



Welwyn Hatfield
Borough Council
**Biodiversity
Net Gain
Guidance Note**
September 2023



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**WELWYN
HATFIELD**

Mandatory BNG came into force on 12 February 2024, subject to certain exemptions and applicable to small scale development from 02 April 2024.

Please refer to Government websites for planning and other guidance on this matter.

DLUHC and MHCLG: <https://www.gov.uk/government/collections/planning-practice-guidance>

DEFRA 'collection': <https://www.gov.uk/government/collections/biodiversity-net-gain>

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1.0 Introduction

- 1.1 Biodiversity net gain is an approach to development and / or land management that leaves the natural environment in a measurably better state than before.
- 1.2 On commencement of the relevant provisions of the Environment Act 2021, a mandatory requirement for biodiversity net gain (BNG) of at least 10% will be brought into force for development under the Town and Country Planning Act 1990.
- 1.3 However, secondary legislation and national guidance is awaited to clarify how the mandatory requirement will be applied in practice, and the Draft Local Plan has yet to be adopted.
- 1.4 The purpose of this Guidance Note is to provide interim guidance and information for applicants and decision-makers on how the requirement for BNG will apply to development proposals.
- 1.5 This Guidance Note has been prepared in the context of adopted and emerging local planning policies, relevant legislation, and the National Planning Policy Framework (NPPF), with reference to national Planning Practice Guidance (PPG), other national (BNG related) policy guidance, best practice, the Biodiversity Metric and user guides, BNG related templates, national plans, strategies and reports.
- 1.6 This Guidance Note does not form part of the development plan for Welwyn Hatfield and it is not a Supplementary Planning Document.
- 1.7 However, it is considered to be a material consideration that may be taken into account when determining planning applications.
- 1.8 The scope of what can constitute a material consideration is very wide, however, in general the courts have taken the view that planning is concerned with land use in the public interest. Provided regard is had to all material considerations, it is for the decision maker to decide what weight is to be given to a material consideration in each case.
- 1.9 This Guidance Note may be subject to future review and updates. A Supplementary Planning Document may be issued for consultation at a future date.
- 1.10 This Guidance Note was endorsed by the council's Cabinet on 5 September 2023.
- 1.11 It should be noted that BNG is a new and evolving environmental planning objective and Welwyn Hatfield Borough Council is not the responsible body for matters such as primary or secondary legislation, national policy and guidance, industry best practice, the Biodiversity Metric and user guides, BNG related templates, international frameworks, national plans, strategies, or reports.
- 1.12 This Guidance Note does not include information on how the mandatory requirement for BNG affects Nationally Significant Infrastructure Projects.

2.0 Background

- 2.1 The Department for the Environment, Food and Rural Affairs describes biodiversity as *‘the variety of all life on Earth. It includes all species of animals and plants – everything that is alive on our planet. Biodiversity is important for its own sake, and human survival depends upon it’*. It is “... key to the survival of life on Earth.”¹
- 2.2 Biodiversity is important for its own sake and has its own intrinsic value, but this value goes further, providing us with essentials such as food, fresh water, and clean air, as well as protection from natural disasters, regulation of our climate, purification of our water, and pollination of our crops. Biodiversity is important for our economic and social wellbeing, and provides important cultural services², enriching our lives.
- 2.3 The 25 Year Environment Plan, *‘A Green Future: Our 25 Year Plan to Improve the Environment’* (2018), set out the government’s ambition to leave our environment in a better state than we found it. The plan outlined a number of steps the government proposed to take, including embedding an ‘environmental net gain’ principle for development including housing and infrastructure, enabling the achievement of measurable improvements for the environment whilst ensuring economic growth, and reducing complexity and delays for developers.
- 2.4 Since then, the government has focussed on embedding the principle of biodiversity net gain into the planning system, as part of its response to concerns on the state of the natural environment.
- “Nature is in decline, much of England’s wildlife is deteriorating, and many ecosystems are degraded. The UK has a number of international and legislative commitments to take urgent and effective action to halt the loss of nature or biodiversity.”*³
- 2.5 *‘Nature Positive 2030: Summary and Evidence Reports (2021)’*⁴ indicates that biodiversity is being lost at an alarming rate. The UK is one of the most nature-depleted nations on earth with over 40% of species in decline, more than 40 million birds lost from our skies over the past 50 years, and a quarter of UK mammals threatened with extinction, including many once common species, such as the hedgehog. Despite good practice, development can lead to a net loss of biodiversity, and requiring development to achieve net gains for biodiversity is one way to contribute to nature recovery.
- 2.6 Restoring nature is not just a national endeavour. At the UN Nature Summit, COP15 (2022), the UK government agreed through the Kunming-Montreal Global Biodiversity Framework, to a mission to take urgent action to halt and reverse biodiversity loss and put nature on a path to recovery⁵.

¹ [Biodiversity 2020: A strategy for England’s wildlife and ecosystem services - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/442211/biodiversity_2020_strategy.pdf)

² The non-material benefits people obtain from ecosystems, such as aesthetic inspiration, a sense of identity and home, and spiritual experience, related to the natural environment.

³ [House of Commons: Environment Bill \(parliament.uk\)](https://www.parliament.uk/business/committees/committees-a-z/commons-select/environment-and-nature-committee/written-evidence/2020-21/2020-01-29-1/) Explanatory Notes, 29 January 2020

⁴ [Nature Positive 2030 | JNCC - Adviser to Government on Nature Conservation](https://www.jncc.gov.uk/publications/nature-positive-2030) (Joint Nature Conservation Committee, Natural England, Natural Resources Wales, NatureScot and the Northern Ireland Environment Agency)

⁵ [COP15: Nations Adopt Four Goals, 23 Targets for 2030 In Landmark UN Biodiversity Agreement | Convention on Biological Diversity \(cbd.int\)](https://www.cbd.int/doc/agreements/cop15-agreement-en.pdf)

- 2.7 The 'Environmental Improvement Plan 2023'⁶ is the government's first revision of its 25 Year Environment Plan. It sets out a number of targets and commitments including, halting the decline in species abundance by 2030, and then increasing abundance by at least 10% to exceed 2022 levels by 2042. Biodiversity net gain has a key role to play in this respect.
- 2.8 At a more local level, 'Hertfordshire's State of Nature 2020'⁷ report indicates that 1,524 species were identified as being Species of Conservation Concern. Development is resulting in habitat loss, damage, fragmentation, hydrological change, pollution, and disturbance to surrounding habitats. Climate change is likely to have played a part in wildlife declines, affecting the availability of foods, hibernation patterns, population sizes, distribution and range. Natural solutions to climate change need to take into account the state of nature and be tailored according to local circumstances. Priority areas and habitat choices can be informed by the Hertfordshire Ecological Network Mapping, which is maintained by the Hertfordshire Environmental Records Centre.

3.0 Introducing a mandatory requirement for biodiversity net gain

- 3.1 Biodiversity net gain is an approach to development and / or land management that leaves the natural environment in a measurably better state than before.

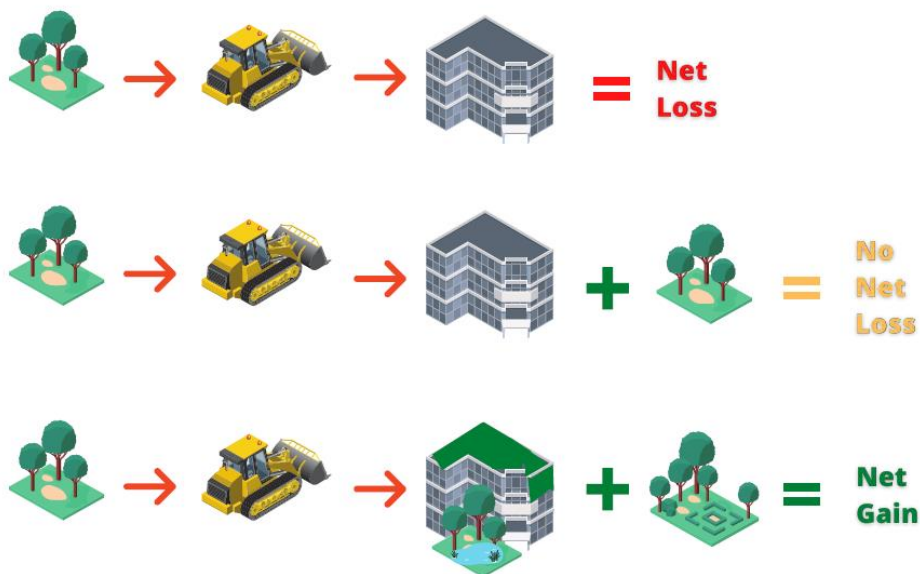


Figure 1: An illustration of the concept of biodiversity net gain (Source: 'Biodiversity Net Gain: An Introduction to the benefits', Natural England 2022)

- 3.2 From November 2023, unless otherwise exempt or as a result of a phased introduction of the requirement, (e.g., small sites from April 2024), a mandatory requirement for biodiversity net gain (BNG) of at least 10% will apply to development under the Town and Country Planning Act 1990 (as amended).

⁶ [Environmental Improvement Plan 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/environmental-improvement-plan-2023)

⁷ [State of Nature | Herts and Middlesex Wildlife Trust \(hertswildlifetrust.org.uk\)](https://hertswildlifetrust.org.uk/state-of-nature/)

- 3.3 Applicants will be required to assess and quantify the impact of their proposed development on biodiversity and then set out proposals to deliver and manage BNG either on-site, off-site, or as a last resort, through the purchase of statutory credits.
- 3.4 A proposal to deliver BNG does not affect the weight that should be afforded to other planning considerations, statutory requirements or legal protections, including those relating to protected sites and species.

