greater opportunity to accommodate BNG on-site. In some cases this might be within otherwise planned, multi-functional Green Infrastructure (GI), in others it may be specific dedicated areas for BNG. Larger sites may also be more likely to lead to greater levels of biodiversity and habitat loss and fragmentation. However, the greater population pressures associated with larger developments and potentially reliance upon multi-functional GI also bring risks such as cat predation, general disturbance and maintenance risks. These aspects mean that it may again be difficult for on-site gains to achieve higher scores for strategic significance, as well as being knocked down on other risk multipliers for difficulty of creation or enhancement and potentially temporal risk. As such, whilst larger sites may be more likely to deliver on-site gains, they are also likely to seek off-site biodiversity units. Larger sites tend to be delivered by larger developers with greater access to other landholdings within their company, although this is not always the case. As such, the demand to purchase off-site biodiversity units on the market may be reduced. However, it is important that any off-site units delivered (whether purchased on the market or on other landholdings of the developer) work to deliver in strategically significant locations.



Off-site delivery

- 5.15 Where justified, and agreed between the Local Planning Authority and site applicant/developer/promoter that on-site options have been exhausted or are otherwise considered to be less sustainable than alternatives, off-site delivery (i.e. beyond the red line boundary of the application) may be permitted. Off-site solutions may be bespoke schemes developed for the applicant (including, but not limited to “blue” land in the same ownership) or through purchase of units from a habitat bank provider.
- 5.16 A key aim is for BNG to be delivered close to any biodiversity losses being incurred, and to deliver strategically important outcomes for nature conservation. As such, the sequential approach set out in Figure 5, above, alongside the Somerset BNG Principles (chapter 6) and consideration of Strategic Significance (chapter 7) set out the process that should be gone through in identifying a suitable off-site solution for a development.
- 5.17 Progression through the off-site steps of the sequential approach should only take place where justified and agreed between the Local Planning Authority and site applicant/developer/promoter that all options have been exhausted or are otherwise considered to be less sustainable than alternatives.
- 5.18 The Council will work to enable sufficient off-site biodiversity units to be delivered in appropriate locations within Somerset reflecting the local interpretation of strategic significance. This will reduce reliance upon off-site solutions outside of Somerset, and on the national statutory biodiversity credits and in turn improve biodiversity and other natural capital benefits locally, contributing to delivery of the emerging LNRS and other plans and strategies. A proposed process for bringing forward different off-site delivery mechanisms in Somerset is set out in chapter 9.

Use of Statutory Credits

- 5.19 The Government intends to make available national statutory biodiversity credits which can be purchased as a last resort. However, these will be intentionally uncompetitively priced to encourage on and off-site unit delivery and phased out once the off-site biodiversity unit market has matured.
- 5.20 The Government intends to use the revenue from statutory credit sales to invest in strategic habitat creation and enhancement which deliver long-term environmental benefits in line with LNRS priorities. However, this is not



guaranteed to be within Somerset and as such benefits will not necessarily be realised locally.

- 5.21 Furthermore, given the legal requirement to deliver 10% BNG and the intentionally uncompetitive pricing of the Credits, an unnecessary reliance upon Statutory Credits may in some cases result in viability concerns for developments. This has the potential to undermine delivery against local policy objectives and bring into question whether proposals will result in sustainable development.
- 5.22 As such, there will be a strong assumption against reliance upon statutory biodiversity credits, and in order to rely upon them, an applicant must demonstrate as part of their Biodiversity Statement, and then Biodiversity Gain Plan that they are unable to achieve net gains on-site, or off-site in line with the sequential approach above.



6. Somerset BNG Principles

Good practice context

A holistic approach

- 6.1 Somerset Council has established a set of key principles to help guide and inform the development of BNG proposals in Somerset. These Somerset BNG Principles draw upon existing plans, policies and strategies as well as building upon externally produced good practice guidelines. As set out in the context section of this Guidance Note, there are a wide range of existing plans, policies, strategies and projects to which BNG relates. **Appendix 2** lists and provides links to where applicants can find out more about each of these. High quality BNG proposals should be informed by, work with and also in some cases help to deliver on these other strategies through taking a holistic approach. The Somerset BNG Principles encourage such a holistic approach to be taken.
- 6.2 The Somerset BNG Principles set out the key factors the Council want applicants / developers to respond to and use to inform how they develop their on-site design or determine their off-site solution. They help to reinforce the sequential approach (see chapter 5) and are then referenced within the local definition of Strategic Significance (see chapter 7): creating a scoring incentive within the Metric for projects which align with these Principles.
- 6.3 In addition to the specific local plans, policies, strategies and project set out in **Appendix 2**, the Somerset BNG Principles draw directly on and encourage further alignment with:
- [CIEEM BNG Good Practice Principles for Development: A Practical Guide](#)
 - British Standards Institution (BSI) BS8683:2021 and BS42020:2013
 - [Natural England Green Infrastructure Framework](#)
 - [Building with Nature](#)
 - [RSPB & NHBC Biodiversity in New Housing Developments](#)
- Applicants should reference the above and demonstrate within their submissions how they also have been informed by these guidelines.



The Lawton Principles: *more, bigger, better, and joined-up* habitats

6.4 In 2010, Professor John Lawton presented a report to the UK Government, called '*Making Space for Nature*'. The report called for the creation of a healthy ecological network operating across the landscape as a whole, not in isolated reservoirs. The report established that five key components are needed for an ecological network to be effective, as identified in Figure 6:

1. Core areas – these are the areas of highest wildlife value
2. Corridors and stepping stones – the places that allow movement and interaction
3. Restoration areas – areas where species and habitats can be restored
4. Buffer zones – these protect the core areas, corridors, stepping stones and restoration areas from the pressures of human influence
5. Sustainable use areas – areas of greater human influence and resource use.

6.5 To create an ecological network that operates more naturally and effectively, the Lawton report called for simple measures - *more, bigger, better* and *joined-up* sites within the landscape.

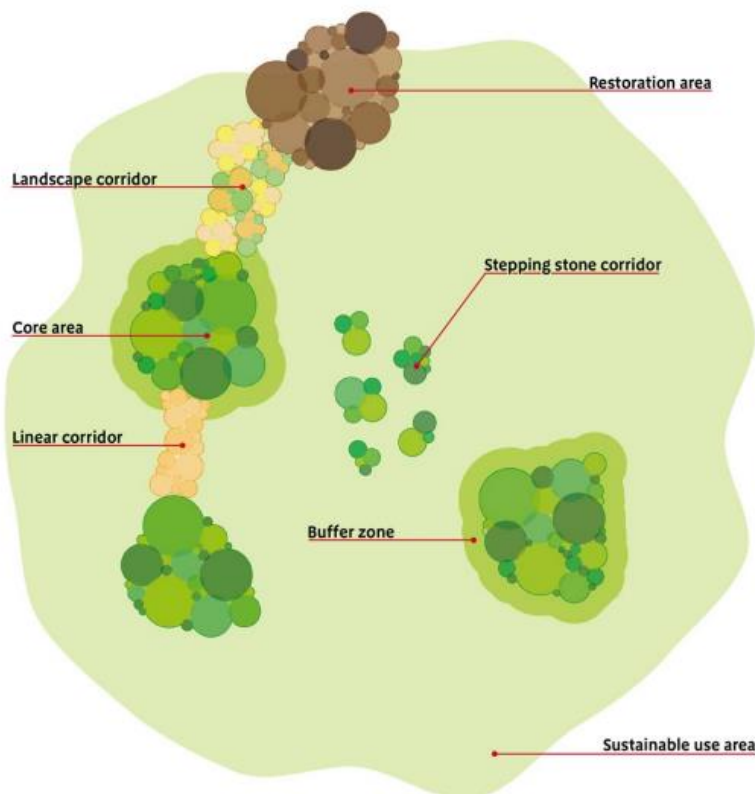


Figure 6 - "The components of ecological networks" taken from '*Making Space for Nature*' (Lawton Review, 2010).

- 6.6 The Lawton Principles directly informed the Somerset Ecological Networks Report published in 2019 and the associated mapping, which is further referred to in relation to Strategic Significance scoring in chapter 7, below.

Somerset BNG Principles

- 6.7 The Lawton Principles of *more, bigger, better* and *joined-up* habitats can be achieved in Somerset through the delivery of BNG in line with the following key principles:

| Somerset BNG Principles | |
|-------------------------|---|
| 1 | Consider biodiversity early on in site selection and design |
| 2 | Pay special attention to habitat retention, compensation and connectivity |
| 3 | Respond to heritage and landscape opportunities from the start |
| 4 | Enable and deliver appropriate multi-functionality and recreation |
| 5 | Build climate resilience through green and blue infrastructure |
| 6 | Ensure all proposals are realistic, deliverable and unlikely to fail |

- 6.8 These principles and the guidance relating to each (below) arise from consideration of the existing plans, policies, strategies and projects set out in **Appendix 2**, along with the good practice guidance referred to above. BNG proposals in Somerset should be informed by these principles and respond to them accordingly through submission of the BNG Statement and in justifications within the Metric.

- 6.9 Each principle is unpacked further, below.

1) Consider biodiversity early on in site selection and design

- Locate and design development to have minimum impact on existing site habitats, focus development on areas of low distinctiveness.
- Use the statutory BNG Metric to identify designs with the least impact. Identify which option will be of greatest benefit to wildlife and reduce the need and cost for additional BNG compensation.



- Avoid impacting on protected, irreplaceable and priority habitats. These cannot be compensated for through BNG. Any agreed loss would require bespoke compensation agreement with Somerset LPA.
- Prioritise retaining existing trees, especially older and native species which will take decades to grow, help people feel more rooted to the place and time, sequester significant levels of carbon and improve groundwater attenuation.
- Consider the potential of natural regeneration for habitat creation.
- Identify and control invasive nonnative species on site before they can spread.
- Reduce light impact on nocturnal wildlife through compliance with [Institution of Lighting Professionals Guidance Note 08/23: Bats and Artificial Lighting](#). Consider dark skies policies and objectives e.g. in AONB Management Plans where relevant.
- If traditional approaches to protecting and enhancing biodiversity are insufficient, consider innovative solutions to create and or maintain wild corridors such as green bridges, but only where other options have been exhausted and where it can be demonstrated that such options will secure

2) Pay special attention to habitat retention compensation and connectivity

- Habitats should be retained and enhanced through good management where possible to generate BNG.
- Wherever possible, wildlife corridors need to be retained, and fragmentation of habitats should be avoided.
- Compensation should be on-site wherever possible as this will be the best outcome for local wildlife directly impacted by a development.
- Compensation must be like for like or better than the habitat lost to the development.
- Downgrading habitats is not acceptable – the value and condition of baseline habitat must be accurate and must not be artificially reduced within the Metric.
- Where possible create functional and structural habitat connectivity within and without the site, building on evidence, environmental records and published aspirations for nature recovery (including national Habitat Networks dataset and Somerset Ecological Networks Report in advance of the Local Nature Recovery Strategy).
- Where compensation cannot be fully achieved on-site, a mix of on-site and off-site may be considered. Maximum on-site delivery is still expected and off-site should be close to any losses where possible, particularly in the case of compensation.
- Utilise the strategic significance scoring criteria to prioritise habitats for retention and enhancement, and the types and locations of habitats that should be used for compensation and new habitat creation.



- Additional on-site BNG may be generated through installation on buildings/structures and around the site where appropriate. Examples include swift or house martin nesting bricks, open sided car ports with swallow nests (replicating lost barns), bee bricks, green roofs, and walls, garden design using native or wildlife friendly species, swales designed for wildlife, hibernaculum etc., although these strategies alone will not be sufficient to compensate for loss of biodiversity and greenspace from the development and should be considered as secondary measures.
- Develop management plans without the use of chemicals such as herbicides, pesticides, fertilizers etc. wherever possible.
- Ensure full consideration of improving management plans in line with best practice to enhance existing habitats on the site, (including by regeneration) and / or create appropriate new habitats.

3) Respond to heritage and landscape opportunities from the start

- The distinctive character of the built and natural setting of the development and the wider landscape character should inform design of the development, as well as the enhancement, creation, and management of the on- and off-site habitats from the outset.
- Composition of created and enhanced habitats should draw on native species in the locale to gauge appropriate habitat size, scale, aspect and composition. This will assist in the development and new habitat blending in with existing.
- Lost habitats such as traditional orchards may be identified on historic maps and reinstated using local varieties.
- Create corridors and join fragmented habitats where possible. Where possible reflect the local features, such as hedge banks or drystone walls (dependent upon location), by using the same local materials and styles. Be guided by what is cultural and appropriate for the area by referring to relevant Landscape Character Assessment and Design Guidance.
- Explore what wider landscape, heritage, ecology and connectivity opportunities habitat creation and enhancement can help deliver upon by referring to the appropriate area Green Infrastructure Strategy.
- Traditional and historic buildings support a range of local species including protected species. Consider whether retention is possible and whether appropriate re-use is possible, and otherwise endeavour to provide the nesting and roosting capabilities those buildings offered within the new development e.g. bat and bird breeding and roosting site, bee brick for masonry bees.
- Keep lighting levels appropriate and minimal especially where the character of the surrounding area is low-lit or non-lit, to reduce light pollution impacts on the landscape and nocturnal wildlife.



