

MHCLG Guidance Review July 2019 Biodiversity, geodiversity and ecosystems

All too often we are faced with subtle tweaks to Government guidance, which have little or no effect upon how we go about our professional business. The changes issued on Sunday 21 July 2019 appear to be quite far-reaching and extensive, but will they make a difference to how we undertake our assessments or plan our development from a biodiversity perspective?

The most noticeable change to the guidance is the addition of an entirely new section covering biodiversity net gain, bringing it in line with the revised National Planning Policy Framework (June 2019) following a commitment to mandate net gain for biodiversity in the Environment Bill back in spring. The idea of biodiversity net gain is to leave the environment in a 'measurably better state' following development; a simple concept. However, the requirement for net gain to be 'measurable' has somewhat complicated matters, with the revised guidance providing further clarity on the use of biodiversity metrics to objectively calculate net biodiversity losses and gains.

From a practical point of view, this means that most planning applications will require submission of a biodiversity metric alongside an ecology report, and the design of the site will need to be such that net gain is demonstrated in the metric. The system is not without difficulties, with the standardisation of the metric itself still in development. The latest 'beta test' version of the [Biodiversity Metric 2.0](#) was released by Natural England on Monday 29 July – and our initial review suggests significant variation between this and other regional calculators.

Another significant inclusion within the revised guidance relates to determining the biodiversity baseline of a development site when assessing biodiversity net gain – typically this requires for the existing biodiversity value of a development site to be assessed at the point of applying for planning permission. However, the guidance also highlights the need to consider whether any deliberate harm to site biodiversity has taken place in the recent past, and if so, whether such actions should be discounted when calculating the biodiversity value of a site pre-development.

All other revisions are otherwise relatively minor, deleting reference to the Biodiversity 2020 strategy and replacing it with the 25 Year Environment Plan, which also promotes net gain and the need for biodiversity networks.

However, changes beyond the Biodiversity, Geodiversity and Ecosystems section should also be noted within the [Agricultural Land, Soil and Brownfield Land of Environmental Value](#) and [Trees and Woodland](#) sections of the revised guidance. With respect to the former, the update guidance highlights a requirement to more fully determine the ecological value of brownfield land given their potential to support priority habitats of principal importance. With respect to the latter, guidance from Forestry Commission and Natural England standing advice is included, highlighting in particular that any such loss or deterioration of ancient woodland or ancient/veteran trees should only be in 'wholly exceptional circumstances', with their existing condition not being a factor in the decision-making process. The PPG also contains an entirely new section considering the National Forest and Community Forests. The policy now makes suggestions that new development should "contribute to the creation and emerging character of the Forests" and pave the way for a financial contribution of some kind in those areas.

Is there a statutory basis for planning seeking to seek to minimise impacts on conserve and enhance biodiversity and provide net gains in biodiversity where possible?

Yes. Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by government in its Biodiversity 2020 strategy 25 Year Environment Plan.

Guidance on statutory obligations the law concerning designated sites and protected species is published separately because its application is wider than planning and links are provided to external guidance. Local planning authorities should take a pragmatic approach. In applying this, the aim should be to fulfil statutory obligations in a way that minimises delays and burdens.

The National Planning Policy Framework is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution.

See related policy:

- paragraph 8
- paragraph 11
- paragraph 170
- paragraph 175
- paragraph 117

Paragraph: 009 Reference ID: 8-009-20190721

Revision date: 21.07.2019

How should local **can planning authorities** set about planning **plan for biodiversity and geodiversity?**

Local and neighbourhood **Development plans and planning decisions** have the potential to affect biodiversity or geodiversity outside as well as inside **relevant** designated areas of importance for biodiversity or geodiversity. Local planning.

Planning authorities and neighbourhood planning bodies should therefore seek opportunities to **can work** collaboratively with other partners, including Local Nature Partnerships, to develop and deliver a strategic approach to protecting and improving the natural environment based on local priorities and evidence. Equally, they should **need to consider** the opportunities that individual development proposals may provide to **conserve and enhance biodiversity and geodiversity, and contribute to wildlife and habitat connectivity in the wider area.** In considering how development can affect biodiversity, and how biodiversity benefits could be delivered through (including as part of the **planning system, it is useful to consider: Nature Recovery Network**).

