



Mansfield
District Council

Mansfield District Council

Mansfield District Council Biodiversity Net Gain - Supplementary Planning Document

Adopted September 2023

Page intentionally blank

Contents

1. Introduction	4
Purpose of the Supplementary Planning Document	4
What is 'Biodiversity'	5
What is Biodiversity Net Gain	5
Background	5
2. Guidance Areas	7
Content of the SPD	7
3. National Context	8
Legislation and Guidance	8
The National Planning Policy Framework (NPPF)	9
The Planning Practice Guidance (PPG)	9
A Green Future: Our 25 Year Environment Plan to improve the Environment" (25 YEP)	10
The UK 30 x 30 target	10
Biodiversity Net gain consultation	11
4. Local Context	12
Mansfield Local Plan	12
Neighbourhood Plans	12
Nottinghamshire Local Biodiversity Action Plan (NLBAP)	13
Priorities for Net Gain in Nottinghamshire and Nottingham	13
Birklands and Bilhaugh Special Area of Conservation	14
5. General principles	15
6. Assessing Biodiversity net gain (the Biodiversity metric)	18
Minimum net gain	21
2. Setting thresholds for development types and use of the metric	22
3. How to measure net gain	24
4. Establishing the Value of Assets - evidence required	26
5. The BNG hierarchy	28
6. Ways to achieve Biodiversity net gain	32
7. How net gain will be secured - planning condition and legal agreement	35
8. Biodiversity Net Gain in designated sites	38
9. Long term management	40
10. Nature Recovery Network, Local Nature Recovery Strategy and BNG	41

11.	Off-setting and compensatory sites in Mansfield District and Nottinghamshire County.....	43
12.	The UK 30 x 30 target	45
13.	Use of 'The Environmental Benefits from Nature tool'	46
14.	Biodiversity Net gain and Green Infrastructure.....	46

Biodiversity Net Gain - Supplementary Planning Document

1. Introduction

Purpose of the Supplementary Planning Document

- 1.1 This Supplementary Planning Document (SPD) seeks to add further detail to policies contained within the Mansfield Local Plan 2020. In particular, the SPD seeks to elaborate on the Biodiversity policy NE2 but also other policies such as CC4 (River and waterbody corridors). The SPD will provide more detailed guidance when planning applications are submitted or where proposals are being formulated. The SPD does not form part of the adopted development plan but is a material planning consideration in decision taking.
- 1.2 This SPD is designed to assist prospective developers and applicants by providing guidance on how to best meet the requirements of planning policy related to Biodiversity Net Gain (BNG) in Mansfield District. The SPD seeks to increase certainty in relation to (BNG) in the development process and also ensure that BNG provision is based on a clear and consistent approach.

Status of the SPD and production process

- 1.3 The NPPF (Appendix 2) sets out that SPDs are documents which add further detail to the policies of the development plan. They are a material consideration when determining planning applications but do not form part of the statutory development plan.
- 1.4 This SPD has been prepared in accordance with the Planning and Compulsory Purchase Act 2004 and the associated Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). The document is also prepared in accordance with the National Planning Policy Framework and National Planning Practice Guidance.
- 1.5 The NPPG (Paragraph: 008 Reference ID: 61-008-20190315) identifies that SPDs should build upon and provide more detailed advice or guidance on

policies in the Local Plan. They can't, however, introduce new planning policies nor add unnecessarily to the cost of development. The NPPG also confirms that SPDs are excluded from the requirement for a Sustainability Appraisal (005 Reference ID:11-005-20190722).

- 1.6 The SPD has been prepared in accordance with sections 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (1). These regulations set out the legal requirements for the preparation of SPDs. In summary these require:
- A period of at least 4 weeks to allow any person to make representations about the SPD;
 - A consultation statement setting out who has been consulted, a summary of the key issues raised and how these comments have been addressed in finalising the SPD.

What is 'Biodiversity'

- 1.7 Biodiversity is the variety of life that can be found on Earth (plants, animals, fungi and micro-organisms) and the habitats in which they live.

What is Biodiversity Net Gain

- 1.8 BNG is an approach to development that aims to leave the natural environment in a 'measurably better state' than it was beforehand. BNG seeks to deliver 'measurable' improvements for biodiversity by creating or enhancing habitats in association with development. Biodiversity net gain should ideally be achieved on-site, but can also be delivered off-site or through a combination of on-site and off-site measures.