4) Enable and deliver appropriate multi-functionality and recreation

- Enable more people to have access to good quality green and blue spaces close to home, particularly in more deprived areas or where existing opportunities to connect with nature locally are lower. Refer to local planning policy and Natural England's Accessible Greenspace Standards within their Green Infrastructure Framework.
- Design spaces for people to come into contact with nature as appropriate as part of their daily routines to benefit people's wellbeing and mental health.
- Promote and inform future residents and users of the value of the habitats on-site and the reasons for BNG.
- Consider establishing self-guided nature routes, quiet areas and interpretation boards to help people connect with nature and feel safe.
- Encourage users of the site to become involved in care, monitoring and supporting the continued enhancement of the site for the benefit of wildlife and their enjoyment of it, e.g. by encouraging care of newly planted trees.
- Design gardens and allotments with clean soil to encourage local food growing and use of pollinator-friendly species and other measures to attract wildlife and communicate the reasons and benefits to new occupiers.
- Habitat creations such as traditional orchards and food forests can benefit wildlife, provide food for people and support historic landscape regeneration.
- Design SuDS and swales to be landscape-led, multi-functional and attractive to people and wildlife by following the Somerset SuDS Guidance. Water holding swales, planted with native and wetland species will attract wildlife.
- Include nature-based play areas and equipment for children, as well as seating and social areas in green spaces to improve well-being and encourage protection/maintenance of the biodiverse areas.
- Consider how BNG proposals can contribute to multiple priorities in one space through stacking of benefits including nutrient mitigation, flood risk management, landscape enhancement, recreational connectivity etc. Review the plans, strategies and projects within **Appendix 2** for opportunities.
- Restrict access and buffer plant areas intended for species sensitive to human activities and pet impacts. Use Suitable Alternative Natural Greenspaces where appropriate.
- Design safe and accessible walking / cycling routes which dual as habitat corridors where appropriate (carefully balanced needs for lighting and surveillance).
- Consider using motion activated lighting where appropriate to reduce impact on nocturnal wildlife, reduce energy demands and cut carbon emissions.
- Whilst responding to the above, bear in mind that human activity can directly impact upon habitats and their suitability for different wildlife (e.g. through



disturbance, cat predation, dog fouling, lighting, vandalism, fires and noise). If multi-functionality reduces the wildlife value of a habitat, then this must be taken into account in Metric scores.

5) Build Climate Resilience through Blue and Green infrastructure

- Consider how BNG can be designed to increase climate resilience of the development for wildlife and people from the outset.
- Place appropriate tree species in locations which will provide shade during heatwaves to areas such as buildings, play areas and outside community meeting areas.
- Consider locating trees to provide prevailing wind protection to buildings, assist with noise reduction from transport routes etc. and help mitigating air pollution and particular matter in the development e.g. from busy roads.
- Ensure tree and other plant species are resilient to anticipated changes in climate and associated impacts including ability to cope with heat and water stress and resilience to current and projected pest species and disease.
- Ensure appropriate aftercare and management are in place, especially for newly planted trees and created habitats, to cope with climatic extremes such as excessive heat. This will aid successful establishment and reduce replacement costs.
- Use of local sustainable wood can support local woodland management, local businesses and reduce the developments carbon costs.
- Where non-native trees and other plant species are used, they should support local wildlife and / or be resilient to climate change.
- Design development and habitats through a holistically considered SuDS strategy to minimise run off and floodwater, make space for water and slow the flow. Utilise the [Somerset Council SuDS Guidance and Design Standards](#).
- Enhance and create riparian and wetland habitat with natural lines aimed at slowing flood water. Consider how such interventions can also assist in mitigating nutrient pollution.
- Design wildlife friendly, vegetated SuDS that capture and slow water flow during excessive rainfall without reliance upon use of piped networks, underground tanks and end-of-pipe storage solutions wherever possible. Consider including green roofs, raingardens, planters, tree pits, swales, ponds, wetlands and basins as well as use of water butts or rainwater harvesting systems to reduce demand for potable water where appropriate.
- Use permeable surfaces wherever possible, e.g., driveways and parking areas, to reduce run off and potential flooding.
- Consider use of systems like gabion walls (where appropriate structurally and from a character point of view) for low retaining walls (soil-dependent) and barriers or seating around the site.



- Use vegetation to stabilise banks (1:3 slope or less) and reduce erosion.
- Natural filtration reduces the pollutants carried by runoff and flood water, helping to protect and improvement of the quality of surface water and ground water and improve climate resilience of freshwater habitats and species.
- Create refuges and corridors to protect for sensitive species from climate change e.g., amphibians.
- Well-designed SuDS can generate additional biodiversity units and benefit developments and users. Retention and creation of natural surfaces such as grassland, trees and scrub can reduce the carbon impact of the development.
- Where appropriate consider enhancement or creation of coastal habitats that assist with coastal erosion protection and tidal flooding.

6) Ensure all proposals are realistic, deliverable and unlikely to fail

- Be realistic when setting the target condition. E.g. it is unlikely that habitat on-site will reach a high condition because of disturbance from humans and pets.
- For the majority of on-site proposals, relatively simple, robust, low-maintenance habitats are likely to be generally more achievable.
- Consider the practicalities of management and maintenance that habitats may require early on (e.g. grazing, access, water, cutting regimes).
- Consider the cost and operational logistics of maintaining small areas of habitat which might be higher and more difficult – does it become more viable by increasing the size of habitat to be maintained?
- All on- and off-site proposals require a Habitat Management and Monitoring Plan, supported by adequate funding, appropriate maintenance regimes, achievable and resourced monitoring and contingency planning to ensure the habitat is delivered within the set time frames, in line with the Metric User Guide and current good practice BNG guidance.
- Where biodiversity units are to be sold, ensure that the price of a biodiversity unit is set at an appropriate level to support the level of management, maintenance and monitoring set out in the HMMP. All delivery mechanisms must be supported by a sound business plan.
- Habitat viability must be considered. Does the site have suitable conditions to establish the planned habitat to the distinctiveness and condition proposed? Facts that should be considered include: soil pH and type, aspect, drainage, development of tree canopies, size, human impact, predicted risks over the 30 year management period etc. For example, a calcareous grassland needs a thin, nutrient poor soil with a high pH which does not receive too much shading. Even if the conditions at creation are good if young trees have been planted nearby, in time their canopy may make it unviable.
- Design the site to protect wildlife from crime and disturbance by considering and responding to the risks.



- Private gardens cannot be relied upon for BNG purposes as the long-term management, maintenance and monitoring of these habitats is not feasible. However, gardens do still present opportunities for nature enhancement which should be encouraged and enabled.
- Follow the “right tree, right place” guidance and deliver greater after care and management to support young trees rather than relying upon contingency planting to account for high losses.



7. Strategic Significance

- 7.1 Strategic significance is the local significance of a habitat based on its location and habitat type. Assessors should assign a strategic significance category within the Metric for each individual habitat parcel both at baseline and at post-intervention. Assessors should use published plans, strategies or policies which are relevant to the habitat's location to determine the strategic significance of the habitat and reference the relevant documents in their justification.
- 7.2 The Metric 4.0 User Guide sets out the default definitions for high, medium and low scores of strategic significance. Habitat may be scored as being of high strategic significance where it is of an appropriate habitat in a location identified as ecologically important for the specific habitat type, or where that habitat is otherwise identified as being ecologically important within a local plan, strategy or policy.
- 7.3 In time, the LNRS, and the new Local Plan will likely provide the primary source for identifying strategic significance in Somerset. However, the Somerset LNRS is not expected to be published until summer 2024 and it will be a number of years until the new Somerset Local Plan has progressed sufficiently to hold significant weight in this regard. If an LNRS has not been published, the Metric User Guide sets out that a local planning authority may specify alternative plans, policies or strategies to use.
- 7.4 In the interim, before the LNRS is complete, strategic significance in Somerset will be defined as per the table in Figure 7, below. This approach combines spatially defined areas and the definitions of enhancements which can support them, with reference to the Somerset BNG Principles (as discussed in the previous chapter). Collectively they are intended to guide BNG proposals to take a holistic approach and deliver multiple benefits by incentivising stronger alignment with other plans, strategies and projects.
- 7.5 Applicants must include adequate justification for the strategic significance category applied, referencing the definitions set out below, relevant Somerset BNG Principles and related plans and strategies used to arrive at this.



| Strategic significance | Score in Metric | Definition in Somerset (subject to change as the Somerset LNRS emerges) |
|------------------------|-----------------|---|
| High | 1.15 | <p>Only where appropriate habitat enhancement or creation:</p> <ul style="list-style-type: none"> a) Is located within and meets the definition of a Priority Habitat or enhancement, expansion or fragmentation zone as defined by the National Habitat Networks dataset, <p>or,</p> <ul style="list-style-type: none"> b) Is located within and meets the definitions of the core, stepping stone or dispersal areas identified by the Somerset Ecological Networks Report mapping, <p>or,</p> <ul style="list-style-type: none"> c) Would support or could support recovery of priority species or protected sites. <p>This should be supplemented by justification within the comments section of the metric, which should also pick up how the proposals respond to the Somerset BNG Principles. High levels of alignment with the principles are expected for post-intervention habitats.</p> |
| Medium | 1.10 | <p>Only where habitat enhancement or creation is clearly justified as contributing to the ecological functionality within the landscape e.g., buffering priority habitats, providing connectivity, supporting, or providing bat flight lines but outside of the areas identified under 'high' above.</p> <p>This should be supplemented by justification within the comments section of the metric, which should also pick up how the proposals respond to the Somerset BNG Principles. General and majority alignment with the principles is expected for post-intervention habitats.</p> |
| Low | 1 | <p>Any other habitat enhancement or creation which does not meet the above criteria.</p> <p>This should be supplemented by justification within the comments section of the metric, which should also pick up how the proposals respond to the Somerset BNG Principles.</p> |

Figure 7 - Defining Strategic Significance in Somerset



8. Securing BNG from development

Securing the Biodiversity Gain Plan

- 8.1 As set out in the Environment Act 2021, all relevant planning applications to which BNG applies will automatically be subject to a deemed pre-commencement condition which ensures that development may not be begun unless a Biodiversity Gain Plan has been submitted to and approved by the local planning authority. It should be noted that the specifics of this condition may be subject to amendment and refinement by the forthcoming anticipated secondary legislation.
- 8.2 In many cases, it is anticipated that it will not be possible to establish all of the necessary aspects required for completion of the final, formal Biodiversity Gain Plan at the point of the planning application being made. As such, planning applications must be accompanied by a Biodiversity Gain Statement (setting out all of the Biodiversity Gain Information as required by the Environment Act and any secondary legislation as well as locally required information). In this case, the deemed condition will apply requiring submission and approval of the Biodiversity Gain Plan prior to commencement.
- 8.3 Where a S106 legal agreement is required for other purposes (including the securing of any claimed biodiversity gains, see below), the submission and approval of the Biodiversity Gain Plan prior to commencement of development may also be secured as a planning obligation via S106 legal agreement.
- 8.4 Applicants also have the option to submit their Biodiversity Gain Plan alongside their planning application if they are in a position to do so, in which case, this would likely be approved as part of the application and the deemed condition would effectively be discharged through approval of the application.



Securing claimed biodiversity gains

- 8.5 Beyond the deemed condition requiring submission and approval of the Biodiversity Gain Plan, the LPA will need to use appropriate measures to secure the gains themselves and their management and maintenance for a minimum 30 year period. The method of securing these gains will vary depending on their nature, representing the appropriate balance between risk and reasonableness as set out below. The Environment Act 2021 requires any off-site biodiversity gains, the use of credits, and *significant* on-site enhancements to be formally secured by condition, planning obligation or conservation covenant.
- 8.6 Planning conditions should be kept to a minimum, and only used where they satisfy the following legal tests:
- 1) necessary;
 - 2) relevant to planning;
 - 3) relevant to the development to be permitted;
 - 4) enforceable;
 - 5) precise; and
 - 6) reasonable in all other respects.
- 8.7 Planning obligations are secured via legal agreement under Section 106 of the Town and Country Planning Act 1990. Regulation 122 of the Community Infrastructure Levy Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission if the obligation is:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 8.8 As a rule of thumb, planning obligations are more easily monitored and enforced due to their nature as legal agreements. Furthermore, it is possible for the LPA to charge an appropriate monitoring fee as part of a planning obligation, which cannot be secured via condition. This monitoring fee can be used to cover overhead costs of resourcing and undertaking the monitoring of the legal agreements and can greatly assist in ensuring the secured gains are adequately monitored and actually delivered.
- 8.9 Somerset Council is not registered as a Responsible Body for the purposes of signing conservation covenants. As such, at this stage conservation covenants cannot be used to secure claimed biodiversity gains. The Council may review its position with regards to conservation covenants and potential



status as a Responsible Body in due course, but from day one of implementation, this route will not be available to applicants in Somerset.

