

BIODIVERSITY NET GAIN REGULATIONS 2023

Biodiversity – all things in the natural world around us; plants, animals, insects and microorganisms.

The Government's Environment Act 2021 is part of a new legal framework for environmental protection and includes three important components affecting land development; nutrients, water and biodiversity.

Whilst the first two call for 'neutrality', the latter, under the Biodiversity Net Gain (BNG) Regulations, calls for a minimum net gain of 10% for biodiversity that may be adversely affected by development of land and habitat.

Put simply; make it better than it was before.

The BNG Regulations will be MANDATORY from (a date) November 2023 for all large developments and from (a date) April 2024 for small sites.

A small site, by definition, is 1- 9 dwellings on a site of less than one hectare.

Developers will need to use the services of an environmental expert, for example an ecologist, to produce a BNG Plan. This will be done using the BNG Metric Tool, specialised software that will calculate what needs to be done at the site to achieve the target of 10% gain.

How does this affect Local Authorities?

Every local authority, be it county, district or parish/town, that has a Planning Department or Committee to administer the Town & Country Planning Act 1990, will have a legal responsibility to ensure that planning applications are in compliance with BNG **before they are approved.**

What are the challenges facing BHTC?

- BNG will apply to everything the Council does within its own operations e.g. any developments it makes must comply or be proven to be exempt.
- Officers and Councillors will need to have a good understanding of BNG and how to apply the Regulations.
- MSDC will pass down planning applications but BHTC must see evidence of BNG compliance (the Plan).
- New planning permissions will be introduced (not yet published).
- BHTC will ultimately assist in the monitoring of compliance i.e. has the developer delivered the BNG Plan?

Exemptions from BNG Regulations

The exemptions are currently expected to be:

Existing Permitted (Lawful) Development.

Householder Applications.

Brownfield Sites (where 10% of 0 = 0)

Limited self-build ownerships.

BNG Credits

There is provision within BNG Regulations for developers to apply for BNG 'off-site' credits, which can be used elsewhere at a later date. Already there appears to be businesses offering to 'trade' these credits, which is essentially a 'get-out' path for developers.

The Local Government Association recommends that **NO** 'off-site' credits are approved, except under very special circumstances (clarity required), arguing that the whole point of BNG is for the benefit of the site and habitat that is being disrupted.

Example Applications

An application is received for a 100 dwelling development that will result in the loss of 20 trees and 500 metres of hedging. The developer must demonstrate that the BNG Plan will provide sufficient habitat gain equivalent to 22 new trees and 550 metres of new hedgerow, the exact combination to be determined by the Metric Tool.

A brownfield site development application for 20 flats is received. This application will be exempt as there is no existing biodiversity habitat. However, the developer should be encouraged to create a new habitat on the brownfield site.

Recommendations

- Start **NOW** to seek evidence of BNG awareness by developers
- Determine to be **ROBUST** in applying BNG Regulations.
- **CONSIDER** how to monitor compliance (jointly with MSDC?)
- **ENSURE** that the Council's stance on BNG is in the public domain via website, About Town and social media.

Useful Sources of further information

Local Government Association

<https://www.local.gov.uk/pas/topics/environment/biodiversity-net-gain-local-authorities>

DEFRA

<https://consult.defra.gov.uk/defra-net-gain-consultation-team/consultation-on-biodiversity-net-gain-regulations/>

Natural England

<https://naturalengland.blog.gov.uk/2021/09/21/biodiversity-net-gain-more-than-just-a-number/>