4.0 The legislative framework for biodiversity net gain

- 4.1 On commencement of the relevant provisions of the [Environment Act 2021](#) a number of statutory matters relating to Biodiversity Net Gain will come into force, including:
- The amendment of the Town and Country Planning Act 1990,
 - The requirement to deliver at least 10% biodiversity net gain as a condition of granting planning permission,
 - Requiring the enhancement to be maintained for at least 30 years,
 - The submission by applicants of a biodiversity gain plan and the planning authority's approval of the plan before development can commence,
 - The use of the 'Biodiversity Metric',
 - Arrangements for the purchase of biodiversity credits from the government,
 - The mechanisms for securing biodiversity net gains, and
 - The provision and use of a biodiversity gain site register.
- 4.2 Further provisions will be set out in secondary legislation (and may be subject to amendment over time).
- 4.3 Amendments have also been introduced to the Natural Environment and Rural Communities (NERC) Act 2006, placing a S40 duty on local authorities (and local planning authorities), to consider what action they can properly take to further the general biodiversity objective (to conserve and enhance biodiversity).

5.0 The National Planning Policy Framework

- 5.1 The National Planning Policy Framework (NPPF) must be taken into account when preparing a development plan and is a material consideration in planning decisions.
- 5.2 The NPPF⁸ states that the purpose of the planning system is to contribute to the achievement of sustainable development. Three interdependent objectives, (economic, social, and environmental), need to be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives.
- 5.3 The environmental objective includes protecting and enhancing our natural environment, improving biodiversity, using natural resource prudently, mitigating and adapting to climate change.

⁸ 2021

- 5.4 Paragraph 174 of the NPPF states⁹, (with local planning authority emphasis):
*“Planning policies and decisions should **contribute to and enhance the natural and local environment by:** [...] (d) minimising impacts on and **providing net gains for biodiversity**, including by establishing coherent ecological network that are more resilient to current and future pressures; [...].*
- 5.5 Paragraph 179 of the NPPF states:
*“To protect and enhance biodiversity ..., plans should: ... (b) 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.**”.*
- 5.6 At paragraph 180, the NPPF states:
“When determining planning applications, local planning authorities should apply the following principles:
a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; [...] and
*d) development whose primary objective is to conserve **or enhance biodiversity** should be supported; **while 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.”*

6.0 National guidance

- 6.1 National Planning Practice Guidance (PPG), ‘*Natural Environment*’¹⁰ explains how biodiversity net gain (BNG) can be achieved¹¹, taking care to ensure that any benefits will lead to genuine and demonstratable gains for biodiversity. Further, it explains that BNG complements and works with the biodiversity mitigation hierarchy set out in the NPPF, and does not override the protection for designated sites, protected or priority species and irreplaceable or priority habitats¹².
- 6.2 The Department for Environment, Food and Rural Affairs, (Defra), has published a collection of guidance on biodiversity net gain, including guidance for land managers and calculating a biodiversity value.¹³ Further guidance may be published over time.
- 6.3 ‘*Understanding biodiversity net gain*’¹⁴ states that developers must try to avoid loss of habitat to a piece of land proposed for development. If this cannot be avoided, habitat must be created either on the development site or off-site, (on other land owned by the developer or as a result of buying units from a land manager). If land on-site or

⁹ The NPPF (2021) is under review by the Department for Levelling Up, Housing and Communities and is likely to be subject to future amendment. Paragraph numbers and/or NPPF content may therefore be subject to change.

¹⁰ [Natural environment - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/natural-environment)

¹¹ Paragraph: 023 Reference ID: 8-023-20190721, Revision date: 21 07 2019

¹² Paragraph 024 Reference ID: 8-024-20190721

¹³ [Biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/biodiversity-net-gain)

¹⁴ DEFRA: [Understanding biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/understanding-biodiversity-net-gain)

off-site cannot be used, statutory credits must be purchased from the government as a last resort and evidence must be provided for using this option.

- 6.4 It may be possible to combine all three options (on-site, off-site, credits) to make up BNG, but this must be discussed with an ecologist to prove why one option cannot be used¹⁵. Developers must get approval from the local planning authority before development commences.



Figure 2 - Mechanisms for delivering BNG (source: Natural England)

- 6.5 The 'National Design Guide' (2021) outlines the Government's priorities for well-designed places in the form of ten characteristics. Nature is one of those ten characteristics, contributing to the quality of a place, to people's quality of life, incorporating natural features that supports and enhances biodiversity. It supports well-designed developments that include site-specific enhancements to achieve biodiversity net gains at neighbourhood, street, and household level. Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect government guidance on design.

7.0 The Development Plan

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. This is reiterated within paragraphs 2 and 47 of the NPPF. The development plan is defined in Section 38(3)(b) of the 2004 Act as "*the development plan documents (taken as a whole) that have been adopted or approved in relation to that area*".
- 7.2 At the time of preparation, the Development Plan for the Welwyn Hatfield area comprises:
- The saved policies of the Welwyn Hatfield District Plan (adopted, April 2005)
 - The Hertfordshire Minerals Local Plan (adopted, March 2007)

¹⁵ DEFRA: [Understanding biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/442222/Understanding_biodiversity_net_gain_-_GOV.UK_(www.gov.uk).pdf)

- The Hertfordshire Waste Core Strategy and Development Management Policies Document (adopted, November 2012).
- The Hertfordshire Waste Site Allocations (adopted, July 2014)
- Northaw and Cuffley Neighbourhood Plan (made, June 2023).

7.3 The Council submitted a draft Local Plan for examination in May 2017. Consultation on Main Modifications concluded on 15 February 2023. Further Main Modifications were published for consultation from 12 June 2023 until 30 July 2023.

The Welwyn Hatfield District Plan 2005

7.4 The District Plan was adopted prior to the publication of the NPPF. However, existing policies should not be considered out-of-date simply on this basis. Due weight should be given to existing policies, according to their degree of consistency with the NPPF¹⁶.

7.5 Whilst none of the saved policies of the Welwyn Hatfield District Plan 2005 require the provision of measurable net gains for biodiversity, saved policies are not inconsistent with national planning policy objectives to protect and enhance the natural environment and improve biodiversity in and around developments as an integrated part of their design.

7.6 For example, Policy R11 requires development to contribute positively to the biodiversity of the site, including through the retention and enhancement of natural features and the promotion of wildlife corridors as part of the design.

7.7 District Plan policies in summary:

- **Policy R6 - River Corridors:** Supports initiatives to protect and enhance the river environment for biodiversity and suitable public access within main river corridors, provided there is no conflict with biodiversity of the site.
- **Policy R11 - Biodiversity and Development:** Requires all new development to demonstrate how it would contribute positively to the biodiversity of the site by the retention and enhancement of natural features, promoting natural areas and wildlife corridors as part of the design, the translocation of habitats where it can be demonstrated that the habitat or species cannot be accommodated within the development, the use of locally native species in planting, and helping to meet priorities/targets set out in the Local Biodiversity Action Plan.
- **Policy R17 - Trees, Woodland, and Hedgerows:** Seeks to retain and protect existing trees, hedgerows, and woodlands. New development is required to incorporate new planting with locally native species.

The emerging Local Plan

7.8 When determining planning applications, local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to relevant

¹⁶ NPPF (2021), paragraph 219 (Annex 1: Implementation)

policies, and the degree of consistency of relevant policies in the emerging plan to the NPPF¹⁷.

- 7.9 Whilst none of the emerging Draft Local Plan policies submitted for examination in May 2017 required the provision of measurable net gains for biodiversity, the Draft Local Plan is not inconsistent with national planning policy objectives to protect and enhance the natural environment and improve biodiversity in and around developments as an integrated part of their design.
- 7.10 For example, Policy SP 1 seeks, amongst other matters, to ensure that the borough's natural assets are protected and enhanced, and Policy SP9 requires development to make space for nature, enable wildlife movement, protect and improve the connectivity of habitats, with strategies in place to manage and maintain the ecological integrity of those spaces. Policy SP 10 seeks to ensure that existing and new habitat are incorporated into the design and layout of development. Policy SP 12 supports the creation and enhancement of strategic green infrastructure including the provision of a comprehensive network of functional and linked spaces for wildlife, biodiversity and the community. To ensure beneficial results for biodiversity and habitat creation, ecological network mapping should be used to inform provision. Policy SADM 16 expects development to enhance biodiversity and the function of ecological networks wherever possible.
- 7.11 Relevant emerging Local Plan policies in summary:
- **Policy SP 1 - Delivering Sustainable Development:** Seeks to ensure that the borough's natural assets are protected and enhanced (amongst other matters).
 - **Policy SP 9 - Place Making and High Quality Design:** Proposals must make space for nature, enabling the movement of wildlife through the development, protecting, and improving the connectivity of habitats at the wider landscape scale, with strategies in place to manage and maintain the ecological integrity of spaces.
 - **Policy SP 10 - Sustainable Design and Construction:** New and existing habitat is incorporated into the layout and design of proposals in line with sound ecological principles; site and features promote biodiversity; newly created habitat and soft landscaping prioritise the use of native species, and non-native species can be used only if they significantly help achieve other policy objectives.
 - **Policy SADM 14 - Flood Risk and Surface Water Management:** Proposals will be required to maintain a development free corridor along watercourses and take opportunities to improve their ecological status, biodiversity, and habitat connectivity. Major development proposals and all proposals identified as being at risk of surface water flooding will be required to use sustainable drainage systems that utilise management and control measures that ... support biodiversity.
 - **SP 11 - Protection and Enhancement of Critical Environmental Assets:** The protection, enhancement and management of environmental and ecological assets will be sought commensurate with their status, significance and importance. Proposals affecting the water environment should protect and

¹⁷ NPPF (2021), paragraph 48

enhance the ecological status of water bodies. Development that secures positive improvements to and ensures the long-term conservation of ecological assets will be supported.