On-site gains

- 8.10 The Government is yet to define what the threshold for 'significant' on-site gains are but had suggested that it may be set according to habitat area and distinctiveness. In the Government Guidance published alongside the Biodiversity Gain Plan template in October 2023, the Government explained that a significant increase the baseline biodiversity value of habitats, normally involving creation, enhancement and maintenance of habitats of higher distinctiveness, better condition, larger size, or where the size is significant relative to the size of the development may be circumstances which indicate an on-site gain is to be considered 'significant'. The Guidance suggests that developers will need to check with the LPA to see if their on-site enhancements are significant and that LPAs may want developers to secure less significant on-site enhancements if they contribute to locally important species or ecological networks. Somerset Council will consider whether any further local guidance is required on this matter in response to the secondary legislation, further national guidance and responses to this consultation document.
- 8.11 At this stage it seems likely that any site capable of achieving significant on-site gains, will be of sufficient scale that it will hit other policy requirement thresholds, for instance around on-site open space and affordable housing. As such, it is envisaged that the use of planning obligations for the securing of 'significant' on-site biodiversity gains through a S106 legal agreement will be most appropriate and also not be overly burdensome.
- 8.12 'Significant' on-site gains secured via S106 legal agreement may also need reference within planning conditions relating to any general Landscape and Ecological Management Plan, phasing plan, masterplan or design code/guide.
- 8.13 On-site enhancements which do not reach the threshold definition of 'significant' do not statutorily need to be secured formally. However, where such less significant on-site gains are anticipated, these may be secured via planning condition as part of any general on-site Landscape and Ecological Management Plan.
- 8.14 Even where planning application sites are exempt from the national mandatory 10% BNG requirement, the Council still expects applicants to achieve a net gain and other biodiversity enhancements, in line with the NPPF and relevant development plan policy. In these circumstances, net gains may



be secured via planning condition as part of any general on-site Landscape and Ecological Management Plan.

Off-site gains and use of statutory credits

- 8.15 All off-site gains will be secured through S106 legal agreement. This will apply no matter the scale or location of such off-site gains, and irrespective of land ownership. This means that whether they are on other adjacent land in the same ownership (i.e. land within the 'blue line'); other land in the same ownership as or also under option by the applicant/developer but further away; or land in a third party ownership.
- 8.16 Use of statutory credits will also be secured through S106 legal agreement.

Template conditions and planning obligations

- 8.17 The Council intends to develop template planning conditions and S106 legal agreements, however these are not yet available.
- 8.18 Following the appropriate method for the relevant type of biodiversity gains as set out above, the Council will need to secure the following:
- Submission of a Biodiversity Gain Plan (BGP) and approval prior to commencement;
 - Specification of the contents which the BGP must include;
 - Compliance with the approved BGP for a minimum of 30 years;
 - Submission of a Habitat Management and Monitoring Plan (HMMP) and approval prior to commencement in relation to any significant on-site gains and any off-site gains;
 - Specification of the contents which the HMMP must include in order to demonstrate it as deliverable, adequately resourced and funded;
 - Compliance with the approved HMMP for a minimum of 30 years;
 - Demonstration of proof of purchase and assignment of any off-site biodiversity units to the development;
 - Specification of contingency arrangements;
 - Demonstration of proof of purchase and assignment of any statutory credits to the development.
 - Obligation to pay an agreed monitoring fee to the LPA upon completion of the agreement, to cover the costs of monitoring the agreement and biodiversity gains secured.



9. Off-site delivery mechanisms

What are off-site BNG solutions?

- 9.1 Development proposals are able to meet their mandatory BNG requirement via use of on-site gains, off-site gains or statutory credits. The appropriate solution will differ from site to site but should be governed by the sequential approach set out in chapter 5, above in conjunction with the application of the Somerset BNG Principles (chapter 6) and strategic significance scoring (chapter 7).
- 9.2 Where appropriately justified, development proposals may rely in part or in whole upon an off-site BNG solution. In this situation, the applicant will be obligated through a S106 legal agreement directly associated with the development proposal to purchase sufficient and appropriate biodiversity units from a specific off-site provider in order to demonstrate that a minimum 10% net gain has been achieved and the Metric rules complied with. Chapter 8 sets out the approach to securing BNG from development proposals including from off-site providers.
- 9.3 Off-site providers effectively enhance or create habitat on a specific piece of land which is entirely separate to any specific development proposal. This habitat generates 'biodiversity units' as measured through the Biodiversity Metric. These biodiversity units can be sold to applicants / developers for reliance upon in meeting their off-site obligations in relation to a specific development proposal.

Off-site delivery mechanisms

- 9.4 There are two key delivery mechanisms for bringing forward off-site BNG solutions and then selling the resulting biodiversity units:
- **Habitat banks** – where the off-site provider enhances/creates habitat in advance of securing sales of resulting biodiversity units.
 - **Habitat to order** – where the off-site provider enhances/creates habitat only in response to a specific requirement from a development.



- 9.5 Landowners will take a risk-based approach in determining which of the above mechanisms they are most keen to explore.
- 9.6 Habitat banks can be more cost effective to create and manage; reduce temporal risks (time to target condition and therefore needs less land take); and result in habitat creation ahead of loss on development sites. However, there are risks if demand proves lower than anticipated and initial capital investment can be significant well in advance of receiving income.
- 9.7 Conversely, habitat to order results in delivery in line with demand and therefore lower commercial risks, with initial capital outlay in habitat creation met by the cost of selling units. However, this approach is less cost-effective, has a greater administrative burden and may result in a time lag between habitat loss on-site and creation off-site.
- 9.8 A third option would be a hybrid between the two above, whereby some units are created in advance, whilst others are created to order.
- 9.9 The price of a biodiversity unit is not set nationally or by the local authority but will instead be determined by the market. This means that, in due course, there may be competition between different off-site providers. However, the price of a biodiversity unit will necessarily need to be set at such a level so as to balance between a viable and attractive cost to developers and the anticipated lifetime costs of creating, managing and maintaining the new habitat including administration, contingency and other overheads and creating a financial incentive for the use of the land for this over another potential purpose. A report by Eftec commissioned by DEFRA and published in 2021 suggested that the market price of a biodiversity unit may settle at around £20-25k. Where schemes have come forward in other areas there is a suggestion that unit prices may be slightly higher in the region of £30-35k. However, the price is likely highly dependent upon the specifics of the site and supply and demand in the local market.

Securing off-site delivery mechanisms

- 9.10 In the case of both habitat banks and habitat to order, an 'overarching' legal agreement will be required to secure a Habitat Management and Monitoring Plan in relation to the land as well as processes for selling and allocation of



biodiversity units to development proposals. This may be possible through a S106 legal agreement or a conservation covenant. The legal agreement securing the off-site delivery mechanism would be entirely separate from any legal agreements relating to a specific development proposal.

In Somerset

- 9.11 The default method for securing an off-site delivery mechanism within the county of Somerset will be through an overarching S106 legal agreement with Somerset Council. The Council is exploring development of template S106 Agreements for the purpose of securing off-site delivery mechanisms. However, the Council is not obligated to enter into such agreements and will only do so where determined appropriate. The process set out in the next section of this chapter will help determine when the Council will consider entering into such agreements.
- 9.12 If the off-site delivery mechanism is located within Somerset, but within Exmoor National Park, an overarching S106 legal agreement could be signed with either Somerset Council and/or Exmoor National Park Authority.
- 9.13 Conservation covenants present an alternative option for securing an off-site delivery mechanism in Somerset. Conservation covenants are a new enforceable legal structure which will allow landowners to give long term commitments, regarding the use and management of land, which are enforceable by a Responsible Body. Responsible Bodies must be designated by the Secretary of State for the Department for the Environment, Food & Rural Affairs (DEFRA).
- 9.14 Local Authorities may apply to be designated as a Responsible Body. At this stage, Somerset Council is not registered as a Responsible Body. The Council may review its position with regards to conservation covenants and potential status as a Responsible Body in due course. This means that for now it will not be possible to enter a conservation covenant with the Council in order to secure an off-site BNG delivery mechanism.
- 9.15 However, other bodies (with a main purpose, function or activity relating to conservation) are also eligible to apply to be designated as a Responsible Body. At this stage it is not known whether any other such bodies exist within Somerset, but conceivably they may become designated over the coming months and years. Where this is the case, an off-site provider may choose to explore the potential of entering a conservation covenant to secure an off-site delivery mechanism as an alternative to entering a S106 legal agreement with the Council.



- 9.16 A provisional off-site provider may want to bring forward an off-site delivery mechanism in phases to help spread risk and respond to demand. In order to assist the streamlining of processes for future expansions, the Council will consider securing entire land holdings under a framework S106 legal agreement, which will enable future phases / expansions within the same land holding to be dealt with through supplemental agreements or deeds of variation rather than having to begin the process 'from scratch' each time.

Beyond Somerset

- 9.17 As set out in the sequential approach (chapter 5), there may be situations where it is acceptable for an applicant / developer to rely on off-site gains beyond the boundaries of Somerset. Off-site delivery mechanisms outside of Somerset must be secured in the same way (i.e. via S106 legal agreement or conservation covenant). However, Somerset Council will not be party to any legal agreements beyond the boundaries of Somerset. Instead, a S106 legal agreement would need to be signed with the relevant local planning authority within which the off-site solution is located, or a conservation covenant with a suitable Responsible Body.

Demand for off-site solutions in Somerset

Where does the demand come from?

- 9.18 Engagement with developers in Somerset has suggested that larger regional and national developers are reasonably confident that they will be able to deliver BNG requirements on-site due to their generally larger development sites. Otherwise, they typically have their own banks of land and resources to be able to arrange their own off-site solutions (which would still need to be secured in line with the above guidance) relatively easily.
- 9.19 However smaller, more local SME developers do have concerns given that they tend to bring forward smaller development sites with less flexibility in land budgets to deliver BNG on-site, yet with minimal other land to call on or resources to arrange their own off-site solutions. This same situation has also been experienced with regards to phosphate mitigation measures, where larger developers are often seeking to develop their own wetlands solutions, whilst smaller developers have been more reliant upon local credit schemes to



date. As such, without sufficient local off-site solutions being made available, these SME developers are likely to be more reliant upon more expensive national statutory credits (and therefore be more severely affected in terms of viability). SME developers contribute a significant amount of development including housing delivery in Somerset. It is therefore in the Council's interests to enable and facilitate a reasonable and appropriate flow of available off-site solutions locally in order to avoid unreasonable impacts upon SME developers and knock-on impacts to development delivery.

Quantum of demand for off-site solutions

9.20 A 2022 Bidwells report for Natural England produced in relation to the Somerset Wetlands Nature Recovery Project included a market analysis of demand for off-site biodiversity units over the next ten years. The analysis was based on a broad quantum of annual development likely to come forward in the next ten years which does not already benefit from planning permission, and of that how (at a high level, based on a range of assumptions) it is likely that BNG requirements might be delivered. This suggested that residential development sites might on average be likely to deliver between 38% and 78% of the BNG requirements on-site depending on site size and location (green/brownfield), with the figure for greenfield commercial development much lower around 9%. This led to identification of biodiversity unit deficits and an overall off-site land-take requirement to meet this biodiversity unit deficit for the next ten years:

- Estimated total biodiversity unit on-site deficit (area habitats) = 1,281.54
- Estimated total biodiversity unit on-site deficit (hedgerows) = 1.67
- Estimated total off-site land-take to meet biodiversity unit deficit = 701 ha.

9.21 This overall figure is an indicative estimate of the land-take required to meet demand for off-site solutions in Somerset for the next ten years based on a large number of assumptions. However, this figure excludes any BNG requirements associated with infrastructure projects (either relevant to the Town and County Planning Act regime or the Planning Act (NSIP) regime). In addition to this, developments in other areas of the country may need to purchase off-site gains outside of the local authority in which they are being developed (particularly in the case of more tightly constrained urban authorities). Somerset may present an attractive location for such offsets. As such, the requirements may, if anything, be a marginal understatement of demand.

9.22 701 ha of land equates to approximately 0.2% of all the land in Somerset, or approximately 0.27% of all the agricultural land in Somerset (not that all BNG would be delivered solely on agricultural land necessarily).



9.23 The majority of overall demand for off-site biodiversity units was assumed to come from major developments above 100 dwellings in size, and greenfield commercial developments. Whilst these categories represent where the biggest demand for units might come from, by their nature, there are less individual planning applications for these larger development sites. Smaller development sites including minor development of 0-9 dwellings and major development of 99 dwellings or less, as well as business and service industry developments drive a smaller overall quantum of biodiversity unit demand, but by their nature there will be many more applications for such developments occurring more often.

Timing of off-site solutions in Somerset

9.24 Taking an average of the above estimated ten-year demand for off-site biodiversity units, this would suggest average annual demand of:

- 128.15 area-based units per annum
- 0.17 hedgerow-based units per annum

This might require in the region of 70.1 hectares of land per annum.

9.25 The Government's consultation on BNG regulations in 2022 suggested that they will require off-site habitat creation to commence as soon as is feasible, and no more than 12 months after the discharge of the mandatory pre-commencement condition (approval of the Biodiversity Gain Plan). Furthermore, there is expected to be encouragement (though not a requirement) to deliver enhancements prior to commencement of development, and earlier delivery is also rewarded within the BNG Metric through the temporal risk score, which penalises delays to delivery.

9.26 This may increase demand for habitat bank delivery mechanisms (as opposed to habitat to order, see above) as the habitat would have already been enhanced and simply need legally linking to the relevant development. This might suggest a need for at least some off-site solutions to be brought forward sooner rather than later so that they have time to enhance or create the habitat and for it to reach target condition in line with approved plans ready for the market to purchase units when required.

