

**Classification:** Public

**Key Decision:** No

### Gravesham Borough Council

**Report to:** Climate Change Advisory Board

**Date:** 3 April 2023

**Reporting officer:** Assistant Director (Planning)

**Subject:** Biodiversity Net Gain

#### Purpose and summary of report:

To provide the Climate Change Advisory Board with a briefing on Biodiversity Net Gain (BNG) including additional information provided by Government in their response to the 2022 consultation on biodiversity net gain regulations and implementation as published on 21 February 2023

#### Recommendations:

This is an information only report.

Key Implications:	
Item	Implications
Legal	<p>Information only report</p> <p>The Environment Act sets out the following key components of mandatory biodiversity gain:</p> <ul style="list-style-type: none"><li>▪ Amends Town &amp; Country Planning Act (TCPA);</li><li>▪ Minimum 10% gain required calculated using the Biodiversity Metric &amp; approval of a biodiversity gain plan;</li><li>▪ Habitat secured for at least 30 years via planning obligations or conservation covenants;</li><li>▪ Delivered on-site, off-site or via a new statutory biodiversity credits scheme; and</li><li>▪ National register for net gain delivery sites.</li></ul> <p>It does not change existing legal protections for important habitats and wildlife species. It maintains the mitigation hierarchy of avoid impacts first, then mitigate and only compensate as a last resort.</p>
Finance and Value for Money	<p>Information only report</p> <p>The government provided £4.18 million of funding to local government alongside the January 2022 consultation to provide support to prepare for mandatory BNG. This funding was distributed to local authorities in England in 2022. As responses to the consultation highlighted that concerns remain in relation to local authority capacity, the Government confirmed that they will</p>

	<p>be providing up to £16.71 million of funding for Local Planning Authorities (LPAs) to prepare for mandatory net gain between now and November 2023.</p> <p>Gravesham Borough Council has been allocated a grant of £26,807 for BNG preparation work carried out in 2022/23 and, provisionally, £15,638 for April-October 2023/24. The funding allocated for 2023/24 is provisional at this stage as it relates to a future financial year.</p> <p>The offer of Grant Funding is dependent on the authority confirming acceptance of the grant conditions.</p>
<b>Corporate Plan</b>	Information only report.
<b>Climate Change</b>	<p>Information only report</p> <ul style="list-style-type: none"> <li>▪ BNG can help mitigate climate change through the restoration and protection of nature. For example, additional woodland creation will help take more carbon dioxide out of the atmosphere.</li> <li>▪ BNG can help communities adapt to climate change by increasing resilience to extremes of weather, including heatwaves and flooding. For example, green and blue spaces, such as woodlands, parks and rivers, can provide localised shading and cooling effects, whilst green roofs, street trees and other vegetated surfaces can help reduce flood risk in urban areas.</li> </ul>