- **Policy SP 12 - Green Infrastructure:** Supports the creation and enhancement of green infrastructure across the borough, including opportunities to provide a comprehensive network of functional and linked spaces for the benefit of wildlife, biodiversity, and the community. Development that would compromise the integrity, functionality or cause significant fragmentation of the green infrastructure network will not be permitted. Development proposals should contribute to the creation and management of green spaces that are linked to the green infrastructure network. To ensure beneficial results for biodiversity and habitat creation, Hertfordshire's Ecological Networks mapping should be used to inform the location and nature of green infrastructure provision. The delivery of the Welwyn Hatfield Green Corridor, running east to west between Welwyn Garden City and Hatfield, will be sought by working with partners and developers.
- **Policy SADM 16 - Ecology and Landscape:** Proposals will be expected to maintain, protect and wherever possible enhance biodiversity, the structure and function of ecological networks and the ecological status of water bodies.

- 7.12 As part of the examination of the emerging Local Plan, a Further Main Modification (FMM) has been proposed to Policy SADM 16 so that a measurable BNG of at least 10% will be required, consistent with the objectives of the NPPF and the mandatory BNG requirement. A proposed FMM to the supporting text explains that the requirement will apply to development within scope, with reference to legislation and guidance on this matter. Further Main Modifications have also been proposed to Policy SP 12 (and the supporting text), to reference the future introduction of the Local Nature Recovery Strategy and to explain the use of existing Hertfordshire ecological network mapping.

The Hertfordshire Minerals Local Plan

- 7.13 The Hertfordshire Minerals Local Plan Review 2002-2016 was adopted in March 2007 and forms part of the development plan for Welwyn Hatfield. A new Minerals and Waste Local Plan is being prepared¹⁸. Hertfordshire County Council is the minerals planning authority for Hertfordshire and Welwyn Hatfield Borough Council is a consultee on planning applications. Interested parties should refer to the relevant policies of the adopted Minerals Local Plan, and any emerging plan.

The Hertfordshire Waste Local Plan

- 7.14 The Waste Local Plan is made up of two documents; the Waste Core Strategy and Development Management Policies Document (adopted 2012), and the Hertfordshire Waste Site Allocations (adopted 2014). A new Minerals and Waste Local Plan is being prepared¹⁹. Hertfordshire County Council is the waste planning authority for Hertfordshire and Welwyn Hatfield Borough Council is a consultee on planning

¹⁸ The Minerals Planning Authority is preparing a new Waste and Minerals plan (to 2040), a draft version was published in 2022

¹⁹ The Minerals Planning Authority is preparing a new Waste and Minerals plan (to 2040), a draft version was published in 2022

applications. Applicants should refer to the relevant policies of the adopted Waste Local Plan, and any emerging plan.

Neighbourhood Plans

- 7.15 Neighbourhood Plans are prepared by qualifying bodies, (a parish or town council, a neighbourhood forum, or a community organisation). Once a neighbourhood plan has been brought into force, it becomes part of the development plan for the area it covers, and planning applications are decided in accordance with the development plan unless material considerations indicate otherwise.
- 7.16 For example, in the Northaw and Cuffley Neighbourhood Plan:
- **Policy D3 Green Infrastructure:** Requires proposals to achieve statutory biodiversity net gain targets, include wildlife friendly planting, retaining existing trees ..., planting tree species appropriate to the site and its context if replacement is required, and linking green and blue infrastructure to existing networks.
- 7.17 When making planning decisions, weight may also be given to an emerging neighbourhood plan, having consideration to the stage of preparation and the extent to which there are unresolved objections to relevant policies. Where the local planning authority has published a notice of a referendum, more weight should be given to an emerging neighbourhood plan, while also taking account of the extent of unresolved objections and the degree of its consistency with the NPPF²⁰.

8.0 Action Plans, Strategies and Ecological Network mapping

Biodiversity Action Plans

- 8.1 The Hertfordshire Biodiversity Action Plan (BAP) was first launched in 1998. '*A 50-year vision for the wildlife and natural habitats of Hertfordshire*' identified habitats and species as a priority for conservation action. The Hertfordshire BAP was relaunched in 2006 by the Hertfordshire Biodiversity Partnership (Hertfordshire Environmental Forum), incorporating revised habitat and species action plans.
- 8.2 The Welwyn Hatfield Local BAP was issued in April 2004, highlighting the loss or decline of certain species, the need to halt the degradation of wildlife habitats and systems, and identifying habitat types and species as priorities for action.

Hertfordshire Ecological Network mapping

- 8.3 The Hertfordshire Ecological Network (HEN) mapping, first published in 2013, uses countywide habitat inventory and other available data to generate potential habitat network maps, identifying how habitats are spatially related to each other and where the highest priorities are for expanding them and linking them together. They can also act as an alert to where the greatest sensitivities are likely to be in relation to the protection and enhancement of ecological networks, and where there is greatest potential for biodiversity gains from development.

²⁰ [Neighbourhood planning - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Welwyn Hatfield Trees and Woodland Strategy (2018-2023)²¹

- 8.4 The council recognises that trees bring multiple benefits to communities, wildlife, and the environment, including enriching habitats, conserving energy, reducing flood risk, improving air quality, enabling urban foraging for wildlife and humans, and enhancing human health and wellbeing.
- 8.5 In accordance with the council's Tree and Woodland Strategy, tree planting takes place in the best possible situations to maximise gains for environmental improvement, and the council promotes urban tree cover wherever possible in the context of a recommended country-wide target of 25% tree canopy cover to offset the negative impacts of living in an urban environment and climate change²².

Climate change emergency

- 8.6 The council declared a climate change emergency in 2019. The actions within the council's Climate Action Plan are aligned to its Climate Strategy²³. There are several action plan points on biodiversity, including developing local plan policies that protect and enhance ecological networks and biodiversity assets, the implementation of a biodiversity net gain policy, and purchasing ecological advice from Hertfordshire County Council to inform planning decisions.

Hertfordshire Climate Change and Sustainability Partnership – Strategic Action Plan for Biodiversity

- 8.7 The Hertfordshire Climate Change and Sustainability Partnership (HCCSP) is a strategic group consisting of all 10 Hertfordshire district and borough councils, the county council, and the Local Enterprise Partnership. It works closely with the Hertfordshire Growth Board. The partnership has identified a number of priorities²⁴, including biodiversity.
- 8.8 The partnership's '*Strategic Action Plan for Biodiversity*²⁵ (April 2022) seeks to address challenges in biodiversity declines, ensuring that outcomes resulting from new development, agricultural practices and greenspace management can halt and reverse these declines. Priorities include protecting and enhancing biodiversity through the planning system, and actions include the development of Supplementary Planning Documents, promoting guidance for developers, a landscape-led approach for major development, capturing ecological data from planning applications, good practice guidance.
- 8.9 Paragraph 3.2.3 of the action plan states that "*In order to determine the most suitable strategies for delivering biodiversity gains and locations for biodiversity offsets in Hertfordshire, local planning authorities will require a robust baseline outlining current ecological networks. The Hertfordshire Ecological Network Map has provided useful guidance in this area Now is an apt time to revisit biodiversity mapping at a*

²¹ [Strategies – Welwyn Hatfield Borough Council \(welhat.gov.uk\)](https://welhat.gov.uk)

²² The Canopy Cover of England's Towns and Cities: baselining and setting targets to improve human health and wellbeing – referred to at paragraph 3.14 of the council's Tree and Woodland Strategy.

²³ [Strategies – Welwyn Hatfield Borough Council \(welhat.gov.uk\)](https://welhat.gov.uk)

²⁴ [Current priorities \(hccsp.org.uk\)](https://hccsp.org.uk)

²⁵ [hccsp-strategic-action-plan-for-biodiversity-april-2022.pdf](https://hccsp-organisations.github.io/hccsp-strategic-action-plan-for-biodiversity-april-2022.pdf)

county scale to provide an updated evidence base for making these strategic decisions.”

Local Nature Recovery Strategies

- 8.10 Local Nature Recovery Strategies (LNRS) are a new, England-wide system of spatial strategies that must set out agreed priorities for nature recovery, mapping the most valuable existing areas, and mapping specific proposals for creating or improving habitats for nature and wider environmental goals.
- 8.11 The main purpose of a LNRS is to identify locations to create or improve habitat most likely to provide the greatest benefit for nature and the wider environment.²⁶
- 8.12 The Environment Act 2021 establishes two mechanisms to support the delivery of LNRS: mandatory biodiversity net gain and a strengthened biodiversity duty on public authorities.
- 8.13 Each LNRS will identify where action to achieve net gain will have the most impact and encourage action in these locations through the way net gain is calculated. Local planning authorities must have regard to them in complying with the strengthened biodiversity duty.
- 8.14 There will be around 50 LNRS covering the whole of England and Defra has appointed Hertfordshire County Council as the responsible authority to lead in the preparation, publication, review and republication of Hertfordshire’s LNRS, working with stakeholders to provide a single vision for nature recovery, building and strengthening local partnerships, and involving people who own and manage land and take regulatory decisions.
- 8.15 Once published, the Hertfordshire LNRS will be the ‘relevant strategy’ against which assessors may consider an evidenced justification for a ‘strategic significance’ category and score in the Biodiversity Metric at both base-line and post-intervention stages, recognising the local significance of a habitat, based on its location and habitat type²⁷.