9.27 Many larger development sites are broken down into phases of development. It is likely that the forthcoming secondary legislation and national guidance will allow for phased developments to have their full Biodiversity Gain Plan approved prior to commencement of each individual phase. This being the case, this would spread demand for off-site biodiversity units arising from



larger development sites into smaller peaks across the ten-year period as reserved matters applications for phases of major sites are determined, rather than seeing much bigger front-loaded peaks associated with first commencement on such sites.

- 9.28 However, considering that routine demand for off-site biodiversity units is currently expected to be driven by a larger number of applications for smaller developments, it may be less likely that phasing will be a major influence on the market in Somerset.

Process for establishing off-site delivery mechanisms in Somerset

- 9.29 The Council is regularly being approached by landowners and promoters seeking to establish off-site delivery mechanisms in Somerset. These prospective off-site providers require the Council's assistance to legally secure their proposals and effectively bring the biodiversity units created to market. As set out above, off-site solutions must be secured by either an overarching S106 legal agreement or conservation covenant. Whilst the Council is keen to enable sufficient off-site solutions to be made available in Somerset at the right time, it is not obligated to enter into such agreements and will only do so where it is determined appropriate to do so.
- 9.30 When determining whether it is appropriate for the Council to enter into an overarching S106 legal agreement to secure an off-site delivery mechanism in Somerset, it must take account of multiple factors:
- **Compliance with the Natural Environment and Rural Communities (NERC) Act 2006** – the NERC Act 2006 requires local authorities to consider what action they can properly take, consistent with proper exercise of functions, to further the general biodiversity objective (to conserve and enhance biodiversity), then determine policies and specific objectives required. In doing so, the local authority must have regard to any relevant LNRS and any relevant Species Conservation Strategy or Protected Site Strategy prepared by Natural England. These documents do not yet exist, but in the interim, the Council has set out local definitions for the scoring of strategic significance within the Metric, which can be used as a proxy for alignment with these future documents.
 - **Resources** – the Council has limited resources. The establishment of legal agreements and monitoring compliance with any legal agreements which it is party to will require significant resource from multiple



departments and as such it is important that this resource is focused only on suitable sites. The work establishing and monitoring the agreement only arises due to the off-site provider's approach, and as such, it is important that any such agreement is accompanied by a monitoring fee to cover the full costs involved in establishing and then monitoring it. Given the limited resources of the Council, it is important that it takes opportunities to ensure proposals deliver on multiple objectives of the Council Plan to maximise efficiency of resources attributed to the task.

- **Risk of failure** – the Council must consider whether an off-site proposal is realistically likely to deliver as proposed. This requires clear understanding of land ownership; landowner and site promoter intentions; other consents, covenants, charges etc. affecting the land; financial stability and a business plan for creation, sale, management, maintenance and monitoring of the biodiversity units as well as any contingency plans.

9.31 Taking the above into account, the Council must establish a transparent process and consistent approach to apply in to determining whether third party proposals are appropriate, which should be prioritised, and why the Council is willing to enter into a legal agreement to secure the site and enable biodiversity units to be sold.

9.32 The Council's process for considering and securing off-site delivery mechanisms for BNG can be summarised as per the bullet points below. This is set out as a process flow diagram in Figure 8, below.

- The Council intends to launch a 'call for sites'. This will seek submissions from landowners / site promoters who are interested in bringing forward off-site delivery mechanisms for BNG. The Council will set out clear requirements on the information which must accompany such submissions, and it will be the responsibility of any landowner / site promoter to ensure that they are providing all of the relevant information in the requested format.
- A minimum site threshold of 10 biodiversity units being created will apply, to help ensure efficient use of Council resources in assessing sites and negotiating S106 legal agreements for the benefits created.
- The Council will then undertake a two-stage assessment process:
 - Stage 1 will assess how the site fares in terms of strategic significance scoring, how it can assist the Council in complying with its NERC Act 2006 duties, and generally help weed out non-starters. Sites providing incorrect or insufficient information will not progress at all. Site submissions providing all appropriate information will then be prioritised through consideration of the above factors alongside the number, type, location and timing of biodiversity units that can potentially be delivered.



- Stage 2 will then assess the risk of failure. The top prioritised site from Stage 1 will progress to Stage 2 and be asked to submit additional information relating to the above. If a site progressing to Stage 2 later fails to enter a S106 legal agreement, the next priority site will enter Stage 2 in its place. This helps to ensure Council resources are prioritised and capacity is used to get the preferred sites onto the market quicker.
- Once the Council has confirmed that the additional information provided at Stage 2 demonstrates a low risk of failure the site will proceed to negotiation on a S106 legal agreement.
- Once the S106 legal agreement is signed and sealed, the landowner / site promoter must register the site with the national biodiversity gain register. Only once these steps have occurred can they then begin to allocate and sell biodiversity units in line with the legal agreement. Depending on the type of off-site delivery mechanism (habitat bank or habitat to order) and the specifics of the legal agreement, a landowner / site promoter might begin delivering the habitat enhancements and accompanying Habitat Management and Monitoring Plan straight away, or they may wait until they have orders to begin this process. Monitoring reports will need to be submitted in line with the legal agreement.



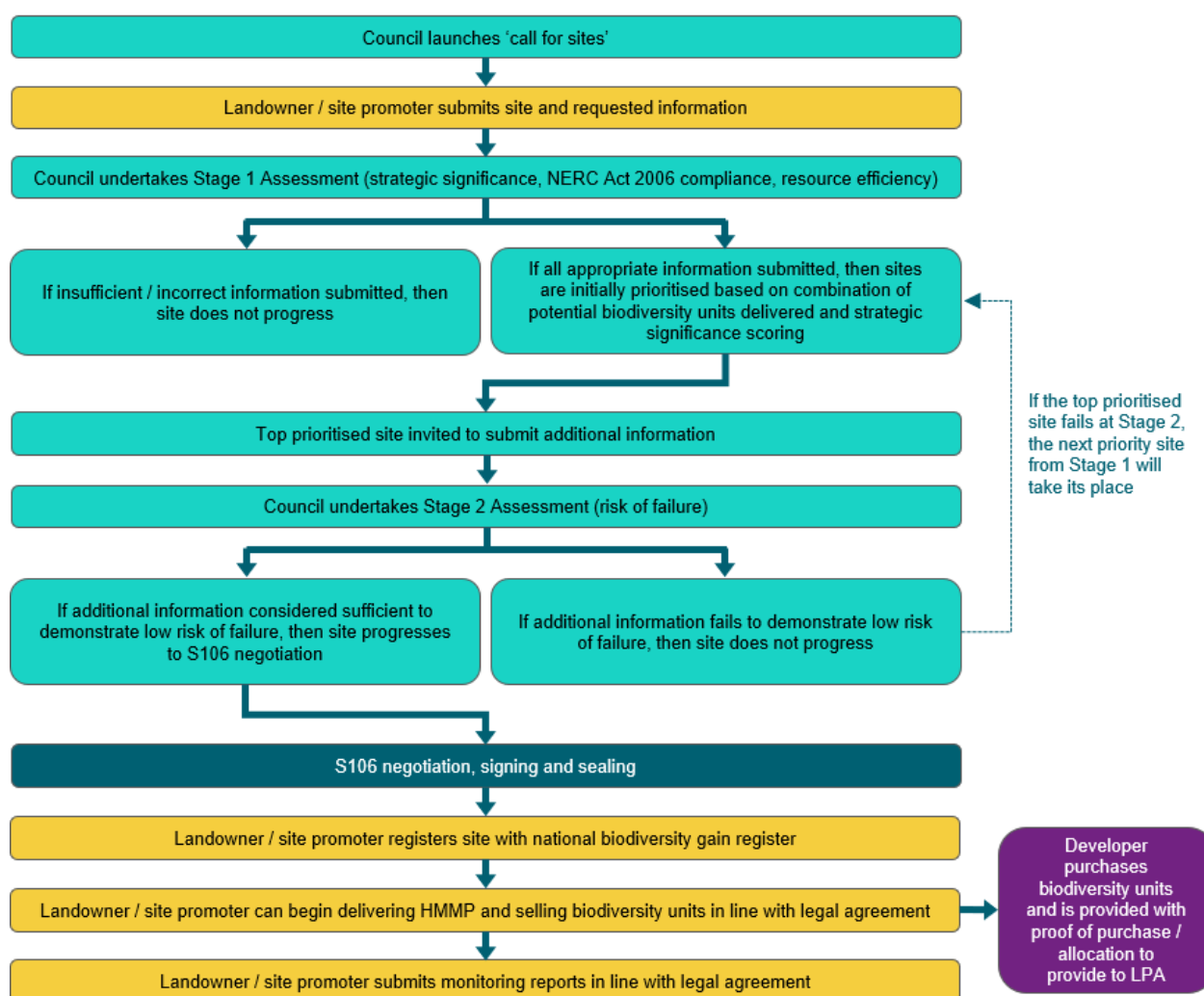


Figure 8 - Somerset Council proposed process for off-site delivery mechanisms for BNG

9.33 The Council is not at this point launching a 'call for sites', but is setting out a proposed process and parameters for this. Landowners, site promoters and other stakeholders may wish to comment on these proposals as part of consultation on this Draft Guidance Note. Comments received will be taken into account in establishing the final process and detail for the 'call for sites' ahead of launch, likely early in 2024.

9.34 Full information requirements will be established over the coming months as part of preparing for the 'call for sites'. However, it is likely that the following information will be required as a minimum to enable officers to reasonably undertake Stage 1 of the above process:

- Location plan
- Farm/land Management Plan setting out how the site has been identified within the land holding, how this fits with wider management and land use

opportunities and constraints within the land holding and intentions in relation to stacking or otherwise of other ecosystem services and rural payments such as nutrient mitigation, woodland carbon code, natural flood management etc.)

- Baseline and Potential BNG (and nutrient, carbon, other as necessary) assessments
- Brief history of land use, habitat and biodiversity on the site (importantly identifying any changes since 30th January 2020).
- Land ownership details
- Preferred approach in bringing biodiversity units to market (habitat bank / habitat to order / something else)
- Investment / outline business plan
- Evidence of stakeholder engagement and partnership where relevant (e.g. Natural England, Somerset Environmental Records Centre, Somerset Wildlife Trust, other nature conservation and enhancement bodies)
- Biodiversity Gain Plan
- Habitat Management and Monitoring Plan
- GIS data

9.35 Submission of these details should provide sufficient information for officers to understand the broad opportunities and be able to assess the various merits and demerits of different submissions and therefore prioritise sites.

9.36 Further information will need to be submitted at Stage 2 of the above process to support assessment of the risk of failure.

9.37 The Council will likely look to cover the costs associated with assessing and enabling off-site delivery mechanisms through charging a fee for this process.

Off-site delivery mechanisms secured as part of a separate planning permission

9.38 A further route for off-site delivery mechanisms relates to situations where habitat creation and enhancements are secured and delivered as part of or incidental to a planning application. This might include dedicated planning applications relating to habitat creation and enhancement, or where, as part of a planning application for wider development it is demonstrated that it can substantially exceed any statutory 10% BNG requirement arising from the development.

9.39 Dedicated planning applications relating to habitat creation and enhancement may occur where engineering works are required to create new habitat e.g.



proposals for constructed wetlands. In these cases, where the application is solely in relation to the construction of such habitat enhancements, the application will most likely be exempt from the statutory BNG requirement, and it will be appropriate to secure the habitat enhancements, the management, monitoring and future sale of biodiversity units (and other stacked benefits e.g. nutrient credits) arising via S106 Agreement as part of the approval of the planning application. As this process will be related to a specific planning application, such proposals will not be required to go via the proposed 'call for sites' referred to above. However, the same assessment criteria will still apply as indicated in 9.34, above in order to achieve consistency and protect the Council in relation to the key factors it needs to consider before agreeing to sign up to a S106 agreement. Proposals will also need to respond to the Somerset BNG Principles and local definition of strategic significance.

- 9.40 Some planning applications for wider development (most likely larger, strategic sites due to the scale of open space and wider landscape enhancements often required and potentially also minerals sites) may be in a position where they can demonstrate a substantial exceedance of the statutory 10% BNG for their site. The Government has stated that it will allow developers to sell the excess biodiversity units as off-site gains for another development, provided that this excess gain is registered and that there is genuine additionality for the excess units sold. This means that these units should be delivered above and beyond the gains required by the original development to meet the mandatory BNG requirement and to make the development acceptable to the LPA. Where this is the case, these excess gains must be identified clearly as such in the original development's biodiversity gain plan. Whether or not the excess gains are secured for BNG purposes and future sale of units via the main development S106 Agreement will be dealt with on a case-by-case basis. In some cases, this may be desirable and appropriate, whilst in others this may overly complicate already complex decisions and legal agreements and be better dealt with separately. If the excess gains and future sale of units are not secured via the main development S106 Agreement, then these units would need to be submitted to the 'call for sites' process and dealt with accordingly. In order to sell any excess gains, an applicant / developer will need to demonstrate true additionality above 10% BNG using the Metric and consideration of delivery risks. This will be considered on a case-by-case basis. Our proposed approach on this will be reviewed and if necessary refined following publication of Government guidance.