In this context, it is useful to consider:

- the **latest government policies and that are relevant, including the commitments in Biodiversity 2020 the 25 Year Environment Plan;**
- the contents of any **existing up-to-date plans and strategies for biodiversity strategies covering the relevant local or neighbourhood plan area and any local biodiversity action plans nature recovery;**
- the potential effects of a development on the habitats or species on the Natural Environment and Rural Communities Act 2006 section 41 list (in **Biodiversity 2020**);
- whether an ecological survey is appropriate;
- the factors listed in guidance on **opportunities to restore or enhance local ecological networks, including those that supports National Planning Policy Framework paragraph 117. contribute to the wider Nature Recovery Network;**
- The statutory obligations in regard **how to international and national designated sites of importance secure net gains for biodiversity must also be considered as part of green infrastructure provision; and**
- opportunities to work strategically in order to streamline development decisions: for example, by establishing a 'zone of influence' around protected sites.

Paragraph: 010 Reference ID: 8-010-20190721

Revision date: 21.07.2019

What are local ecological networks and what evidence should needs to be taken into account in identifying and mapping them-local ecological networks?

The components of an ecological network are explained at section 2.12 of the Natural environment white paper.

Relevant evidence in identifying and mapping local ecological networks includes **can include:**

- the broad geological, geomorphological and bio-geographical character of the area, creating its main landscapes types;
- key natural systems and processes within the area, including fluvial and coastal;

- the location and extent of internationally, nationally and locally designated sites;
- the distribution of protected and priority habitats and species;
- areas of irreplaceable natural habitat, such as ancient woodland or limestone pavement, the significance of which may be derived from habitat age, uniqueness, species diversity and/or the impossibilities of re-creation;
- habitats where specific land management practices are required for their conservation;
- main landscape features which, due to their linear or continuous nature, are important for the support migration, dispersal and genetic exchanges of plants and animals gene flow, including any potential for new habitat corridors to link any isolated sites that hold nature conservation value, and therefore improve species dispersal distribution;
- areas identified by national or local partnerships with potential for habitat enhancement or restoration, including those necessary to help biodiversity adapt to climate change or which could assist with the habitats shift and species migrations arising from climate change;
- an audits of green infrastructure, such as open space within built urban areas and where new development is proposed;
- information on the biodiversity and geodiversity value or previously developed sites land and the opportunities for incorporating this in developments; and
- areas of geological value which would benefit from enhancement and management.

Local Nature Partnerships and similar partnerships working to conserve wildlife can be a useful source of information for existing ecological networks.

*Paragraph: 011 Reference ID: 8-011-20190721
Revision date: 21.07.2019*

How do local ecological networks relate to the Nature Recovery Network?

As set out in the Government's 25 Year Environment Plan, the Nature Recovery Network is an expanding and increasingly-connected network of wildlife-rich habitat across England. It comprises a core network of designated sites of importance for biodiversity and adjoining areas that function as stepping stones or wildlife corridors, areas identified for new habitat creation and up to 25 nature recovery areas for targeted action. Defra, Natural England and other government bodies are working with national and local partnerships to deliver the Network, which includes support for developing maps and advice to show where actions to improve and restore habitats would be most effective.

Local ecological networks can make a significant contribution to developing the Nature Recovery Network. Local ecological networks can be identified and mapped as a part of the plan-making process, with policies identifying appropriate levels of protection and opportunities to create, restore or enhance habitats or improve connectivity.

*Paragraph: 012 Reference ID: 8-012-20190721
Revision date: 21.07.2019*

How can plan-making bodies identify and safeguard Local Wildlife Sites and Local Geological Sites?

Locally designated 'Local Wildlife Sites' and 'Local Geological Sites' are areas of substantive nature conservation value and make an important contribution to ecological networks and nature's recovery. They can also provide wider benefits including public access (where agreed), climate mitigation and helping to tackle air pollution. They can be in rural, urban or coastal locations, can vary considerably in size, and may comprise a number of separate sites.