Prior to the publication of the Local Nature Recovery Strategy

- 8.16 In advance of the publication of a LNRS for Hertfordshire, consistent with emerging Local Plan Policy SP 12, and in order to ensure beneficial results for biodiversity and habitat creation, including opportunities to provide a comprehensive network of functional and linked spaces for the benefit of wildlife, biodiversity and the community, interested parties should take into account Hertfordshire Ecological Network (HEN) mapping, by making a data enquiry with the Herts Environmental Records Centre (HERC).
- 8.17 The HERC holds, and may issue²⁸, ecological network mapping for Hertfordshire identifying how habitats are spatially related to each other, where the priorities are for expanding and linking them together, ensuring that efforts can be targeted to where they are most potential benefit and that the right combination of habitats are created

²⁶ [Local nature recovery strategy statutory guidance \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

²⁷ Section 5.4 of the Metric User Guide (Natural England Joint Publication JP039, March 2023)

²⁸ Subject to a charge for commercial users: [Herts Environmental Records Centre | Biodiversity data for Hertfordshire \(hercinfo.org.uk\)](https://hercinfo.org.uk)

in the right places. The mapping also highlights areas where development should be avoided.

- 8.18 Evidence must be provided to justify an appropriate ‘strategic significance’ category and score in the Biodiversity Metric, and where necessary this will be subject to scrutiny by the council’s ecological advisors.
- 8.19 As a guideline, the following approach, which is aligned with Table 5-3 and paragraphs 5.4.3 and 5.4.4 of the Biodiversity Metric 4.0, User Guide²⁹, may be considered:

Table 1: Extract from the Biodiversity Metric 4.0 User Guide – Table 5-3 (extended to include reference to HEN mapping)

Strategic significance category	Score applied in Metric	Description (Biodiversity Metric 4.0 User Guide)	Reference to HEN mapping (in advance of the LNRS)
High	1.15	Where the location has been identified within a local plan, strategy or policy as being ecologically important for the specific habitat type or where that habitat has been identified as being locally ecologically important.	HEN mapping value areas 1, 2, 3a. A required action to maintain and enhance or restore habitat, or the location is identified as a high priority to create habitat.
Medium	1.10	Where there is no relevant plan, strategy or policy in place, professional judgement may be used to justify the use of the medium strategic significance category. This judgement should consider the importance of that habitat in providing a linkage between other strategic locations.	HEN mapping value area 3b. The location is identified as having medium priority for habitat creation.
Low	1.0	If the habitat is not included in local plans, strategy or policy, and there is no evidence to suggest that the habitat is of medium strategic significance.	HEN mapping value area 3c. The location is identified as having a lower than medium priority for habitat creation.

²⁹ [The Biodiversity Metric 4.0 - JP039 \(naturalengland.org.uk\)](https://naturalengland.org.uk) uploaded 24/03/2023

Note: The Small Sites Metric User Guide applies a modified approach, which excludes the ‘medium’ significance category and varies the description for low strategic significance. Users should refer to the Small Site Metric User Guide where relevant.

9.0 Biodiversity in Welwyn Hatfield

- 9.1 Welwyn Hatfield supports a variety of habitat sites and natural features, and a number of designated sites are located within the borough. Authoritative geographic information about the natural environment from across government can be explored using an interactive map³⁰. Under Section 41 of the NERC Act 2006³¹, the government also has a duty to publish a list of living organisms and types of habitat which are of principal importance. Further publicly available information illustrates occurrence data for a diverse range of species³² and the geographic extent and location of habitats of principle importance³³.
- 9.2 Part of the Wormley Hoddesdonpark Woods Special Area of Conservation (SAC)³⁴, which is of European importance, lies within the borough to the north-east of Newgate Street, straddling the borough boundary with East Hertfordshire and Broxbourne. Hertfordshire's only National Nature Reserve, Broxbourne Woods, forms part of this SAC.
- 9.3 The borough is home to five Sites of Special Scientific Interest (SSSI); Sherrardspark Wood, Northaw Great Wood, Water End Swallow Holes, part of Redwell Wood (partly in Hertsmere), and parts of the Wormley-Hoddesdonpark Woods South SSSI (mainly within in Broxbourne and East Hertfordshire). A further SSSI, Tewinbury, located within East Hertfordshire, lies to the northeast of Welwyn Garden City. SSSI are of national importance. They are the finest sites for wildlife and natural features, supporting many species, habitats, and natural features, and these protected areas are designated to maintain and protect specific features of interest.
- 9.4 There are no Special Protection Areas³⁵, Ramsar sites³⁶ or Local Geological Sites (formerly known as Regionally Important Geological Sites) in the borough.
- 9.5 There are nine Local Nature Reserves (LNR) in the borough at Danesbury Park, Singler's Marsh, Stanborough Reedmarsh, The Commons, Howe Dell, Oxley's Wood, Mardley Heath, Northaw Great Wood and Sherrardspark Wood. More information on these LNRs can be found on the council's website³⁷.
- 9.6 In 2021/2022, there were also 195 Local Wildlife Sites (LWS) in the borough³⁸. These are wildlife-rich sites of local importance selected for their nature conservation value with protection afforded via the planning system. These sites form key components of ecological networks and cover an area of 1,664 hectares of the borough.

³⁰[Magic Map Application \(defra.gov.uk\)](https://defra.gov.uk/magic-map-application)

³¹[Habitats and species of principal importance in England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/habitats-and-species-of-principal-importance-in-england)

³²[NBN Atlas - UK's largest collection of biodiversity information](https://www.gov.uk/government/publications/nbn-atlas)

³³[Priority Habitats Inventory \(England\) | Natural England Open Data Geoportal \(arcgis.com\)](https://data.gov.uk/dataset/priority-habitats-inventory)

³⁴[Special Areas of Conservation | JNCC - Adviser to Government on Nature Conservation](https://www.gov.uk/government/publications/special-areas-of-conservation)

³⁵ Protected areas for birds classified under certain legislation

³⁶ Wetland sites of international importance designated under the Ramsar Convention

³⁷[Woodlands and nature reserves – Welwyn Hatfield Borough Council \(welhat.gov.uk\)](https://www.welhat.gov.uk/woodlands-and-nature-reserves)

³⁸ Welwyn Hatfield Borough Council, Annual Monitoring Report 2021/22

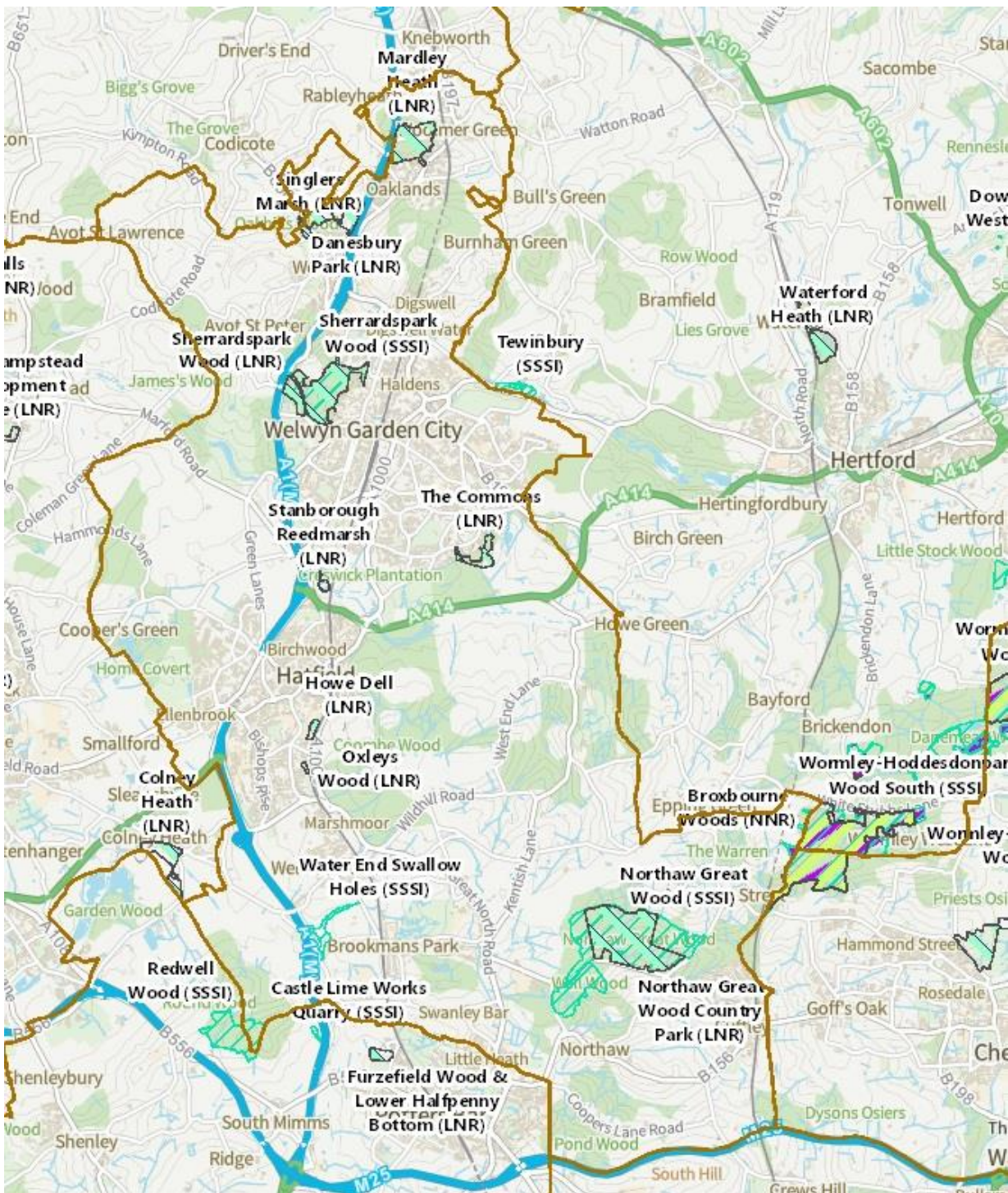


Figure 3 - A snapshot of statutory natural designations in and surrounding Welwyn Hatfield (Sites of Special Scientific Interest, National Nature Reserves, Local Nature Reserves, Special Protection Areas and Special Areas of Conservation).