The role of Somerset Council

- 9.41 Beyond being a party to S106 legal agreements, Somerset Council can potentially play a number of other roles in helping to enable the availability of off-site biodiversity units in Somerset, and assisting developers in identifying and securing them. These roles could include:
- Developing a platform for communicating availability of off-site solutions in Somerset
 - Becoming a Responsible Body for the purposes of Conservation Covenants
 - Developing off-site solutions on Council owned land
 - Active promotion of Somerset for inward investment in the area's natural capital across environmental delivery schemes
- 9.42 Each of the above roles present opportunities and risks for the Council and delivery against the Council's responsibilities under the NERC Act 2006 as well as wider responsibilities. As such, the role of the Council in relation to each of the above has not yet been determined but they are actively being explored.
- 9.43 With the advent of statutory BNG, the Council is expected to be unable to deal with BNG through a tariff style approach (where a developer pays a set tariff contribution to offset BNG and the Council then invests that money in local schemes to deliver BNG). Instead BNG must be secured through on-site delivery, specific off-site delivery, or purchase of national statutory credits. The Council is considering longer-term the intention to develop off-site solutions on Council land and in time this may become an option, but this would not be on a tariff style approach and would instead be dealt with like any other off-site solution on a specific unit purchase basis.

Pilot site

- 9.44 The above process is draft in nature and will take time to implement. In the meantime, in order to ensure that a limited supply of off-site biodiversity units is progressed and available in the shorter-term, it is proposed that a small pilot site will be worked towards by working directly with organisations within the [Somerset Local Nature Partnership \(LNP\)](#). This pilot site will enable a limited pool of Somerset-based off-site biodiversity units to be made available on the market through working with trusted partners until such time as other third-party or Council-owned proposals can be assessed and brought to market through the above processes.



- 9.45 By working with trusted LNP partners who are also directly involved with development of the LNRS and furthering of the goals of the LNP, the Council has greater comfort and certainty that the habitat enhancements and creation will deliver benefit to biodiversity and wider objectives in Somerset as well as that the activities will be monitored and reported appropriately.
- 9.46 The pilot site will enable aspects of the above process and mechanism of legally securing the site for BNG purposes as well as future allocations to developments to be tested and inform the final processes for future sites.



10. Monitoring and enforcement

- 10.1 The monitoring and enforcement of BNG is an area where, to date, the Government has provided very little guidance. The secondary legislation and national guidance are therefore essential to understanding exactly how this element of BNG will work. The Government's response to the BNG Consultation in February 2023 stated, "the planning enforcement regime will be the principal way of enforcing delivery of BNG" and it is expected that within the final guidance and secondary legislation documents, a similarly detailed section will delineate the planning enforcement regimes for BNG. The Government has confirmed that secondary legislation and national guidance will be published towards the end of November 2023 and this is expected to include a template for the Habitat Management and Monitoring Plan.
- 10.2 This chapter is therefore compiled based on the elements of the process known at this stage, and assumptions from the Council's perspective as to how this might work locally. As with other sections of this Guidance Note, it is subject to change in light of the secondary legislation and national guidance.

Monitoring and Enforcement Roles

What needs monitoring and enforcement?

- 10.3 There are three key areas of BNG which require monitoring and potentially enforcing:
- Triggers and compliance with planning conditions and S106 legal agreements associated with development (i.e. has the development proceeded in line with conditions and any associated planning obligations);
 - Triggers and compliance with S106 legal agreements / conservation covenants relating to off-site delivery mechanisms (i.e. has the off-site provider complied with associated legal agreements);
 - Actual habitat enhancements (i.e. are the habitat enhancements themselves being carried out as agreed and are they delivering the promised outcomes. Legal agreements referred to in the above will include specific monitoring requirements with defined responsibilities.



Who is responsible for each part of the monitoring process?

- 10.4 It will be the landowner or developer's responsibility to ensure monitoring and reporting obligations are fulfilled, or adequately delegated to another body (with necessary funding). Therefore, landowners / developers will ultimately be responsible for monitoring the habitat enhancements themselves and delivery against the agreed Biodiversity Gain Plan and associated Habitat Management and Monitoring Plan. For on-site gains, the landowner / developer will need to either manage and monitor the habitat creation / enhancement itself or arrange for an appropriate representative management company to undertake this. For off-site gains, it is likely that the management and monitoring will be undertaken by the developer or by a third party off-site landowner. Proposals in this regard should be identified in the Biodiversity Gain Statement submitted as part of the planning application, and will be secured via conditions and/or S106 legal agreement as appropriate (see chapter 8). Landowners / developers will be required to submit monitoring reports to the Council in line with the agreed Biodiversity Gain Plan, Habitat Management and Monitoring Plan and any relating conditions and/or S106 legal agreements.
- 10.5 For off-site delivery mechanisms, the landowner / off-site provider will be responsible for monitoring the habitat enhancements themselves and delivery against the agreed Biodiversity Gain Plan and associated Habitat Management and Monitoring Plan. Where the intention is to secure the off-site delivery mechanism with the Council through an overarching S106 legal agreement, proposals should be identified in the associated Biodiversity Gain Plan (see chapter 9). Landowners / off-site providers will be required to submit monitoring reports to the Council in line with the agreed Biodiversity Gain Plan, Habitat Management and Monitoring Plan and any relating S106 legal agreements.
- 10.6 Somerset Council has responsibilities in relation to monitoring and enforcement of triggers and compliance with planning conditions and S106 legal agreements relating to development sites. Somerset Council will also monitor and where appropriate enforce in relation to triggers and compliance with S106 legal agreements relating to off-site delivery mechanisms where it is a party to them.
- 10.7 Where an off-site delivery mechanism is secured with another party (Responsible Body) via a conservation covenant, then the Responsible Body party to that agreement will be responsible for monitoring triggers and compliance with the conservation covenant. The landowner / off-site provider will be responsible for managing and monitoring the habitat enhancements themselves and delivery against the agreed Biodiversity Gain Plan and



associated Habitat Management and Monitoring Plan and submitting monitoring reports as required to the Responsible Body.

- 10.8 Somerset Council also has duties to report on BNG delivery under the Natural Environment and Rural Communities (NERC) Act 2006 as amended by the Environment Act 2021. The Act requires local authorities (and local planning authorities) to publish a Biodiversity Report containing:
- a summary of the actions taken consistent with proper exercise of functions, to further the general biodiversity objective (to conserve and enhance biodiversity),
 - a summary of plans for complying with the duty for next 5 years,
 - data required by regulations,
 - (for LPAs) action taken in relation to biodiversity gain,
 - (for LPAs) expected biodiversity gains resulting from approved Biodiversity Gain Plans,
 - (for LPAs) a summary of plans for next 5 years in this regard.

The Monitoring Report

- 10.9 The specific requirements of any monitoring report required to be submitted by a landowner / developer / off-site provider (see above) will be set out within any planning condition / S106 legal agreement requiring it. However, it is likely that any monitoring report will need to include a certain level of consistent information. The initial report will be expected no later than 12 months after commencement of delivery against the Biodiversity Gain Plan. All Monitoring Reports should be compiled by an accredited ecologist.
- 10.10 The report should remind the reviewer of the original habitat baseline conditions prior to the development (including the supporting metric calculations) and this needs to include all created/enhanced habitats that were subject to approval during the application stage, along with the supporting Metric calculations. Furthermore, the report should demonstrate how the implemented habitats are achieving the planned condition at that stage in time.
- 10.11 The report should discuss the current condition of any BNG habitats, and how this will (if at all) influence the assessment and monitoring strategy for the future if changes need to be made to meet the required biodiversity unit value that was agreed at the application stage. Other information in the report should include any survey requirements, the frequency of those surveys and qualifications/relevant experience the surveyors need to competently



undertake those surveys. If any changes to the survey methods are deemed necessary, these should be highlighted, and a justification must be provided. Similarly, if the monitoring regime needs to be amended to account for unexpected changes in habitats and their condition (for example, remedial habitat management prescriptive measures that need to be amended/added to achieve the targeted biodiversity unit values) then these must be outlined and justified.

10.12 The monitoring report will need to include the following as a minimum:

- **Non-technical summary** – Highlighting points from the Biodiversity Gain Plan; Have these features now been planted, if not why and when will they be implemented; confirming if any changes to the initial approved Biodiversity Gain Plan⁵; confirmation if the targeted units approved at planning stage are still on track for delivery; if irreplaceable habitats and/or protected species are on-site, how have they been managed; finally, what actions are required from this report to the next years report in order to track compliance.
- **Method statement** – Outlining monitoring/survey methods used, personnel involved, and how any methods specifically relate to the Biodiversity Gain Plan and Habitat Management and Monitoring Plan; evidence of technical experience; any limitations to the monitoring and whether these influence outcomes and the report overall.
- **Site conditions as they are today** – This should delineate the ‘built as of now’ Habitat Plan (i.e. the specific conditions at the time of monitoring report rather than proposed or predicted conditions). A Habitat map should show the specific, measured areas of each habitat that were targeted during this period, and the habitat type that was proposed as part of the original Metric calculations. The same habitat classifications need to be used so that classifications can be cross-referenced easily.
- **Main body of the report** – Information on the habitats that have been created ‘to date’ supported by completed Metric calculations showing progress and directly compared to the original baseline Metric. Any differences need to be scrutinised to demonstrate that the ‘gains’ are on target in relation to the set years to reach target condition as set out in the approved Biodiversity Gain Plan. Clearly outline each section of habitat being created/enhanced during the monitoring period i.e. area/lengths of habitat that are being created and/or enhanced.
- **Detailed evaluation** – Show how the project is complying with the relevant phase of the creation/enhancement required by the approved Biodiversity Gain Plan e.g. in terms of reaching the ‘target year’ condition.
- **Conclusions** – a definitive statement to confirm the final biodiversity units that have been delivered and if this meets the projected units relative to

⁵ Note, if changes are required to the Biodiversity Gain Plan then this will require thorough review from an ecologist to assess if the units originally approved are still valid for this project/phase. Depending upon circumstances, this may require further consideration in relation to amending of approved plans and variation to conditions and S106 legal agreements.



the original baseline condition. If not, how remedial measures have been put in place to increase the deliverance of BNG commitments and thus how they will be implemented.

The Council's monitoring approach

Frequency of Monitoring Report submissions

10.13 BNG Habitat proposals will, by their nature, be bespoke, and therefore require more bespoke monitoring arrangements. The frequency, extent and specific requirements of the monitoring regime for a BNG proposal will be dependent upon:

- the size of the BNG habitat being enhanced or created,
- the distinctiveness of the habitat,
- the condition that the BNG is targeted to achieve,
- the strategic significance of the enhanced the created habitat,
- and consideration of the difficulty, temporal and spatial risks.

10.14 As a guide, monitoring reports might be expected in Years 2, 5, 10, 20 and 30 for a typical site. However, the factors above will have an affect on the monitoring years, content and scope of the monitoring reports required. Specific high distinctiveness and high risk sites as well as very large sites and those seeking to achieve target condition in a very short period may require yearly reports initially. The timing of any drop off in reporting frequency may relate to the anticipated year for habitat reaching target condition. Two case studies are set out in the boxes below to help demonstrate how these factors may affect monitoring requirements:

Case Study 1

One hectare of lowland meadow is being proposed for BNG at a site with optimal mineral soil conditions which is moist with low fertility. The habitat is of Very High Distinctiveness, highly difficult to create and the Ecologist is aiming to achieve 'Good' condition in 15 years. These habitats typically deliver a greater number of units in a shorter time period, and so the applicant should expect the council to request regular monitoring reports as well as undertaking more site visits to assess progress in meeting the required unit value.



Case Study 2

One hectare of intensive green roof is being proposed for BNG at a site which is being turned into developed land and sealed surfaces. The habitat is of Low Distinctiveness, and these types of habitats are generally very light weight, low difficulty to create and require little maintenance. The Ecologist is aiming to achieve 'Good' condition in 5 years. Green roofs usually comprise of common wildflowers, moss or sedum, and selected species for green roofs are often chosen due to their robustness and low maintenance. The applicant should expect the council to request less monitoring reports and undertake no more than a single site visit during the period.

- 10.15 If BNG includes High Distinctiveness habitat, the monitoring strategy for the subject land is expected to be transferred to a specialist nature conversation body or a management company such as an ecologist with suitable experience and accreditations in managing similar habitats – this will increase the likelihood of delivering of the High Distinctiveness target. The reason Somerset Council expects such arrangements is because these habitat types are harder to achieve in a development context.
- 10.16 The direct involvement of a specialist nature conservation body (such as an organisation partner from within the Somerset Local Nature Partnership) in the management, maintenance and monitoring of the site may mean that the Council can agree to reduce the frequency of reporting to some extent over similar habitat enhancements and creations where such bodies are not involved.
- 10.17 Reports will be submitted to Somerset Council as per the approach entailed within any approved Biodiversity Gain Plan and Habitat Management and Monitoring Report as enshrined within any associated S106 legal agreement (or where relevant to the Responsible Body as per any conservation covenant).

Council monitoring

- 10.18 As outlined above, there are different roles and responsibilities in monitoring BNG. The Council is required to monitor triggers and compliance with planning conditions and S106 legal agreements and also monitor actions taken in relation to BNG and expected biodiversity gains resulting from approved Biodiversity Gain Plans (BNG delivery) as per the Natural Environment and Rural Communities (NERC) Act 2006.