National planning policy expects plans to identify and map these sites, and to include policies that not only secure their protection from harm or loss but also help to enhance them and their connection to wider ecological networks.

Local planning authorities can take a lead in establishing and maintaining partnerships and systems to identify, manage, enhance and safeguard local sites. The positive engagement and co-operation of land owners and their representative bodies can contribute significantly to the success of these partnerships.

All local sites partnerships need to use clear and locally defined site selection criteria with measurable thresholds. For example, where a particular habitat is especially scarce, it may be appropriate to adopt a lower threshold for selection than would be appropriate for other natural areas so that a suitable range of sites is protected. Selection criteria need to be developed with reference to the standard criteria in the following question, with all sites that meet the relevant criteria (informed by detailed ecological surveys and expertise) then being selected.

Paragraph: 013 Reference ID: 8-013-20190721

Revision date: 21.07.2019

What are the Standard Criteria for Local Wildlife Sites?

Size or extent: Larger sites are important for supporting viable populations of species, but smaller sites can be important as part of a larger habitat resource dispersed across the landscape. Smaller sites can be particularly valuable in areas lacking natural greenspace.

Diversity: Sites should seek to reflect the diversity of wildlife, habitats, geological or geomorphological features that characterise the area.

Naturalness: The degree to which a site supports natural features, including rock exposures revealing underlying geology, or demonstrates active or past natural processes

Rare or exceptional feature: Sites should comprise habitats or geological or geomorphological features that are rare or exceptional in the area. The local loss of a rare species or habitat may result directly in the reduction in its wider geographical range. Geological sites are often unique, formed in environments and processes that no longer exist, and their loss removes part of our understanding of the geological history of an area.

Fragility: Some habitats and geological features are more sensitive to change and are at greater risk of being lost or damaged due to the direct or indirect impacts of climate change, human activities or other influences

Typicalness: Areas that exemplify a type of habitat, geological feature, or a population of a species, that is characteristic of the natural components of the landscape in which they are found.

Recorded history and cultural associations: Sites with links to land-use, industrial and cultural history, historic events, literary or other associations in art, and the history of natural environment research can reveal environmental change over time, changes in the use of natural resources or changes in perception of the natural environment.

Connectivity within the landscape: Species may require habitat comprised of dispersed areas which are accessible and part of a functional network. Individual sites (both wildlife and geological) need to be considered in terms of the contribution they make to wider ecological networks.

Value for appreciation of nature and for learning: Sites can provide opportunities for local educational use, enabling people of all ages to learn about, better understand, experience and enjoy local wildlife and geology. Sites with less intrinsic interest may be of nature conservation value for the opportunities they provide for the appreciation of nature. Sites may also provide opportunities for ecological or geological research.

Paragraph: 014 Reference ID: 8-014-20190721

Revision date: 21.07.2019

How can evidence information on ecology be gathered and kept up to date?

A Local Record Centre can be an effective mechanism for facilitating access to environmental information which may be held across many public and voluntary organisations. Such centres provide a one-stop information source, often serving a specific county or grouping of local authorities. Their main function is to collate, manage and disseminate biodiversity information but they also hold other types of environmental data and can also advise on evidence gathering. The local planning authority can provide contact details if it supports a Local Record Centre.

The Multi-Agency Geographic Information for the Countryside (MAGIC) website also provides a range of geographical information on the natural environment from across government.

The local planning authority can provide contact details if it supports a Local Record Centre.

Paragraph: 015 Reference ID: 8-015-20190721

Revision date: 21.07.2019

What are the legal obligations on local planning authorities and developers regarding European sites designated under the Birds or Habitats Directives, protected species and Sites of Special Scientific Interest?

Updated guidance on the law affecting European sites, protected species and Sites of Special Scientific Interest is being prepared by Defra and will replace the advice set out in Circular 06/05: biodiversity and geological conservation.

See related policy:

- Paragraph 170

How can protected and priority species be considered in planning?