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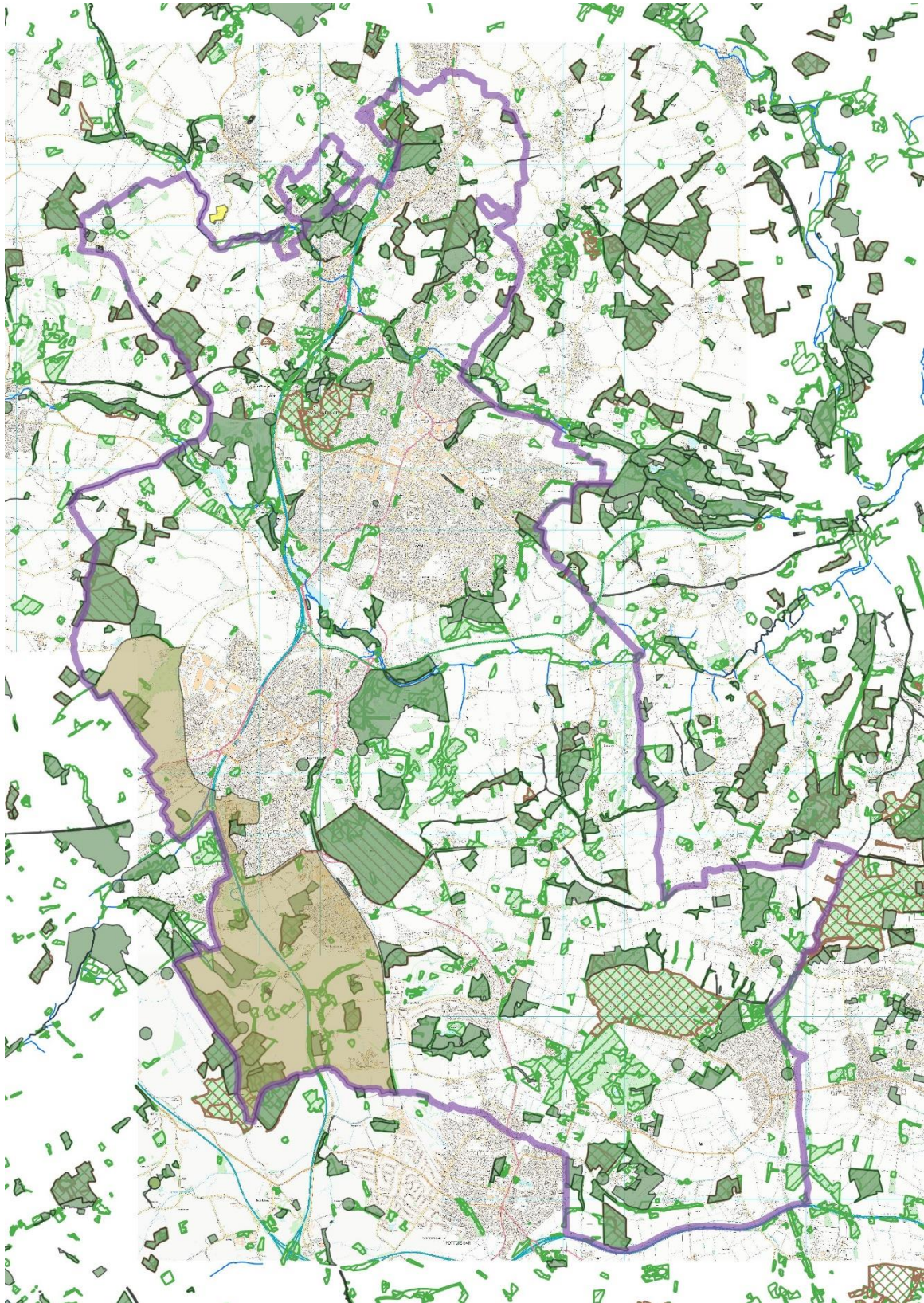


Figure 4 - A snapshot of other natural designations in and surrounding Welwyn Hatfield (Ancient Woodland, Chalk Rivers, S41 Habitats of Principal Importance, Local Wildlife Sites, Regionally Important Geological Sites and Watling Chase Community Forest).

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10.0 Meeting the biodiversity gain objective

- 10.1 When granting planning permission, the biodiversity gain objective will be met if the biodiversity value attributed to the development exceeds the pre-development biodiversity value of the on-site habitat **by at least 10%**³⁹.
- 10.2 The biodiversity value is the total of:
- The post-development biodiversity value of the on-site habitat,
 - The biodiversity value of any registered off-site biodiversity gain allocated to the development, and
 - The biodiversity value of any biodiversity credits purchased for the development.

Biodiversity value

- 10.3 The biodiversity value of any habitat or habitat enhancement is the value calculated in accordance with the Biodiversity Metric.

Pre-development biodiversity value of an on-site habitat (the baseline date)

- 10.4 The pre-development biodiversity value of an on-site habitat is the value on a relevant date as set out in legislation, (e.g., the date of application, or as otherwise agreed by the local planning authority, in line with legislation)⁴⁰.
- 10.5 If activities have been carried out on land on or after 30 January 2020 (other than in accordance with a planning permission⁴¹), and, as a result, the biodiversity value of the onsite habitat is lower than it would otherwise have been, then the pre-development biodiversity value is taken as its value immediately before those activities were carried out. (A planning applicant may be required to provide evidence of site condition in the event of a dispute).
- 10.6 The pre-development value of a proposed development site should be informed by on-site surveys and desktop data searches, including through data enquiries to the HERC.

Post-development biodiversity value of an on-site habitat

- 10.7 The post-development biodiversity value of an on-site habitat accounts for the impact of a proposed development, including any measures to retain, enhance or create habitats. It is calculated by taking the pre-development biodiversity value and either adding the forecast increase, or subtracting the forecast decrease in biodiversity value at the time the development is completed.
- 10.8 An increase in the post-development biodiversity value of the on-site habitat can only be taken into account if the local planning authority is satisfied that any habitat enhancement will be secured by virtue of a planning condition, planning obligation or a conservation covenant, and be maintained for at least 30 years after the development is completed.

³⁹ The Secretary of State may by regulations amend the relevant percentage

⁴⁰ Other circumstances are expected to apply for Local Development Orders, Neighbourhood Development Orders, Simplified Planning Zones, Enterprise Zones etc.

⁴¹ Or other permission specified by the Secretary of State by regulations

- 10.9 If a net gain of at least 10% can be achieved on site, there is no need to consider off-site measures. If the value is less than 10%, the proposal should be revisited to explore how the on-site biodiversity value could be improved. If there is no scope for sufficient net-gain on-site, then off-site measures will need to be considered.

Registered off-site biodiversity gains

- 10.10 Any off-site habitat enhancement required to be carried out under a conservation covenant or planning obligation, must be registered in the national biodiversity gain site register. The biodiversity value of any off-site biodiversity gain must be measured using the Biodiversity Metric and in relation to the development to which it is allocated.

Biodiversity gain site register

- 10.11 Natural England will be the operator for the national biodiversity gain site register. The register will record allocations of off-site biodiversity gains to development and make this information publicly available.
- 10.12 The register will not perform as a marketplace platform for buying or selling biodiversity units and neither will it have a role in assessing the ecological suitability of proposals.

Statutory Biodiversity credits

- 10.13 The purchase of statutory biodiversity credits from the Secretary of State are to be used as a last resort where BNG cannot be achieved through available on-site and off-site options. A credit is regarded as having a biodiversity value and may be purchased by a person who is entitled to develop land.
- 10.14 Biodiversity credit payments can be used by the Secretary of State for limited purposes only; carrying out or securing habitat enhancement works, purchasing interests in land in England in order to carry out works or securing the carrying out of works, and to operate and administer the arrangements.
- 10.15 Natural England will sell statutory biodiversity credits on behalf of the Secretary of State. The Secretary of State must publish information about the arrangements for purchasing credits, the amount payable for a credit of a given value, proof of purchase, and reimbursement for credits purchased for development not carried out. The intention is for the price of statutory biodiversity credits to be set high to be uncompetitive with the market in order to not discourage the registration of land on the biodiversity gain site register.
- 10.16 Defra has published an indication of likely credit prices, to help developers plan ahead⁴². Confirmed prices will be published when biodiversity net gain becomes mandatory.