## 1. What is biodiversity net gain?

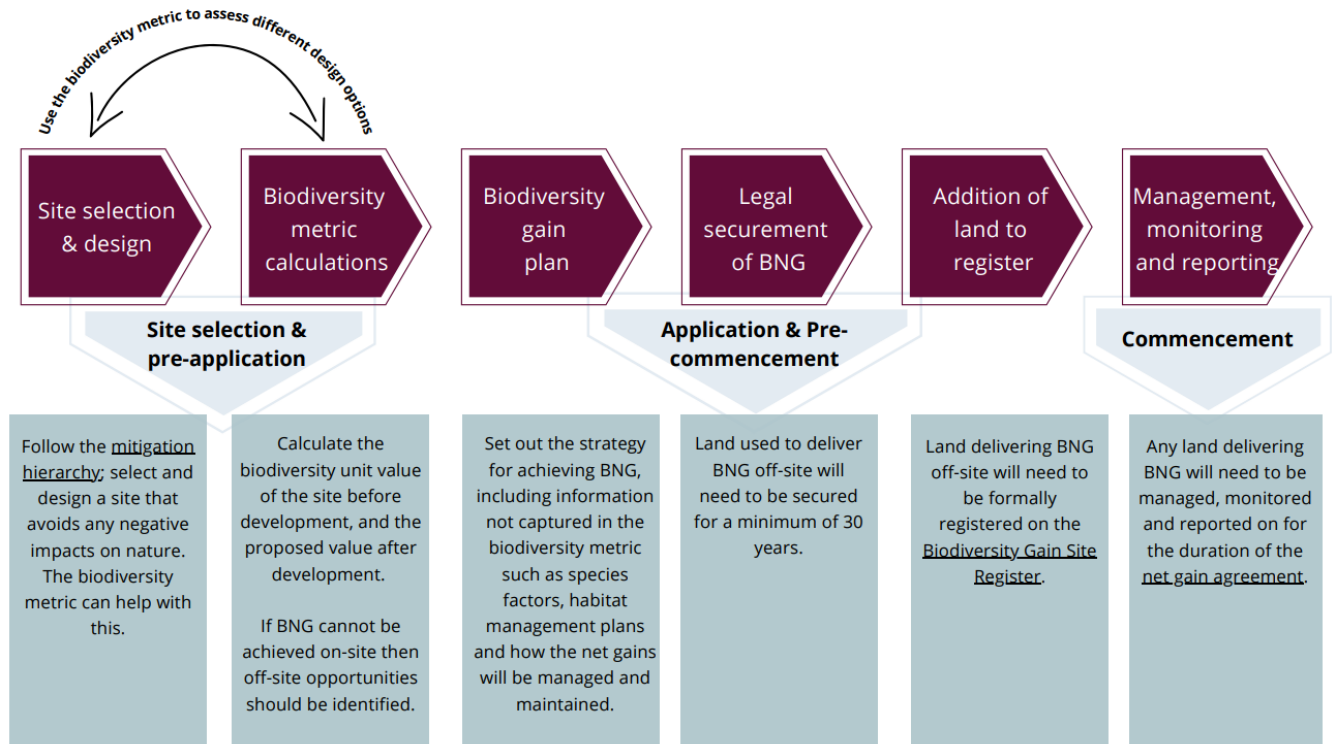
- 1.1 Biodiversity net gain (BNG) is an approach to development, and/or land management, that aims to leave the natural environment in a measurably better state than it was beforehand.
- 1.2 The word 'biodiversity' comes from the term 'biological diversity'. It refers to the variety of all living organisms, including animals, insects, plants, bacteria and fungi.
- 1.3 Biodiversity net gain delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development. Biodiversity net gain can be achieved on-site, off-site or through a combination of on-site and off-site measures.
- 1.4 Natural England have also produced a Biodiversity Net Gain brochure, which provides an overview of BNG and its benefits.
- 1.5 The brochure includes the following foreword from Natural England's Chief Executive:
- 1.6 "As the twin climate and ecological crises deepen there is an increasing need to accelerate nature recovery, for our planet, our wildlife and our communities. Biodiversity net gain offers a new route for development of homes, businesses and infrastructure to play its part in enabling nature to thrive, and to deliver nature-based solutions to climate change, water and air quality and flood risks. It can also

help level up access to nature and provide accessible green space on the doorstep of new homes and further afield."

- 1.7 Currently, although certain sites are protected, there are limited mechanisms to value, maintain, enhance or create wider habitats. As a result, habitats continue to be lost to development, reducing nature's ability to connect and thrive.
- 1.8 BNG is additional to existing habitat and species protections. Intended to reinforce the mitigation hierarchy, BNG aims to create new habitat as well as enhance existing habitats, ensuring the ecological connectivity they provide for wildlife is retained and improved