Planning authorities need to consider the potential impacts of development on protected and priority species, and the scope to avoid or mitigate any impacts when considering site allocations or planning applications. Guidance on the law affecting Habitats Sites, protected species and SSSIs.

Natural England has issued standing advice on protected species. A protected species mitigation licence from Natural England may be required before any work can start.

Natural England is working with local partners to develop strategic mitigation approaches to address the impacts of development on certain protected species such as great crested newts.

Paragraph: 016 Reference ID: 8-016-20190721

Revision date: 21.07.2019

How can are ecosystems services be taken into account in planning?

The National Planning Policy Framework states that the planning system should recognise the wider benefits of ecosystem services. Information about [Guidance on ecosystems services](#) is in Biodiversity 2020: A strategy for England's biodiversity and (the benefits people obtain from ecosystems services. An Introductory guide to valuing, such as food, water, flood and disease control and recreation) and using an ecosystems services has also been published by Defra along with a practice guide, which could approach is available. This guidance can, where appropriate, inform plan-making and decision-making on planning applications. The National pollinator strategy: for bees and other pollinators in England is a 10-year plan to protect pollinating insects which support our food production and the diversity of our environment.

See related policy:

- paragraph 170

Paragraph: 017 Reference ID: 8-017-20190721

Revision date: 21.07.2019

How can biodiversity and geodiversity should biodiversity be taken into account in preparing a planning application?

Information on biodiversity and geodiversity impacts and opportunities should needs to inform all stages of development (including, for instance, site selection and design including any, pre-application consultation as well as and the application itself). An ecological survey will be necessary in advance of a planning application if the type and location of development are such that the could have a significant impact on biodiversity may be significant and existing information is lacking or inadequate. Pre-application discussions can help to scope whether this is the case and, if so, the survey work required.

~~Where~~ **Even where** an Environmental Impact Assessment is not needed, it might still be appropriate to undertake an ecological survey, for example, where protected species may be present. ~~Separate guidance is to be published by Defra on statutory obligations in regard to protected species which will replace the advice set out in Circular 06/05: biodiversity and geological conservation~~ **or where biodiverse habitats may be lost.**

~~Local~~ **As with other supporting information, local** planning authorities should **only require ecological surveys only where clearly justified**, for example if they consider there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity. Further guidance on information requirements is set out in making an application.

Planning conditions, legal agreements or undertakings may be appropriate in order to provide for monitoring and/or biodiversity management plans where these are needed.

Paragraph: 018 Reference ID: 8-018-20190721

Revision date: 21.07.2019

How can development not only protect but also enhance biodiversity?

Biodiversity maintenance and enhancements through the planning system have the potential to make a significant contribution to the achievement of Biodiversity 2020 targets.

Biodiversity enhancement in and around development should be led by a local understanding of ecological networks, and should seek to include:

- ~~habitat restoration, re-creation and expansion;~~
- ~~improved links between existing sites;~~
- ~~buffering of existing important sites;~~
- ~~new biodiversity features within development; and~~
- ~~securing management for long term enhancement.~~

Paragraph: 017 Reference ID: 8-017-20140306

Revision date: 06.03.2014

What questions ~~should be considered~~ are important in applying policy to avoid, mitigate or compensate for significant harm to biodiversity?

The following questions are relevant when applying the 'mitigation hierarchy' at paragraph 175 of the National Planning Policy Framework:

Information

- ~~In cases where biodiversity may be affected, is any further information needed to meet statutory obligations as signposted in guidance published by Defra/Natural England~~
- ~~Where an Environmental Impact Assessment has been undertaken, what evidence on ecological effects has already been provided in the Environmental Report and is this sufficient without having to undertake more work?~~
- **In cases where biodiversity may be affected, is any further information needed to meet statutory obligations and/or policy obligations (including Ramsar Sites and Local Wildlife Sites) as signposted in guidance published by Defra/Natural England.**
- **Is the significance of the effects clear? And**
- **Is relevant internal or external expertise available?**

Avoidance ~~can~~

Can significant harm to wildlife species and habitats be avoided: for example ~~through~~ **by** locating on an alternative site with less harmful impacts?