- 10.19 The Council will review monitoring reports submitted to it in line with any approved Biodiversity Gain Plan and Habitat Management and Monitoring Report as enshrined within any associated S106 legal agreement. The details in these reports will be used to inform the Council's own monitoring reports under the NERC Act 2006 and any other relevant legislation.
- 10.20 The same criteria as set out in relation to frequency of reporting will be used to prioritise resourcing and scope of the Council's own monitoring:
- the size of the BNG habitat being enhanced or created,
 - the distinctiveness of the habitat,
 - the condition that the BNG is targeted to achieve,
 - the strategic significance of the enhanced the created habitat,
 - and consideration of the difficulty, temporal and spatial risks.
- 10.21 As well as reviewing submitted monitoring reports, the Council will on occasion undertake site visits to undertake direct spot monitoring to corroborate submitted monitoring details, update BNG habitat records and ensure early identification of concerns. Monitoring is not just about quality control but also identifies the need for early intervention and enforcement.

Monitoring fees

- 10.22 A monitoring fee will be set during the negotiation of any relevant S106 legal agreement to cover the Council's administrative and technical costs involved in monitoring the agreement and habitat creation or enhancement.
- 10.23 The same criteria as set out in relation to frequency of reporting and prioritisation of Council resources will be used in establishing the appropriate monitoring fee representative of the amount of officer time likely necessary in monitoring the BNG proposals:
- the size of the BNG habitat being enhanced or created,
 - the distinctiveness of the habitat,
 - the condition that the BNG is targeted to achieve,
 - the strategic significance of the enhanced the created habitat, and
 - consideration of the difficulty, temporal and spatial risks.
- 10.24 In line with the proposed approach set out in 10.16, above, where a specific nature conservation body is directly involved in the management, maintenance and monitoring of a site, this may mean that monitoring fees may be reduced over situations where such bodies are not involved. This would reflect the reduced level of resource expected to be required in monitoring the site from the Council's perspective.



Enforcement

- 10.25 Monitoring is not just about quality control but also identifies the need for early intervention and enforcement. Through the above monitoring approach, the Council expects the landowner / developer / off-site provider to be able to identify potential concerns and necessary mitigations at an early stage so as to avoid breaches and the need to engage enforcement.
- 10.26 Depending on the circumstances, if necessary and appropriate, the Council may use enforcement powers as per its adopted [Planning Enforcement Policy](#) or [Corporate Enforcement Policy](#) as appropriate.



Appendices

[Appendix 1 – Local Planning Policies](#)

[Appendix 2 – Related plans, strategies and projects](#)

[Appendix 3 – Process Flow Diagram](#)

[Appendix 4 – Validation requirements](#)

[Appendix 5 – Habitat Management and Monitoring Plan \(HMMP\) expectations](#)



Appendix 1

Local Planning Policies

The table below summarises adopted planning policies across Somerset with relevance to Biodiversity Net Gain (BNG). It is important that development proposals respond to development plan policies as well as meeting national mandatory net gain requirements. These policies should inform development proposals and should influence how BNG is proposed to be delivered in different parts of Somerset.

The list does not include adopted neighbourhood plan policies due to their very local nature. However, neighbourhood plans also form part of the development plan and relevant policies should be responded to and may influence BNG delivery as appropriate. Applicants should ascertain whether there are relevant neighbourhood plan policies to respond to in addition to the below.

* Exmoor National Park Authority is a separate Local Planning Authority, part of which is located within the Somerset Council area. The Somerset BNG Guidance Note will be relevant across the whole of the Somerset Council area, but will only be a material planning consideration within the Somerset Local Planning Authority area – all those parts of Somerset Council area outside of the National Park. ENPA Local Plan policies are listed in the table below for completeness.

| Plan / Policy | Key points in policy | Commentary |
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| Mendip Local Plan Part 1 DP5 (2014) | <p>“The Council will use the local planning process to protect, enhance and restore Somerset’s Ecological Network within Mendip”.</p> <p>All development “must ensure protection, conservation and where possible enhancement of internationally and locally designated habitat areas and species”.</p> <p>Proposals with adverse impacts on protected/priority sites/species/habitats to be resisted unless criteria met.</p> <p>Offsets to be calculated using SCC Biodiversity Offsetting methodology.</p> | <p>Catch all policy covering protection, conservation and enhancement.</p> <p>Policy and supporting text clearly relate to maintaining and enhancing ecological networks.</p> <p>Clear policy basis to secure enhancement where possible. Supporting text talks about a baseline of “no net loss” and seeking a net gain where possible.</p> <p>Supporting text refers to a forthcoming Ecological Networks and Biodiversity Offsetting SPD which has not been produced, however, the BNG Guidance note will provide this additional guidance now. The Mendip Greenspace SPD was adopted in February 2023 – this provides additional guidance as to how</p> |



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| | | developments should respond to a number of adopted policies and includes a set of design principles for new greenspace. |
| Mendip Local Plan Part 1 DP6 (2014) | Key policy for catching development which may impact on European Sites through impacts on bats. | Key policy for catching development which may impact on European Sites through impacts on bats. |
| Mendip Local Plan Part 1 DP8 (2014) | "Development (either cumulatively or individually) will be required to demonstrate that it does not give rise to unacceptable adverse environmental impacts on...biodiversity". | Protects against adverse biodiversity impacts. |
| Mendip Local Plan Part 2 (2021) Various | Most site allocation policies include reference to development requirements and design principles including "opportunities should be taken to maintain or enhance biodiversity" as well as referring to mitigating/offsetting issues / opportunities specific to the site in question. | Site specific expectations to take opportunities to enhance biodiversity on site. |
| Sedgemoor Local Plan S4 (2019) | "Development proposals will be supported where they contribute to meeting the relevant following objectives:...Protecting and enhancing the quality of the natural...environment...and Creating net gains for nature, ecology and biodiversity". | General policy setting out principles for what constitutes sustainable development, including net gains. |
| Sedgemoor Local Plan S5 (2019) | "Development should adapt to the effects of climate change by contributing to all of the relevant following objectives:... Ensuring that the ability of landscapes, habitats and species to adapt to the adverse effects of climate change is not affected with compensatory habitats provided". | Clarifies that ecological impacts are intertwined with addressing and building resilience to climate change. About avoiding potential harm and providing compensation where appropriate. |
| Sedgemoor Local Plan D2 (2019) | "Development will need to demonstrate how it maximises its contribution to the following relevant principles, with information provided proportionate to the nature, scale and location of proposals:... Landscaping that creates new and retains and integrates existing features and assets to build a coherent structure beneficial to biodiversity and ecology and which integrates innovative and sustainable urban drainage water management techniques". | Design quality policy which clarifies that GI proposed as part of site landscaping should be holistically considered with biodiversity/ecological benefits a key part of this. |
| Sedgemoor Local Plan D20 (2019) | "Development proposals should contribute to maintaining and where appropriate enhancing biodiversity and geodiversity, taking into account climate change and the need for habitats and species to adapt to it." Particular regard to be had to designated sites, habitats and species. | Protection and where possible enhancement. Specific reference to ecological networks. |



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| | <p>Ecological Impact Assessments required where reasonably likely impacts from a development.</p> <p>Development will be supported where it ensures protection of locally designated sites, “it retains or enhances features as appropriate...which provide wildlife corridors, links or stepping stones from one habitat to another”, and “it makes appropriate positive provision for wildlife through urban and rural habitat creation/restoration (having particular regard to Ecological Networks)”.</p> <p>Seek to avoid significant harm in the first instance. Mitigation or (as a last resort) compensation calculated using SCC HEP methodology.</p> | |
| Sedgemoor Local Plan D21 (2019) | “All development proposals should protect and, where possible, enhance the coherence and resilience of Somerset’s Ecological Network within the Sedgemoor District”. | Specific reference to protection and where possible enhancement of ecological networks within Sedgemoor. |
| Sedgemoor Local Plan D22 (2019) | Development proposals including a planting scheme should be accompanied by a Landscape Masterplan with native tree and hedgerow species which are characteristic of the local landscape and provide benefits to local wildlife. | Ensuring planting is relevant to the place it is being proposed and will benefit, not detract from local biodiversity. |
| Sedgemoor Local Plan D23 (2019) | Key policy for catching development which may impact on European Sites through impacts on bats. | Key policy for catching development which may impact on European Sites through impacts on bats. |
| Somerset Waste Plan DM3 (2013) | <p>“Planning permission for waste management development that would have a significant adverse impact on the integrity, character and/or setting of [a list of regionally important sites and considerations]... will only be granted if the applicant demonstrates that...the proposal includes adequate measures to mitigate adverse impacts or, as a last resort, proportionately compensate for or offset any loss of biodiversity, supported by appropriate ecological assessment.”</p> <p>Key policy for catching development which may impact on European Sites.</p> | <p>General requirement to mitigate, compensate or offset losses.</p> <p>Key policy for catching development which may impact on European Sites.</p> |
| Somerset Minerals Plan SMP8 (2015) | <p>Requirement for minerals sites to be restored to high environmental standards as soon as practicable including phased restoration during operation.</p> <p>Restoration, aftercare and after-use to be determined in relation to characteristics and land-use of site and surrounding environment and any local requirements.</p> | <p>Expectation for mineral site restoration, after-care, after-use to deliver high environmental standards and be determined in relation to characteristics and land uses.</p> <p>Supporting text refers to providing net gains for environment to secure legacy. Biodiversity creation listed as a potential</p> |



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| | | after-use depending on type of site and setting. |
| Somerset Minerals Plan DM2 (2015) | <p>Development proposals must demonstrate they will not generate unacceptable impacts on biodiversity and geodiversity.</p> <p>“measures will be taken to mitigate to acceptable levels (or, as a last resort, proportionately compensate for) adverse impacts on biodiversity and geodiversity. Such measures shall ensure a net gain in biodiversity where possible. The Habitat Evaluation Procedure will be used in calculating the value of a site to species affected by the proposal where the conservation value of the habitat is considered to be replaceable and mitigation techniques have been proven.”</p> <p>Role of site in “maintaining the connectivity and resilience of the county’s ecological networks” key consideration in determining weight of protection.</p> <p>Key policy for catching development which may impact on European Sites.</p> | <p>Protect and mitigate impacts.</p> <p>Net gain in biodiversity where possible.</p> <p>Use of HEP.</p> <p>Ecological networks a key consideration. Supporting text refers to securing net gains in the local ecological network.</p> |
| Taunton Deane Core Strategy CP1 (2012) | <p>“Development proposals should result in a sustainable environment and will be required to demonstrate that the issue of climate change has been addressed by...incorporation of measures which promote and enhance the resilience of ecosystems and biodiversity networks within and beyond the site”.</p> | <p>Strategic level climate change policy setting out criteria that development proposals will be required to demonstrate their response to.</p> <p>References enhancement of the resilience of biodiversity networks.</p> <p>No explicit reference to how enhancement would be calculated / demonstrated.</p> |
| Taunton Deane Core Strategy CP8 (2012) | <p>“Conserve and enhance” the natural environment.</p> <p>The Council will “not permit development proposals that would harm these interests...unless material factors are sufficient to override their importance”.</p> <p>Refers to a network of GI assets that should be “retained and enhanced, including through the development of green wedges and corridors as envisaged through the Taunton Deane GI Strategy”.</p> <p>“Development will need to mitigate and where necessary, compensate for adverse impacts on...protected or important species, important habitats and natural networks....so that there are no residual effects”.</p> | <p>Strategic level “Environment” policy.</p> <p>General “conserve and enhance”.</p> <p>Supporting text refers to role that Green Wedges play in providing wildlife corridors and habitats.</p> <p>Supporting text refers to Taunton Deane BAP (2008) and Somerset Biodiversity Strategy (2008).</p> <p>Supporting text refers to role of GI Strategy in habitat enhancement and creation.</p> |



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| | <p>Key policy for catching impacts on European Sites etc. and restricting development accordingly.</p> <p>Sets out criteria for development proposals on unallocated greenfield sites which includes (amongst other things) “protect habitats and species, including those listed in UK and Local Biodiversity Action Plans, and conserve and expand the biodiversity of the Plan Area”.</p> | |
| Taunton Deane SADMP ENV1 (2016) | “Seek to minimise impact on trees, woodlands, orchards, historic parklands and hedgerows of value to the areas landscape, character or wildlife and seek to provide net gain where possible”. | DM policy relating to protection of trees etc. Seeks net gain in trees etc. (but not in biodiversity). |
| Taunton Deane SADMP ENV2 (2016) | Tree planting to be sought in new developments “where this would benefit wildlife and biodiversity...” | DM policy seeking new tree planting which will benefit biodiversity. |
| Taunton Deane SADMP D7 (2016) | “New housing and commercial developments shall create a high standard of design quality and sense of place”. | <p>Refers to criteria taken from Building for Life 12 (now Building for a Healthy Life) – “what green looks like” within BfHL includes enhancement of existing habitats and creating new habitats.</p> <p>Districtwide Design Guide SPD hangs off this policy – includes guidance on how to integrate BNG into site design.</p> |
| West Somerset Local Plan to 2032 NH6 (2016) | <p>Applications will not generate unacceptable adverse impacts on biodiversity.</p> <p>Measures will be taken to protect, mitigate or compensate for adverse impacts and “ensure a net gain in biodiversity where possible. The Somerset ‘habitat evaluation procedure’ will be used in calculating the value of a site to species affected by a proposal as appropriate”.</p> <p>The local planning process will be used to protect, enhance and restore the ecological network within West Somerset. The weight of protection afforded to a site that contributes to the district’s biodiversity will reflect its role in maintaining connectivity and resilience of the local ecological network.</p> <p>Key policy for catching impacts on European Sites etc. and restricting development accordingly.</p> | <p>DM policy explicitly seeking protection and enhancement of biodiversity.</p> <p>Explicitly references ensuring a net gain in biodiversity where possible and using the Somerset HEP to calculate this.</p> <p>No specific % net gain required.</p> |
| West Somerset Local Plan to 2032 NH7 (2016) | “The creation and enhancement of a green infrastructure network will be supported”. | <p>Strategic GI policy.</p> <p>Supporting text references linking areas of high value habitat together to increase the quality and resilience of ecosystems.</p> |