## 2. Calculating biodiversity value

- 2.1 Demonstrating BNG requires an approach to measuring biodiversity. The Biodiversity Metric is a habitat based approach to determining a proxy biodiversity value developed by Natural England. The Biodiversity Metric is designed to provide ecologists, developers, planners and other interested parties with a means of assessing changes in biodiversity value (losses or gains) brought about by development or changes in land management. Mandatory BNG will require use of the latest version of the Biodiversity Metric (the most recent version is 3.1 as published in April 2022).
- 2.2 The metric uses changes in the extent and quality of habitats as a proxy for nature and compares the habitat found on a site before and after development.
- 2.3 Four key factors underpin this comparison:
  - **Habitat size** - How large or small is the habitat?
  - **Habitat condition** - How well is the habitat functioning, compared to one in full working order?
  - **Habitat distinctiveness** - Is the habitat of particular ecological importance?
  - **Strategic significance of location** - Is the habitat a local priority or located in a priority area for habitat creation/enhancement
- 2.4 The guidance advises that the biodiversity metric should be used early in the design process to quantify and evaluate the impacts of different design options, when there is more scope to influence design changes to achieve better ecological outcomes.



### 3. Delivery of Biodiversity Net Gain

- 3.1 From November 2023, Biodiversity Net Gain will be a mandatory requirement for any new housing, commercial and infrastructure developments. This means that, as a condition of planning permission, any new development must demonstrate a net gain of a minimum of 10% of the biodiversity value on the site, measured using Defra's Biodiversity Metric.
- 3.2 As shown in the earlier diagram, developers must try to avoid loss of habitat as part of their development proposals. Habitats directly affected within the boundary of a development will need to be replaced on a 'like for like' or 'like for better' principle, with developers required to demonstrate how they are replacing and improving biodiversity using 'biodiversity metric trading' rules.
- 3.3 If they cannot do this, they must create habitat either on-site or off-site. On-site means on the land the development work is on, whilst off-site is either land owned by the developer away from the development site, or units bought by the developer from a land manager.
- 3.4 If the developer cannot use on-site or off-site land, there will be the option to buy statutory credits from the Government. However, this will be considered as a last resort with a higher burden of evidence for using this option. The Government will invest in habitat creation elsewhere in England.
- 3.5 The Government have advised that developers may be able to combine all 3 options to make up their BNG.
- 3.6 The Local Planning Authority have to approve a biodiversity net gain plan for the development before it can start.

#### **4. Implementation**

- 4.1 As well as confirming certain exemptions (such as self-build / custom housebuilding and householder planning applications), the Government's consultation response included a statement confirming a six-month delay for implementing BNG on small sites until April 2024. It was described as a phased introduction to adapt to the new rules.
- 4.2 For the purposes of the deferral, a small residential site is defined in the statement as one providing less than 10 dwellings on a site smaller than 1 hectare. For non-residential schemes, a small site is defined as where the floor space that is to be created is less than 1000m<sup>2</sup> or where the site area is less than one hectare.
- 4.3 This means that BNG will apply from November 2023 for developments in the Town and Country Planning Act 1990, unless exempt. It will apply to small sites from April 2024

#### **5. Appendices**

- 5.1 There are no appendices.

#### **6. Background Documents**

- 6.1 There are no background documents.

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<b>Secondary Implications</b>	
<b>Risk Assessment</b>	N/A– this is an information only report.
<b>Data Protection Impact Assessment</b>	<i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i>
	<p>a. Does the project/change being recommended through this paper involve the processing of <a href="#">personal data</a> or <a href="#">special category data</a> or <a href="#">criminal offence data</a>? A definition of each type of data can be found on the Information Commissioner’s Office website via the above links. N/A</p>
	<p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? N/A</p>
	<p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at <a href="mailto:gdpr@medway.gov.uk">gdpr@medway.gov.uk</a>. N/A</p>
<b>Equality Impact Assessment</b>	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. N/A</p>
	<p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. N/A</p>
	<i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i>
<b>Crime and Disorder</b>	N/A– this is an information only report.
<b>Digital and website implications</b>	N/A– this is an information only report.
<b>Safeguarding children and vulnerable adults</b>	N/A– this is an information only report.