Mitigation ~~where~~

Where significant harm cannot be wholly or partially avoided, can it be minimised by design or by the use of effective mitigation measures that can be secured by, for example, conditions or planning obligations?

Compensation –where

Where, despite whatever mitigation would be effective, there would still be significant residual harm, as a last resort, can this be properly compensated for by measures to provide for an equivalent or greater value of biodiversity?

Where a development cannot satisfy the requirements of the 'mitigation hierarchy', planning permission should be refused as per indicated in paragraph 175 of the National Planning Policy Framework.

Paragraph: 019 Reference ID: 8-019-20190721

Revision date: 21.07.2019

Where significant harm to biodiversity is unavoidable, how can mitigation or compensation measures be ensured?

The usual means to ensure that mitigation or compensation measures are secured is through planning conditions or planning obligations, depending on circumstances.

Where compensation is required a number of avenues have been available. The applicant might offer a scheme tailored to the specific context, or consider the potential for biodiversity offsetting with the local planning authority.

Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for residual adverse biodiversity impacts arising from a development after mitigation measures have been taken. The goal of biodiversity offsets is to achieve no net loss and preferably a net gain of biodiversity.

Special compensation considerations apply in the case of sites protected by the European Habitats and Wild Birds Directives. If harm to such sites is to be allowed (because there are no alternatives and 'imperative reasons of overriding public interest' can be shown) the Directive requires that all necessary compensatory measures are taken to ensure the overall coherence of the network of European sites as a whole is protected.

Net gain

What is net gain?

Net gain in planning describes an approach to development that leaves the natural environment in a measurably better state than it was beforehand. Net gain is an umbrella term for both biodiversity net gain and wider environmental net gain.

Paragraph: 020 Reference ID: 8-020-2019072120140306

Revision date: 21.07.2019 06.03.2014

How can plans encourage net gain?

Plans, and particularly those containing strategic policies, can be used to set out a suitable approach to both biodiversity and wider environmental net gain, how it will be achieved, and which areas present the best opportunities to deliver gains. Such areas could include those identified in: natural capital plans; local biodiversity opportunity or ecological network maps; local green infrastructure strategies; strategic flood risk assessments; water cycle studies; air quality management plans; river basin management plans; and strategic protected species licensing areas. Consideration may also be given to local sites including where communities could benefit from improved access to nature.

Paragraph: 021 Reference ID: 8-021-20190721

Revision date: 21.07.2019

What is biodiversity net gain?

The National Planning Policy Framework encourages net gains for biodiversity to be sought through planning policies and decisions. 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. It may help local authorities to meet their duty under Section 40 of the Natural Environment and Rural Communities Act 2006.

Paragraph: 022 Reference ID: 8-022-20190721

Revision date: 21.07.2019

How can biodiversity net gain be achieved?

Planning conditions or obligations can, in appropriate circumstances, be used to require that a planning permission provides for works that will measurably increase biodiversity. An applicant may also propose measures to achieve biodiversity net gain through a unilateral undertaking. The work involved may, for example, involve creating new habitats, enhancing existing habitats, providing green roofs, green walls, street trees or sustainable drainage systems. Relatively small features can often achieve important benefits for wildlife, such as incorporating 'swift bricks' and bat boxes in developments and providing safe routes for hedgehogs between different areas of habitat.

Benefits could be achieved entirely on-site or by using off-site gains where necessary. Off-site measures can sometimes be secured from 'habitat banks', which comprise areas of enhanced or created habitats which generate biodiversity unit 'credits'.

Care needs to be taken to ensure that any benefits promised will lead to genuine and demonstrable gains for biodiversity. Discussions with local wildlife organisations can help to identify appropriate solutions, and tools such as the Defra biodiversity metric can be used to assess whether a biodiversity net gain outcome is expected to be achieved. Planning authorities need to make sure that any evidence and rationale supplied by applicants are supported by the appropriate scientific expertise and local wildlife knowledge.