⁴² [Statutory biodiversity credit prices - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/statutory-biodiversity-credit-prices) July 2023

11.0 The general condition of planning permission

11.1 For planning applications within scope submitted after the mandatory requirement for BNG takes effect, planning permission for the development of land will be deemed to have been granted subject to the '*general condition of planning permission*', that:

The development may not be begun unless:

- (a) a biodiversity gain plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.⁴³

Biodiversity gain plan

11.2 A biodiversity gain plan (BGP) is a document which sets out how BNG will be delivered and allows the planning authority to check whether the proposal meets the biodiversity gain objective. A BGP must specify information about:

- a) The steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat
- b) The pre-development biodiversity value of the on-site habitat
- c) The post-development biodiversity value of the on-site habitat
- d) Any registered off-site biodiversity gain allocated to the development and the value of that gain in relation to the development
- e) Any biodiversity credits purchased for the development, and
- f) Any other matters the Secretary of State may specify in regulations, (e.g., the form of a BGP, the submission procedure for a BGP, the persons who may submit a BGP).

11.3 The government intends to publish a BGP template setting out certain data requirements that will need to be submitted, and a working draft was issued in 2022⁴⁴. A BGP must always be accompanied by a completed biodiversity metric.

11.4 In addition to the completed metric, a BGP will require the submission of (relevant) information such as: a habitat management and monitoring plan, biodiversity credit receipt references, landscaping plans, species lists and habitat surveys reports and maps, covenants, details of future ownership and stewardship, information about the project, details of the person completing the net gain plan, on-site and off-site habitats (and metric results), adherence to the mitigation hierarchy to avoid and / or minimise biodiversity impacts, irreplaceable habitat, designated sites, protected species, mechanisms for securing management for a minimum of 30 years, habitat degradation statement, monitoring and reporting arrangements, adherence to good practice and sharing data, etc. Development cannot commence until the Local Planning Authority has approved the BGP.

11.5 To ensure that the local planning authority is sufficiently informed of the biodiversity outcome, it is strongly recommended that applicants use the most up to date available BGP template.

⁴³ [Environment Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk) – schedule 14

⁴⁴ [Consultation on Biodiversity Net Gain Regulations and Implementation - Defra - Citizen Space](#)

- 11.6 The local planning authority must only approve a BGP if it is satisfied that the pre-development and post-development biodiversity value of the onsite habitat is as specified in the BGP.
- 11.7 Where any registered off-site biodiversity gain is specified, it must only approve a BGP where it is satisfied that this has been allocated (and any conditions attached to the allocation have been, or will be, met by the time the development begins), and the registered off-site gain has the biodiversity value specified in the BGP as it relates to the development.
- 11.8 Development cannot commence until the Local Planning Authority has approved the BGP.

12.0 Development within scope of the biodiversity net gain requirement

- 12.1 From November 2023, (or April 2024 for small sites), the requirement to secure biodiversity net gain applies to development under the Town and Country Planning Act 1990, unless otherwise exempt.
- 12.2 The Environment Act 2021 exempts development for which planning permission is granted by a development order (permitted development⁴⁵), and urgent Crown development.
- 12.3 Regulations are also expected to exempt⁴⁶:
- Development impacting habitat of an area below a ‘de-minimus’ threshold of 25 metres squared or 5m for linear habitats such as hedgerows
 - Householder applications, and
 - Biodiversity gain sites (where habitats are being enhanced for wildlife).
- 12.4 In addition, the government intends to exempt small scale self-build and custom housebuilding, in a way that addresses the risk of exempting large sites with many plots. (The government intends to define this exemption and keep this under review).
- 12.5 The government does not propose to specifically exempt previously developed land (although some sites will effectively be exempted by a zero baseline score in the Biodiversity Metric), change of use applications, temporary applications (subject to allowances for short-term habitat loss), or development that is not ‘permitted development’ on account of its location within a Conservation Area. However, the ‘de-minimus’ and householder exemptions will still apply.

Outline applications and phased development

- 12.6 For outline applications and phased development, additional biodiversity gain information will be required setting out how biodiversity gain will be achieved across the whole site on a phase-by-phase basis. Such development will also be subject to a condition which requires the approval of a biodiversity gain plan prior to the commencement of each phase. Further details about this process are expected through secondary legislation.

⁴⁵ [Government response and summary of responses - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/government-response-and-summary-of-responses-to-the-biodiversity-net-gain-guidance-note)

⁴⁶ [Government response and summary of responses - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/government-response-and-summary-of-responses-to-the-biodiversity-net-gain-guidance-note)

- 12.7 At the time of writing, it is understood that reserved matters will not be required to fulfil the mandatory requirement for BNG if the outline permission was approved prior to the relevant provisions of the Environment Act coming into force.

Small sites

- 12.8 A phased introduction of mandatory BNG applies to small sites from April 2024.
- For residential development, ‘small’ means where the number of dwellings to be provided is between one and nine (inclusive) on a site of less than 1ha, or where the number of dwellings to be provided is not known, a site area less than 0.5 ha.
 - Small non-residential sites are those where the floorspace to be created is less than 1,000 square metres or where the site area is less than 1ha.

Viability

- 12.9 The requirement to meet the biodiversity gain objective is mandatory and there is no scope for local planning authorities to reduce the 10% BNG requirement on viability grounds. If on application, developers submit above 10%, this is voluntary (subject to any subsequent updates through legislation or planning policy).
- 12.10 The primary aim to secure a measurable improvement in habitat for biodiversity whilst streamlining development processes has been subject to an Impact Assessment carried out by the government’s lead department, Defra⁴⁷.

13.0 Protected sites and species, priority habitats, and irreplaceable habitats

- 13.1 Biodiversity net gain does not override existing legal protections or policy provisions relating to development impacts on protected sites and species, and priority species and habitats⁴⁸. If there are protected species on-site then these should be approached and managed in the same way as they are currently. Biodiversity net gain is additional to this.
- 13.2 The government has indicated that secondary legislation will be used to disapply the 10% net gain requirement for irreplaceable habitat⁴⁹.
- 13.3 Irreplaceable habitats are currently described in the NPPF as those that would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. Examples include ancient woodland, ancient and veteran trees. (Further guidance is expected on the definition of irreplaceable habitats, and this should be referred to once published).

14.0 The Biodiversity Metric

- 14.1 The Biodiversity Metric is a habitat based calculation tool that is used to assess an area’s existing biodiversity value and changes in biodiversity value brought about by development or changes in land management.

⁴⁷ [Net gain impact assessment \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

⁴⁸ Lists of priority habitats and species in England (‘Section 41 habitats and species’) are published by the government: [Habitats and species of principal importance in England - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

⁴⁹ [Government response and summary of responses - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

- 14.2 Mandatory BNG will require the use of the latest version of the Biodiversity Metric. The current version is Biodiversity Metric 4.0, which was published by Natural England in March 2023⁵⁰. The expectation is that this will form the basis of the statutory Biodiversity Metric (or as subsequently amended).
- 14.3 Natural England also provides access to other documents, including User Guides and Technical Supplements, to support a competent person use the Biodiversity Metric calculation tool.
- 14.4 Competency is aligned with the British Standard ‘Process for designing and implementing Biodiversity Net Gain’ BS 8683:2021.
- “A competent person is 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.”*
- 14.5 To undertake a River Condition Assessment, assessors must be trained and accredited in the River Condition Assessment methodology.
- 14.6 The Biodiversity Metric and its outputs should be used alongside ecological expertise to inform proposals. A competent person will need to collect a range of data through desk top studies and site visits in order to complete the Biodiversity Metric.
- 14.7 The Biodiversity Metric considers direct impacts on habitats within the boundary of a project (in a planning context, this usually means within a red line boundary), using three types of biodiversity units, (area, hedgerow, and watercourse), which are calculated in three separate modules. Biodiversity units are a proxy for biodiversity and should be treated as relative values.
- 14.8 There are five rules which must be followed when applying the Biodiversity Metric: (1) competency requirements; (2) biodiversity unit outputs are unique to the metric and not comparable to other metrics; (3) trading rules; (4) losses and deterioration of irreplaceable or very high distinctiveness habitat cannot be accounted for through the metric; (5) deviation from the metric may only be permitted in exceptional ecological circumstances, were fully justified and evidenced, and permitted by the planning authority.
- 14.9 The ‘trading rule’, (rule 3), is automatically applied within the Biodiversity Metric, setting minimum habitat creation and enhancement requirements to compensate for specific habitat losses (up to the point of no net loss).
- 14.10 Losses and deterioration of irreplaceable habitat cannot be accounted for through the Biodiversity Metric (rule 4). These require separate consideration in compliance with relevant policy, legislation, and regulations. However, all irreplaceable habitats must be recorded in the irreplaceable habitats sheet within the Biodiversity Metric. Where there are no losses or deterioration of irreplaceable habitats, their enhancement may contribute to the calculation of biodiversity units.
- 14.11 Biodiversity Metric 4.0 incentivises habitat delivery on or close to the development site through a ‘Spatial Risk Multiplier’, which reduces the biodiversity value of habitats delivered further away from the development.