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| West Somerset Local Plan to 2032 NH11 (2016) | Key policy for catching impacts on species associated with European Sites etc. and restricting development accordingly. | Policy focuses on mitigating impacts on bats. |
| West Somerset Local Plan to 2032 NH12 (2016) | Key policy for catching impacts on species associated with European Sites etc. and restricting development accordingly. | Policy focuses on mitigating impacts of wind energy development on waterfowl. |
| West Somerset Local Plan to 2032 NH13 (2016) | New development to meet highest standards of design. “Landscape proposals have been developed to enhance both the natural and built environment and maximise the potential to improve local biodiversity”. | Districtwide Design Guide SPD hangs off this policy – includes guidance on how to integrate BNG into site design. |
| Saved Policies of the West Somerset Local Plan (2006) | Policy TW/1 – protection of trees etc. where appropriate requires additional tree planting. Policy TW/2 – protection of hedgerows NC/1 - Key policy for catching impacts on SSSIs and restricting development accordingly – refers to enhancement of site’s nature conservation interest being considered. | DM policies relating to protection of trees etc. Seeks net gain in trees etc. (but not in biodiversity). SSSI enhancement only, not specific to biodiversity. |
| South Somerset Local Plan EQ4 (2015) | “All proposals for development...will: Protect the biodiversity value of land and buildings and minimise fragmentation of habitats and promote coherent ecological networks; maximise opportunities for restoration, enhancement and connection of natural habitats; incorporate beneficial biodiversity conservation features where appropriate; protect and assist recovery of identified priority species” and protected features used by bats and other wildlife. Sequential approach to avoid harm, lessen impacts, make compensatory provision. Key policy to avoid impacts on European sites. | Strong requirement to maximise opportunities for enhancement of habitats and assist in recovery of priority species. Supporting text references Wild Somerset strategy and South Somerset Local BAP. |
| South Somerset Local Plan EQ5 (2015) | “Development proposals should provide and /or maintain a network of connected and multifunctional open spaces that, where appropriate, meet the following requirements: Create new habitats and connects existing wildlife areas to enrich biodiversity and promote ecological coherence”. | GI should be multifunctional and holistically planned and in doing so create habitats which enrich biodiversity. |



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|------------------------------------|--|---|
| Exmoor NP*Local Plan GP1 (2017) | "Sustainable development for Exmoor National Park will conserve and enhance the National Park, its natural beauty, wildlife...". | Conservation and enhancement of the things that make Exmoor special including wildlife, will be central to sustainable development. |
| Exmoor NP* Local Plan CE-S2 (2017) | Dark skies policy making specific reference to the wildlife and habitat benefits of this. | Dark skies policy making specific reference to the wildlife and habitat benefits of this. |
| Exmoor NP* Local Plan CE-S3 (2017) | <p>"The conservation and enhancement of wildlife, habitats and sites of geological interest within the National Park will be given great weight".</p> <p>"Development delivery, management agreements and positive initiatives will conserve, restore and re-create priority habitats and conserve and increase priority species identified for Exmoor in the Exmoor Wildlife Research and Monitoring Framework (or successor publication)".</p> <p>Protection of designated sites, species and habitats.</p> <p>"The enhancement of biodiversity and creation of multi-functional green infrastructure networks at a variety of spatial scales, including cross-boundary connectivity to areas adjacent to the National Park, that help support ecosystem services will be encouraged".</p> <p>"Opportunities will be promoted for habitat management, restoration, expansion that strengthens the resilience of the ecological network, and enables habitats and species adapt to climate change or to mitigate the effects of climate change".</p> <p>"Green infrastructure that incorporates measures to enhance biodiversity, including dispersal areas identified within the ecological network, should be provided as an integral part of new development".</p> | <p>Great weight will be placed on the enhancement of wildlife, habitats and sites.</p> <p>Multifunctional GI networks, which enhance biodiversity will be encouraged and should be an integral part of new development.</p> |
| Exmoor NP* Local Plan CE-D2 (2017) | <p>"Development proposals should include measures that will enhance green infrastructure provision and create opportunities for wildlife in the National Park commensurate with the scale of the proposal and intensity of activity expected".</p> <p>GI proposals should: "protect and enhance existing natural and historic environments; strengthen connectivity and resilience of ecological networks..."</p> | <p>GI should deliver enhancement.</p> <p>Explicit reference to ecological networks.</p> |



Appendix 2

Related plans, strategies and projects

There are a wide range of other plans, strategies and projects covering Somerset or areas of, which will have relevance to the delivery of BNG in Somerset. Some of these are listed below. Some are owned by the Council, some are owned by other organisations. Some of these (such as the Exmoor Nature Recovery Vision, Somerset Ecological Network Report and Pollinator Action Plan) are likely to directly influence the priorities and opportunities to be identified by the Somerset Local Nature Recovery Strategy (LNRS). Others are likely to work alongside the LNRS and there may be synergies for delivery between them. These plans, strategies and projects have informed the Guidance Note through the development of the Somerset BNG Principles (chapter 6) and local definition of strategic significance (chapter 7).

- [National Habitat Network mapping](#)
- [Somerset's Ecological Network Report \(2019\)](#)
- [Wild Somerset: Somerset's Biodiversity Strategy \(2008\)](#)
- [Mendip Biodiversity Action Plan \(2008\)](#)
- Sedgemoor Biodiversity Action Plan
- [South Somerset Biodiversity Action Plan \(2008\)](#)
- [Taunton Deane Biodiversity Action Plan \(2008\)](#)
- West Somerset Biodiversity Action Plan
- [Somerset Highways Biodiversity Manual \(2015\)](#)
- [Somerset Internal Drainage Board Biodiversity Action Plan \(2010\)](#)
- [Somerset West and Taunton and Sedgemoor Ecological Emergency Vision and Action Plan \(2022\)](#)
- [Exmoor Nature Recovery Vision](#)
- [Pollinator Action Plan \(2018\)](#)
- [Somerset Nutrient Strategy](#)
- [Somerset Tree Strategy \(2023\)](#)
- [Mendip Green Spaces SPD](#)



- [Sedgemoor Green Infrastructure Strategy \(2011\) Exec. Summary, Vol.1, Vol.2](#)
- [Taunton Deane Green Infrastructure Opportunities Update \(2017\)](#)
- [Somerset West and Taunton Districtwide Design Guide SPD \(2021\)](#)
- [Somerset West and Taunton Climate Positive Planning \(2022\)](#)
- ELMs Test & Trial
- [Adapting the Levels](#)
- Holnicote River Corridors
- [The Axe Landscape Partnership](#)
- Somerset Wetlands SNNR and Nature Recovery Project
- Mendips SNNR
- [Triple Axe Project](#)
- [Blackdown Hills AONB Management Plan](#)
- [Blackdown Hills AONB Nature Recovery Plan](#)
- [Quantock Hills AONB Management Plan](#)
- [Mendip Hills AONB Management Plan](#)
- [Mendip Hills AONB Nature Recovery Plan](#)
- [Cranborne Chase AONB Management Plan](#)
- [Dorset AONB Nature recovery plan](#)
- [Somerset Climate Emergency Strategy and action plans \(2020\)](#)
- [South Somerset Environment Strategy \(2019\)](#)
- [Somerset Local SuDS Guidance \(2023\)](#)
- [Brue Catchment Action Plan \(2020\)](#)
- [Tone Catchment Action Plan \(2021\)](#)
- [Somerset Levels and Moors Flood Action Plan – 20 years](#)
- [Somerset Flood Risk Management Strategy](#)
- [Somerset ROW Improvement Plan](#)
- Protected site management plans, improvement plans, mitigation strategies etc. (various across the area's SACs SSSIs, SPAs, Ramsars, NNRs, LNRs)
- Open space management plans (various across the area)
- Local Plans (see Appendix 1)

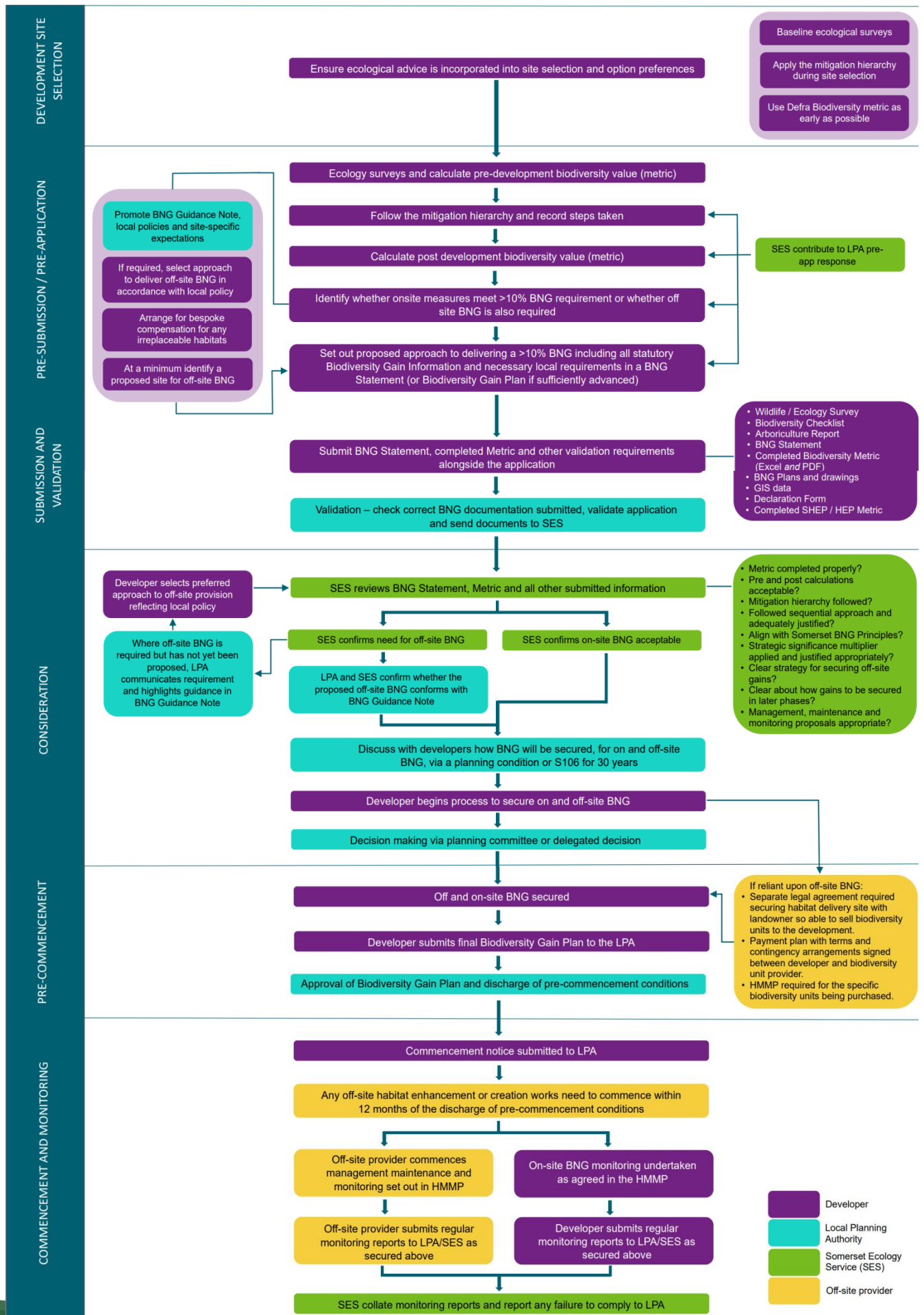


Appendix 3

Planning Process Flow Diagram

The process flow diagram on the following page summarises the key stages and processes involved in the application of BNG to development proposals. It should be read in conjunction with chapter 4 (Key Stages).





Appendix 4

Validation Requirements

Introduction

This document sets out the draft anticipated planning validation requirements relating to the implementation of mandatory Biodiversity Net Gain (BNG) from January 2024.

The Council is consulting on these validation requirements as part of this consultation on the Guidance Note. The final version of the validation checklist requirements will take account of comments received during consultation, and any relevant secondary legislation and Government guidance as it is published. The validation requirements will subsequently be adopted by the Council as an addendum to or as part of revisions to the existing Local Validation Checklists

Government intends to update the national list of validation requirements as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015 to reflect the nationally required information to support validation of relevant planning applications. This secondary legislation and Government Guidance on the matter are yet to be published. However, the provisions as set out in the Environment Act 2021, in the Government's 2022 consultation on BNG Regulations and Implementation, and in the Government response to the consultation responses, give a good idea of the level of information that is likely to be required nationally. The requirements below are an interpretation of these national requirements and the documents Somerset Council considers are necessary to be submitted in order to demonstrate compliance with these. The list will be further reviewed as and when Government publishes the guidance and legislation (expected end of November 2023).