When assessing opportunities and proposals to secure biodiversity net gain, the local planning authority will need to have regard to all relevant policies, especially those on open space, health, green infrastructure, Green Belt and landscape. It will also be important to consider whether provisions for biodiversity net gain will be resilient to future pressures from further development or climate change, and supported by appropriate maintenance arrangements.

Paragraph: 023 Reference ID: 8-023-20190721

Revision date: 21.07.2019

How does biodiversity net gain fit with the mitigation hierarchy?

Biodiversity net gain complements and works with the biodiversity mitigation hierarchy set out in NPPF paragraph 175a. It does not override the protection for designated sites, protected or priority species and irreplaceable or priority habitats set out in the NPPF. Local planning authorities need to ensure that habitat improvement will be a genuine additional benefit, and go further than measures already required to implement a compensation strategy.

Paragraph: 024 Reference ID: 8-024-20190721

Revision date: 21.07.2019

How can biodiversity net gain be calculated?

Using a metric is a pragmatic way to calculate the impact of a development and the net gain that can be achieved.

The biodiversity metric can be used to demonstrate whether or not biodiversity net gain will be achieved. It enables calculation of losses and gains by assessing habitat:

- distinctiveness: whether the type of habitat is of high, medium or low value to wildlife.
- condition: whether the habitat is a good example of its type.
- extent: the area that the habitat occupies.

The information needed to populate this metric is taken from habitat surveys of the site before development and any related habitat clearance or management, and for the habitats proposed within the development as well as any additional habitat improvement off-site. The metric translates habitat distinctiveness, condition and extent into a score which is presented in biodiversity units. It also uses multipliers to account for risks in delivering habitat creation or enhancement. To achieve net gain, a development must have a sufficiently higher biodiversity unit score after development than before development.

Paragraph: 025 Reference ID: 8-025-20190721

Revision date: 21.07.2019

What is the baseline for assessing biodiversity net gain?

The existing biodiversity value of a development site will need to be assessed at the point that planning permission is applied for. It may also be relevant to consider whether any deliberate harm to this biodiversity value has taken place in the recent past, and if so whether there are grounds for this to be discounted in assessing the underlying value of the site (and so whether a proposal would achieve a genuine gain).

There are laws to protect important sites and species from harm, for which Natural England have enforcement powers. In addition, the felling of trees requires a Forestry Commission licence in most cases before felling can commence. There may be a penalty or requirement to restock if felling occurs without this. There are some exemptions relating to the location, volume and diameter of a tree, and an exemption for felling which is immediately required for the purpose of development authorised by a planning permission.

Paragraph: 026 Reference ID: 8-026-20190721

Revision date: 21.07.2019

How can biodiversity net gain be a lasting value?

New or improved habitat needs to be located where it can best contribute to local, national and international biodiversity restoration, including the Nature Recovery Network proposed in the 25 Year Environment Plan, locally identified ecological or green infrastructure networks and biodiversity opportunity areas. Providing biodiversity net gain close to where people live can improve access to nature and bring health and wellbeing benefits.

It is good practice to establish a detailed management plan to ensure appropriate management of the habitat in the long term, and to arrange for regular but proportionate monitoring on how the habitat creation or enhancement is progressing, indicating any remedial action necessary. Planning authorities may consider recording where habitat compensation has been established, and how relevant survey and monitoring data can best be utilised to strengthen the local biodiversity evidence base; for example by working with Local Environmental Record Centres.

Paragraph: 027 Reference ID: 8-027-20190721

Revision date: 21.07.2019

What is wider environmental net gain and how can it be achieved?

The aim of wider environmental net gain is to reduce pressure on and achieve overall improvements in natural capital, ecosystem services and the benefits they deliver. For example, habitat improvements can provide a range of benefits such as improvements to soil, water and air quality, flood risk management and opportunities for recreation.

In planning strategically for the enhancement of natural capital, planning authorities can draw upon evidence on natural capital assets, the supply and demand of ecosystem services flowing from them, and existing and future risks and opportunities for these services.

A number of metrics to measure and monitor aspects of wider environmental net gain are under development.

Paragraph: 028 Reference ID: 8-028-20190721

Revision date: 21.07.2019