⁵⁰ [The Biodiversity Metric 4.0 - JP039 \(naturalengland.org.uk\)](https://www.naturalengland.org.uk)

Small Sites Metric

- 14.12 The Small Sites Metric (SSM) is a simplified version of Biodiversity Metric 4.0. It has been designed for use on small development sites. This means:
- For residential development - fewer than 10 residential units (no more than 9 units) on a site area less than 1 hectare; or when the number of residential units is not known, the site area is less than 0.5 hectares.
 - For non-residential development - where the floorspace to be created is less than 1,00sqm, or where the site area is less than 1 hectare.
- 14.13 However, the SSM cannot be used in certain circumstances, including where:
- Habitats not available in the SSM are present.
 - Priority habitats are within the development site (excluding some hedgerows and arable field margins – medium distinctiveness habitats).
 - Any statutory protected site habitats are within the development site.
 - European protected species are present on the development site.
 - Any off-site interventions are required.
- 14.14 The SSM is not a substitute for expert ecological advice and the developer is responsible for selecting a competent person for completing the SSM calculation. Users of the SSM should be competent in identifying habitats present on site (pre-development) and management requirements for habitats to be created or enhanced within the landscape design (post-development). Competency is aligned with BS 8683:2021, but the competent person for the SSM does not necessarily need to be an ecologist⁵¹.
- 14.15 If statutory protected sites or priority habitats are located within 500m of the development site boundary, consideration should be given to contacting an ecologist and using the main Biodiversity Metric.

15.0 Best practice

- 15.1 Demonstrating that best practice has been followed forms part of the government's (draft) biodiversity gain plan template.
- 15.2 BS 8683 is a British Standard that sets out a process for implementing biodiversity net gain. It is aimed at any class or scale of built environment development or land management, providing a framework to demonstrate that a project has followed a process based on UK-wide good practice. BS 8683 can be used to give confidence that processes are in place to help secure requirements relating to BNG outcomes, help evidence the satisfactory discharge of planning conditions, drive consistency across multiple projects, and demonstrate that an evidence and credible approach has been followed with robust processes in place⁵².
- 15.3 The Chartered Institute of Ecology and Environmental Management (CIEEM), the Construction Industry Research and Information Association (CIRIA), and the

⁵¹ Refer to the Small Sites Metric (Biodiversity Metric 4.0) User Guide on the Natural England website

⁵² [BS 8683:2021 | 31 Aug 2021 | BSI Knowledge \(bsigroup.com\)](#)

Institute of Environment Management and Assessment (IEMA), have published Good Practice Principles for Development (2016)⁵³ and Good Practice Principles for Development, A Practical Guide (2019)⁵⁴. The good practice principles are⁵⁵.

Principle 1: Apply the Mitigation Hierarchy

Principle 2: Avoid losing biodiversity that cannot be offset by gains elsewhere

Principle 3: Be inclusive and equitable

Principle 4: Address risks

Principle 5: Make a measurable Net Gain contribution

Principle 6: Achieve the best outcomes for biodiversity

Principle 7: Be additional

Principle 8: Create a Net Gain legacy

Principle 9: Optimise sustainability

Principle 10: Be transparent.

- 15.4 CIEEM has also published a framework for writing reports for projects that are aiming to achieve BNG, (Biodiversity Net Gain Report & Audit Templates, 2021)⁵⁶.

16.0 Land managers

- 16.1 Defra provides guidance for land managers⁵⁷. A land manager could be a landowner, a farmer, an estate owner, a local authority, a habitat bank operator, a facilities, property or estate manager, a land agent, or a land advisor.
- 16.2 A land manager can get paid for selling biodiversity units to a developer, through a habitat bank operator or broker, on a trading platform, or in partnership with a local authority. They may also go into partnership with other land managers to increase the area available for sale.
- 16.3 Biodiversity units cannot be sold if a land manager is already required to create or enhance habitat for restocking trees, remediation under environmental damage regulations⁵⁸, (or marine licensing).
- 16.4 A land manager will need to calculate how many biodiversity units it has using a qualified ecologist to carry out the calculation using the Biodiversity Metric.
- 16.5 Biodiversity units can be created before they are sold, this is called, 'habitat banking'.
- 16.6 A land manager will need to commit to managing the habitat for at least 30 years through a planning obligation with the planning authority, or a conservation covenant with a responsible body, and agree on a habitat management and monitoring plan (HMMP), with the local planning authority (or responsible body).

⁵³ [Biodiversity Net Gain: Good Practice Principles for Development. | CIEEM](#)

⁵⁴ [Biodiversity Net Gain: Good Practice Principles for Development, A Practical Guide. | CIEEM](#)

⁵⁵ Refer to the CIEEM website for further information

⁵⁶ [Biodiversity Net Gain Report and Audit Templates | CIEEM](#)

⁵⁷ [Sell biodiversity units as a land manager - GOV.UK \(www.gov.uk\)](#)

⁵⁸ [The Environmental Damage \(Prevention and Remediation\) \(England\) Regulations 2015 \(legislation.gov.uk\)](#)

- 16.7 A land manager will need to set a price for the biodiversity units, having considered matters such as management of the land for at least 30 years, monitoring and reporting requirements, ecologist or other experts' costs, insurance, costs to cover work if the habitat fails, machinery, tools, and other staff to carry out the tasks, inflation and market competition costs and the experts to review the legal agreement.
- 16.8 The land manager will need to agree with the developer, responsible body, or the local planning authority whether payment will be made as a lump sum, in staged payments or by results.
- 16.9 Biodiversity gain sites will need to be registered from November 2023. However, biodiversity units may be sold and allocated to a development before or after the biodiversity gain site has been registered.

17.0 Combining environmental payments

- 17.1 Nature markets provide a way for land managers to receive payment for making improvements that benefit nature, and Defra provides guidance for how certain environmental units or credits can be combined from a piece of land⁵⁹.
- 17.2 In summary, if land is used to undertake environmental projects, it may be possible to sell services as credits or units to different buyers. Stacking is when multiple credits or units from different nature markets⁶⁰ are sold separately from the same activity on a piece of land. A land manager may sell biodiversity units and nutrient credits⁶¹ to the same developer or different developers, provided they meet the eligibility criteria for each nature market.

18.0 Conservation covenants

- 18.1 Guidance on conservation covenants for landowners and responsible bodies is provided by Defra⁶². In summary, a conservation covenant is a private, voluntary agreement to conserve the natural or heritage features of an area of land. A covenant must be for the public good and have a conservation purpose. They can be used for varying reasons including to make payments for biodiversity net gain.
- 18.2 A conservation covenant agreement must be between a landowner and a responsible body, (such as a public body or charity, a private sector organisation where some of its main activities relate to conservation, or a local authority). The parts of a conservation covenant agreement, which set out what a landowner and responsible body must or must not do to help conserve the land, become legally binding as a covenant.
- 18.3 A conservation covenant agreement must be in writing, be clear and evident from its wording that it is intended by the landowner and responsible body to be a deed and be validly executed as a deed. It must describe what the landowner and responsible

⁵⁹ [Combining environmental payments: biodiversity net gain \(BNG\) and nutrient mitigation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/combining-environmental-payments-biodiversity-net-gain-bng-and-nutrient-mitigation)

⁶⁰ E.g., carbon sequestration, flood alleviation, nutrient credits

⁶¹ Nutrient mitigation makes sure new development does not add to nutrient loads in water bodies where habitat sites are in unfavourable condition. Credits can be created by reducing or capturing nutrients that would otherwise end up in protected water bodies

⁶² [Getting and using a conservation covenant agreement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/getting-and-using-a-conservation-covenant-agreement)

body will do to conserve the land (including restrictive obligations and / or positive obligations, and / or things that the landowner must allow the responsible body to do on the land). The agreement can also include other information, including ensuring that payment is made by one part to another, access and inspection arrangements to carry out surveys, review and monitor progress, how to deal with disputes, etc.

- 18.4 A covenant may last in perpetuity or for a specific period of time. For BNG, a covenant must run for at least 30 years.
- 18.5 The landowner and responsible body must register the conservation covenant on the appropriate local land charges register. Once a conservation covenant is created and registered, it will be legally binding on a future landowner or responsible body that takes on the covenant from another responsible body. Conservation covenant agreements do not over-ride pre-existing rights, obligations, restrictions or designations, e.g., to use common land, of statutory undertakers to inspect infrastructure, easements or restrictive covenants, public rights of way.
- 18.6 The responsible body for the conservation covenant will have responsibility for its enforcement.
- 18.7 Defra guidance states that relevant parties should seek their own independent legal advice.
- 18.8 Local authorities will not be automatically designated as responsible bodies. It will be for each local authority to decide whether or not to apply to become such a body.

19.0 The planning application process

- 19.1 Applicants are strongly encouraged to seek pre-application advice before making a planning application. This can help to avoid mistakes, (e.g., certain development will be exempt from the BNG requirement), save time and identify potential issues early on the planning process. Information on the council's pre-application service can be found on the council's website⁶³.
- 19.2 Applicants shall be responsible for ensuring that they have undertaken all relevant assessments and prepared the necessary documentation when submitting a planning application. The submission of a valid application requires a completed application form, compliance with national requirements, the correct application fee, and the provision of local information requirements⁶⁴.
- 19.3 It is understood that the national validation requirements will be amended so that applications for BNG related development proposals are accompanied by a certain minimum level of information.
- 19.4 Applications are validated as soon as practicable to allow the formal process of publicising and consulting on the application to begin. Sometimes delays occur if there are concerns about the validity of an application, and where this is an issue, the planning authority will contact the applicant or their agent. Applicants should however note that ecological / BNG information submitted as part of a planning application will

⁶³ [Pre-application advice \(planning applications\) – Welwyn Hatfield Borough Council \(welhat.gov.uk\)](#)

⁶⁴ [Making an application - GOV.UK \(www.gov.uk\)](#) Paragraph: 016 Reference ID: 14-016-20140306

not be reviewed by the authority's ecological advisors, where relevant, until after an application has been validated.