The final version of this note will be adopted by the Council as an addendum to or as part of revisions to the existing Local Validation Checklists and will take account of comments received during consultation, and any relevant secondary legislation and Government guidance as it is published.

Does the national mandatory BNG requirement apply to my application?

The mandatory requirement for a minimum 10% BNG will apply to planning applications for major development (10 dwellings or more, or 1ha or more) from January 2024.



From April 2024, the mandatory requirement will also apply to small sites through use of the Small Sites Metric (SSM)⁶. The SSM defines small sites as:

- for residential development:
 - fewer than 10 residential units on a site area (no more than 9 units) less than 1 hectare
 - when the number of residential units is not known, the site area is less than 0.5 hectares.
- for non-residential development:
 - the site area is less than 1 hectare.

There are likely to be transitional arrangements identified within the secondary legislation, however these are not yet known.

There are a number of exemptions to the above. Prior to submitting an application, check whether the development may be exempt. If exempt, then there is no need to consider the remainder of this document. Currently the following exemptions are expected to apply:

- development impacting habitat of an area below a 'de minimis' threshold of 25m², or 5m for linear habitats such as hedgerows⁷;
- householder applications;
- biodiversity gain sites (where habitats are being enhanced for wildlife);
- small scale self-build and custom housebuilding; or
- is a Review of Old Mineral Permission (ROMP) application.

Mandatory national BNG does not apply to permitted development and prior approval applications. For permission in principle applications (PIPs), BNG information will be required at the technical details application stage (unless this is amended by subsequent Defra guidance) rather than with the PIP application. BNG will also not apply to listed building consent applications, but please note that if these are made jointly with a full application which isn't exempt from BNG, then BNG will be required for the full application.

Mandatory BNG will apply to new applications submitted after the implementation date. This means, only major applications submitted after January 2024, and small site applications submitted after April 2024 will be required to demonstrate 10% BNG. BNG will not be applied retrospectively to planning applications that have been submitted or have already been granted permission prior to the implementation dates respectively. For example, if an outline consent for a major application was granted before January 2024 without a requirement to provide 10% net gain, the

⁶ However, if a small site sits within Priority Habitat Protected under Section 41 of the Natural Environment and Rural Communities (NERC) Act; protected sites; and/or European Protected Species site within the site, then the Site will not qualify under the 'Small Site Metric' characterization and instead the full Biodiversity Metric should be used. Small sites must also use the full Biodiversity Metric if they are reliant upon use of any off-site gains

⁷ However, if an application sits within a Priority Habitat that is protected under Section 41 of the Natural Environment and Rural Communities (NERC) Act, then the development cannot be subject to exemption even if it meets these criteria.



subsequent reserved matters application(s) will not need to incorporate 10% net gain.

National mandatory 10% BNG will not apply to Section 73 applications to vary the conditions imposed on an existing permission approved prior to the implementation of national requirements (expected to apply to applications submitted after January 2024). However, where an application is submitted and approved post January 2024 and required to meet national mandatory 10% BNG, any subsequent Section 73 application seeking to vary the conditions imposed on the existing permission and which will alter the post-development biodiversity value, *will* be required to achieve national mandatory 10% BNG.

Even where planning application sites are exempt from the national mandatory 10% BNG requirement, the Council still expects applicants to achieve a net gain and other biodiversity enhancements, in line with the NPPF and relevant development plan policy.

In all cases, the requirement for BNG does not change existing legal or policy protections for protected sites or species, or priority species or habitats and the need to follow the mitigation hierarchy. Some requirements may cross over, but the list below is intended to set out the validation requirements solely in relation to BNG.

Applicants are encouraged to make use of the Council's Pre-application Service to further understand the specific requirements in relation to their site. Further information can be found at <https://www.somerset.gov.uk/planning-buildings-and-land/pre-application-advice/>.

Validation requirements to demonstrate compliance with statutory BNG requirements

For all applications where mandatory minimum 10% BNG applies:

- Wildlife / Ecology Survey reports
- A Biodiversity Gain Statement (setting out all of the Biodiversity Gain Information as required by the Environment Act and any secondary legislation), is expected to include:
 - the pre-development biodiversity value,
 - steps taken to minimise adverse biodiversity impacts in line with the mitigation hierarchy,
 - the proposed approach to enhancing biodiversity on-site, and
 - any proposed off-site biodiversity enhancements (including the use of off-site biodiversity units and/or national credits) that have been planned or arranged for the development.
- A full, completed Metric 4.0 (or latest statutory Metric) spreadsheet in MS Excel format (note, extracts or partially completed Metrics will not be accepted)



and the Rules and Principles set out in current Biodiversity Metric User guide associated with the latest statutory metric must be adhered to).

- Plans and drawings to show where mitigation, compensation and BNG will be achieved. These must be to scale and include the different types of habitats.
- Details of the intended management, maintenance and monitoring and financing arrangements for a period of at least 30 years after the development is completed, for any areas of significant on-site enhancements.
- Indicative agreements relating to securing off-site gains. This should include evidence that the Biodiversity Gain Site from which any off-site biodiversity units are being purchased is registered on the Natural England Biodiversity Gain Sites Register.
- Any proposed purchase of statutory units should be accompanied by a reasonable justification why on-site or off-site BNG cannot be achieved.
- A statement that the applicant has checked whether the baseline habitat has deteriorated significantly since 30 January 2020, and how the baseline date has been appropriately adjusted to reflect (such as to disregard) any deterioration.
- A signed declaration that the Metric and other Biodiversity Gain Information have been completed by a suitably competent person (to be defined in secondary legislation).

For outline applications and other phased developments, in addition to the above:

- A report explaining the strategy to achieve the biodiversity gain objective across the whole site and to demonstrate how this could be delivered on a phase-by-phase basis including:
 - the key principles that will be followed to ensure biodiversity gain commitments are achieved through subsequent detailed design
 - how biodiversity net gain delivery will be tracked on a phase-to-phase basis, including the target percentage gains to be delivered at each stage (expectation for “frontloading” into earlier stages).
 - the approach to be taken in the event that subsequent phases do not proceed or fail to achieve their biodiversity net gain targets.
 - that the pre-development biodiversity value for the whole site will be agreed as part of the framework plan and used as the basis for agreeing the detailed proposals through subsequent applications pursuant to the approved development
 - a mechanism to link the framework plan to subsequent applications pursuant to the approved development.
- Outline applications and other phased developments often do not include the specific definitive number of units/floorspace, and will not have the full site layout agreed. As such, a precautionary approach should be taken.



For applications where a watercourse is located within the site or where the development will be within 10 metres of the top of the river bank:

- A full, completed Watercourse Metric (part of the latest statutory BNG Metric) spreadsheet in MS Excel format (note, extracts or partially completed Metrics will not be accepted).
- A signed declaration that the Watercourse Metric and other Biodiversity Gain Information have been completed by a suitably competent person (to be defined in secondary legislation but in the case of the Watercourse Metric requires specialist training to undertake). More information of guidance for such assessments can be found [here](#).

Where Habitat Regulations Assessment or other legislative requirement stipulates that an application is also required to deliver mitigation and/or compensation for likely significant effects upon a protected site/species:

- A section of or appendix to the Biodiversity Gain Statement providing transparency over which on-site and off-site enhancements are related to the habitat mitigations and compensations, and which are related to net gains and counted for BNG purposes⁸. This should draw directly on information within any associated Ecological Impact Assessment and make direct links across to relevant information in any Nutrient Neutrality Assessment and Mitigation Strategy, Bat Mitigation Strategy or other appropriate documentation.

Where a development includes irreplaceable habitat⁹:

- A section of or appendix to the Biodiversity Gain Statement separately and transparently detailing the considerations and calculations relating to the irreplaceable habitat.
- All irreplaceable habitats must be recorded in the irreplaceable habitat sheet within the metric.
- Bespoke compensation to address specific losses and deterioration of irreplaceable habitats needs to be agreed on a case-by-case basis with the LPA
- Evidence that Somerset Environmental Records Centre has been consulted for habitat details and known conditions.

⁸ The Government has confirmed that off-site mitigation and compensation for protected sites and species may count towards mandatory BNG, but at least 10% of the BNG must be provided through other activities.

⁹ To be defined by secondary legislation



Local validation requirements:

The local validation requirements below set out how applicants should demonstrate compliance with the above national requirements and other local requirements as set out within Somerset Council's emerging BNG Guidance Note.

Applicants are encouraged to make use of the Council's Pre-application Service to further understand the specific requirements in relation to their site. Further information can be found at <https://www.somerset.gov.uk/planning-buildings-and-land/pre-application-advice/>.

| Item | Commentary |
|---------------------------|--|
| Wildlife / Ecology Survey | <ul style="list-style-type: none"> • All ecological reports should follow CIEEM guidance on the lifespan of ecological reports and surveys – see https://cieem.net/wp-content/uploads/2019/04/Advice-Note.pdf. |
| Biodiversity Checklist | <ul style="list-style-type: none"> • Checklist proformas exist for each planning area: <ul style="list-style-type: none"> ○ East area (formerly Mendip) ○ North area (formerly Sedgemoor) ○ South area (formerly South Somerset) ○ West area (formerly Somerset West & Taunton) |
| Arboriculture Report | <ul style="list-style-type: none"> • Necessary to help inform accurate baseline, proposals and management plans. |
| BNG Statement | <ul style="list-style-type: none"> • Including all statutory information relevant to the application type as set out in the section above. • Including information responding to requirements set out in the Somerset BNG Guidance Note setting out how the applicant: <ul style="list-style-type: none"> ○ has followed the sequential approach; ○ justifies any use of off-site gain; ○ justifies any reliance upon statutory biodiversity credits; ○ has followed the Somerset BNG Principles; ○ has applied the strategic significance criteria; ○ proposes to secure biodiversity gains and their management, maintenance and monitoring for the 30 year period. |



| | |
|-------------------------------|--|
| Completed Biodiversity Metric | <ul style="list-style-type: none"> • Must be the latest published national Metric appropriate for the size and type of development. • Must be submitted as a Microsoft Excel Workbook (versions with <i>both</i> macros enabled and disabled must be provided) and <i>also</i> as a PDF (note <i>both</i> must be provided). • Any red flag errors will result in the Metric being returned and the application not being validated. |
| BNG plans and drawings | <ul style="list-style-type: none"> • On-site baseline habitat plan • On-site post-intervention proposed habitat plan • Off-site baseline habitat plan • Off-site post-intervention proposed habitat plan • Plans should be to scale and in line with other validation checklist conventions for site plans. • Plans should identify all different habitats referred to within the Metric submission so the size and location of habitat parcels can be fully understood spatially as well as through the Metric. |
| GIS data | <ul style="list-style-type: none"> • GIS data files providing the same information as provided on the BNG plans and drawings above. |
| Declaration Form | <ul style="list-style-type: none"> • A signed declaration form confirming that: • the BNG Statement includes all of the information required for validation for the type of application being made; • the applicant has checked whether the baseline habitat has deteriorated significantly since 30 January 2020, and how the baseline date has been appropriately adjusted to reflect (such as to disregard) any deterioration; • the Metric and other Biodiversity Gain Information have been completed by a suitably competent person (defined locally as being someone holding a CIEEM accreditation); • Where necessary, the watercourse part of the Metric and other associated Biodiversity Gain Information have been completed by a suitably competent person (to be defined in secondary legislation but in the case of the Watercourse Metric requires specialist training to undertake). |
| Completed SHEP/HEP Metric | <ul style="list-style-type: none"> • A completed Somerset Species Habitat Evaluation Procedure Metric where necessary (where a site is located within a SAC Impact Risk Zone or where Protected Species are present on-site). |



Appendix 5

Habitat Management and Monitoring Plan (HMMP) expectations

Further guidance on Habitat Management and Monitoring Plan (HMMP) templates will be published by the government towards the end of November. Until further guidance is published, Somerset Council are using other published guidance to assist with the Council's approach to monitoring report requirements, including the 'British Standard BS8683:2021 Process for designing and implementing Biodiversity Net Gain' and CIEEM's 'Biodiversity Net Gain: Good Practice Principles for Development, A Practical Guide.'

Subject to further government announcements on the HMMP template, it is anticipated that the following details should be included:

- A description and evaluation of features to be managed to deliver BNG;
- Roles, responsibilities and competency requirements for delivering BNG - during and after implementation of BNG;
- Aims and objectives of management during any particular phase of the programme;
- Ecological trends and constraints on site that might influence management of BNG during any particular phase;
- For each monitoring report submitted at any particular time, measurable short, medium and long-term objectives for all habitats in relation to reaching their target condition and distinctiveness, which delineate the key indicators to measure success;
- Outlining the prescriptive management options to facilitate achieving aims and objectives;
- Details of the body or organisation responsible for implementation of the plan.
- If targets are not being reached at any particular monitoring phase, information being presented to show adaptive management in response to monitoring results which will help secure the intended biodiversity outcomes for any particular phase;
- Preparation of a work schedule which should include an annual work plan for any phase duration;
- Highlighting what milestones for the BNG habitats progress are to assist with scheduling future reviews on the monitoring outcomes;
- On-going monitoring and remedial measures.