- 19.5 Once the application has been validated, consultation will be carried out and the planning authority will consider whether it can fully and properly consider all aspects of the application. If more information is needed, we may contact the applicant or their agent. In such circumstances it may also be necessary to agree an extension of time with the applicant so that a decision can be delayed to a future date, pending the receipt and consideration of the further information.
- 19.6 If however, during the course of considering an application, the local planning authority concludes the proposed development conflicts with planning policies, or a need to submit further information would lead to further consultation, this may result in an application being refused. We will explain the reason(s) for refusal in the decision notice. You may be able to overcome the reason(s) for refusal and before making a new application, you can seek pre-application advice.

Addressing the requirement for biodiversity net gain in a planning application

- 19.7 Applicants should refer to primary and secondary legislation and national guidance, which may be issued by ministerial departments such as the Department for the Environment, Food and Rural Affairs (Defra), the Department for Levelling Up, Housing and Communities, (DLUHC) or public bodies such as Natural England.
- 19.8 It is expected that secondary legislation will require developers to provide certain biodiversity gain information, in the form of a **BNG Statement**, (or biodiversity statement) alongside an application for planning permission.
- 19.9 The information required is likely to include the following:
- The pre-development biodiversity value,
 - The steps taken to minimise adverse biodiversity impacts,
 - The proposed approach to enhancing biodiversity on-site, and
 - Any proposed off-site biodiversity enhancements (including the use of credits) that have been planned or arranged for the development.
- 19.10 A submitted Biodiversity Metric must include all spreadsheets to evidence calculations and the summary outputs.
- 19.11 A full **biodiversity gain plan** (BGP) will also need to be submitted, either at the time a planning application is submitted, or after permission is granted but before development has commenced, (in accordance with the '*general condition of planning permission*').
- 19.12 A BGP is a more comprehensive document than a biodiversity statement, where the applicant demonstrates in further detail their biodiversity net gain proposals, and a planning authority can consider if the biodiversity gain objective has been met, (further information on BGPs is set out in section 11 of this Guidance Note).
- 19.13 Development cannot commence until the Local Planning Authority has approved the BGP.

- 19.14 It is strongly recommended that applicants use the most up to date available BGP template. At the time of writing, this is a Defra working draft, (January 2022). An updated version is expected to be issued.
- 19.15 Once the emerging Local Plan has been adopted, the requirement set out in (Further Main Modifications to) Policy SADM 16 for development to deliver a measurable biodiversity net gain of at least 10% will not apply to the type of development exceptions set out in the Environment Act 2021.
- 19.16 The policy will also not apply to the exemptions that the Secretary of State has indicated will be set out in regulations, (de-minimus area and linear habitats, householder applications, and biodiversity gain sites where habitats are being enhanced for wildlife).
- 19.17 The government also intends to exempt small scale self-build and custom housebuilding from mandatory BNG, although this is to be the subject of further definition.⁶⁵
- 19.18 It is intended that the emerging Local Plan policy requirement (as adopted) will apply to Small Sites from April 2024, consistent with the approach for the introduction of mandatory BNG.

On-site and off-site biodiversity gains

- 19.19 Further government guidance is awaited on what constitutes appropriate off-site biodiversity gains for a given development, but the government indicated in its 2023 consultation response⁶⁶ that it will continue to incentivise a preference for on-site gains over off-site gains, and incentivise local off-site provision in strategically significant locations, through the Biodiversity Metric, (subject to the review and evaluation of BNG in practice).
- 19.20 All on-site and off-site BNG provision should contribute to the delivery of Local Nature Recovery Strategies, (once these are available). In advance of the LNRS, applicants can use Hertfordshire Ecological Network (HEN) mapping, making a data enquiry with the Hertfordshire Ecological Records Centre (HERC), to identify where action to achieve net gain will have a beneficial impact, ensuring that habitats are integrated and connected to the wider ecological network.
- 19.21 Habitats should be resilient, providing the appropriate conditions for organisms to survive.

A sequential approach to BNG

- 19.22 To achieve the mandatory requirement for biodiversity net gain in a way that is consistent with the mitigation hierarchy set out in paragraph 180a of the NPPF and ensure that proposals will not result in an unacceptable local outcome for nature, including through the loss, isolation or fragmentation of habitats, it is recommended that the following sequential approach is applied:

⁶⁵ [Government response and summary of responses - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/government-response-and-summary-of-responses-to-the-consultation-on-biodiversity-net-gain)

⁶⁶ [Government response and summary of responses - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/government-response-and-summary-of-responses-to-the-consultation-on-biodiversity-net-gain)

- a) Negative biodiversity impact is avoided through site selection and / or the design and layout of the proposed development. Where negative impact cannot be avoided, the extent of the negative biodiversity impact is minimised.
- b) Measures are proposed to restore, enhance or create habitats within the application site in order to achieve at least 10% biodiversity net gain.
- c) Where it is not possible to deliver at least 10% biodiversity net gain either wholly or partly within the application site, or it can be robustly justified that on-site delivery would not result in the best outcome for nature, then suitable provision for the required biodiversity net gain is made off-site:
 - i. On a suitable receptor site, either adjoining or within reasonable proximity to the application site, where biodiversity requirements can be met within Welwyn Hatfield.
 - ii. On a suitable receptor site, either adjoining or within reasonable proximity to the application site, where biodiversity requirements can be met within a neighbouring local authority area.
- d) Where it is not possible to achieve at least 10% biodiversity net gain through appropriate on-site and / or off-site provision, statutory credits may be purchased from the government as a last resort.

19.23 In certain circumstances, it may be possible to deliver BNG through a combination of on-site, off-site and / or statutory credits provision, but an applicant must discuss this with an ecologist and demonstrate why one option cannot be used⁶⁷.

20.0 Securing on-site / off-site biodiversity net gain

- 20.1 Where the planning authority is satisfied that BNG of at least 10% can be achieved on-site, there will be no need to consider off-site measures. A biodiversity gain plan must be submitted setting out in sufficient detail how the BNG will be delivered, managed, monitored and reported upon. This must be approved by the planning authority before development can commence.
- 20.2 Where it is not possible to achieve BNG of at least 10% on-site and off-site provision is required (in part or full), the receptor site must be subject to the same assessment process, using the Biodiversity Metric to establish its pre and post development biodiversity unit value in order to calculate how many biodiversity units the receptor site can contribute as a compensatory measure. This must be sufficient to address the biodiversity gain requirement arising from the development site.
- 20.3 It is the applicant's responsibility to identify a suitable location for the delivery of off-site BNG.
- 20.4 To assist with this process, Hertfordshire the County Council has introduced a site matching service to help connect developers looking for suitable sites with local landowners selling BNG units. Further information about the service can be found on the County Council's website: [Biodiversity net gain \(BNG\) site matching service | Hertfordshire County Council](#)

⁶⁷ <https://www.gov.uk/guidance/understanding-biodiversity-net-gain>

- 20.5 Where off-site provision of BNG is agreed by the local planning authority, this will need to be secured by the use of either a Planning Obligation or a Conservation Covenant in order to secure the habitat enhancements set out in the BGP, ensuring that the net gain is appropriately managed and monitored for at least 30 years, and that reporting requirements are satisfied. (Such agreements will be binding on successors in title).

21.0 Monitoring and Compliance

- 21.1 Habitat monitoring (the delivery of the habitat) is the responsibility of the developer or the person securing the habitat, details of which should be set out in the biodiversity gain plan and the habitat management and monitoring plan.
- 21.2 Defra is considering standardised reporting arrangements through the use of a template. Natural England has developed (and have been testing) a Habitat Management and Monitoring Plan template. Once these templates are made available, it is strongly recommended that they are used.
- 21.3 The number of monitoring assessments and reports will depend on the habitat type and extent, but a typical schedule for a medium sized habitat creation project may result in assessments and reports for years 2, 5, 10, 20 and 30. As a minimum, monitoring reports should include information on habitat type, extent, and condition (with a comparison, where applicable, against the expected condition).
- 21.4 The planning authority will set out any specific and proportionate monitoring requirements in planning conditions or planning obligations used to secure off-site habitat enhancements or significant on-site habitat enhancements. National planning practice guidance allows local planning authorities to charge a monitoring fee through S106 planning obligations to cover the cost of monitoring and reporting on delivery of S106 obligations, for the lifetime of that obligation⁶⁸.
- 21.5 Where off-site habitat enhancements are secured through the use of conservation covenants, the responsible body must monitor everything the landowner has agreed to in the conservation covenant to make sure that the landowner is carrying out the conservation covenant. A responsible body must have the resources, skills and expertise needed to monitor and enforce agreements. Landowners should monitor any actions the responsible body has agreed to do.
- 21.6 Monitoring reports should be submitted to the planning authority (always), the registered operator (if off-site habitat is included), and to the relevant responsible body (if a conservation covenant is used).

Data sharing

- 21.7 In order to strengthen the local evidence base, applicants are strongly encouraged to share ecological survey data (baseline and monitoring) with the Hertfordshire Environmental Records Centre (the Defra draft BGP template seeks information on such data sharing).

⁶⁸ [Planning obligations - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

Enforcement

- 21.8 It should be noted that failure to deliver, or attempt to deliver, biodiversity net gain outcomes which have been secured with conditions subject to which planning permission has been granted, may result in enforcement action being taken by the planning authority. Where a restriction or requirement imposed under a planning obligation has been breached, this is enforceable by injunction.
- 21.9 The Environment Act 2021 makes provision for the breach, enforcement and defences to the breach of obligation under a conservation covenant.