Background

- 1.9 The UK generally, and Mansfield and Nottinghamshire specifically, have seen a decline in species and habitats. Nottinghamshire has witnessed the extinction and / or substantial contraction in the population size and range of many species¹. This decline of wildlife and habitats results from many factors including agricultural management, urbanisation, pollution, hydrological

¹ Nottinghamshire Wildlife Trust Biodiversity Net Gain Framework for Nottinghamshire and Nottingham 2022.

change, woodland management, and invasive non-native species. Climate change is also resulting in widespread changes in the abundance and distribution of wildlife. Mansfield District Council is committed to playing its part in the restoration and recovery of ecosystems. This guidance seeks to assist developers and other interested parties in contributing to this recovery.

2. Guidance Areas

Content of the SPD

- 2.1 Based on the above, the SPD will provide more detailed guidance to supplement Local Plan Policy NE2. The following matters are covered:
1. Minimum Biodiversity net gain requirements
 2. Setting thresholds for development types and use of the metric
 3. Process for measuring net gain
 4. Evidence required to demonstrate measurable net gain
 5. Application of the BNG hierarchy
 6. Approaches to securing BNG
 7. Securing BNG in the long term
 8. Designated sites
 9. Long term monitoring, maintenance and management of BNG
 10. Nature Recovery Network, Local Nature Recovery Strategy, Biodiversity Opportunities Map and BNG
 11. Off-setting and compensatory sites in Mansfield District and Nottinghamshire County
 12. UK 30 x 30 target.
 13. Use of 'The Environmental Benefits from Nature tool'
 14. Biodiversity Net Gain and Green Infrastructure

3. National Context

Legislation and Guidance

3.1 The SPD has been prepared in the context of national legislation, policy and guidance. The key elements of which are set out below:

a. The Environment Act

3.1.1. The Environment Act (the Act) sets out the Government's intention to improve air and water quality, protect wildlife, increase recycling and reduce plastic waste. A key part of the Act is to mandate biodiversity net gain by amending the Town & Country Planning Act (TCPA). It is likely to become law in the form of BNG statutory instruments and regulations in 2023.

3.1.2. The Act sets out how the government plans to protect and improve the natural environment in the UK. It introduces a mandatory requirement for a **minimum of 10% biodiversity net gain** in the planning system, to "*ensure that new developments enhance biodiversity and create new green spaces for local communities to enjoy*".

3.1.3. The Act introduces the concept of a national **Nature Recovery Network (NRN)** and the development of **Local Nature Recovery Strategies (LNRS)** across England.

b. Other relevant legislation

3.1.4. Other relevant legislation that has implications for Biodiversity include:

- Natural Environment and Rural Communities Act (NERC 2006)
- The Countryside and Rights of Way Act 2000
- National Parks and Access to the Countryside Act 1949
- The Environment Act 1990
- The Hedgerow Regulations 1997

The National Planning Policy Framework (NPPF)

- 3.1.5. The NPPF (July 2021) with its core principle being on sustainable development encompasses the principles for protecting and enhancing biodiversity through the planning system and includes the aim of:

“minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures”

- 3.1.6. The key sections of the NPPF in relation to Biodiversity are Section 8: healthy and safe communities and Section 15: conserving and enhancing the natural environment. Section 14: meeting the challenge of climate change, flooding and coastal change refers to the importance of a proactive approach to mitigating and adapting to climate change taking into account the implications for various aspects of the environment including biodiversity. More specifically in Section 15 (Paragraphs 174(d), 179(b) and 180(d)) refer to the policy requirement for Biodiversity net gain in the preparation of plans and the determination of planning applications.

The Planning Practice Guidance (PPG)

- 3.1.7. The National Planning Practice Guidance (PPG) encourages Local Planning Authorities (LPAs) to:

‘.....consider the opportunities that individual development proposals may provide to conserve and enhance biodiversity and geodiversity, and contribute to habitat connectivity in the wider area....’

- 3.1.8. The PPG gives further guidance on how to secure net gains for biodiversity as part of green infrastructure provision. It explains:

- What is biodiversity net gain;
- How plans can encourage net gain;
- How can biodiversity net gain be achieved, and;
- How can biodiversity net gain be calculated.

- 3.1.9. The guidance also sets out the mitigation hierarchy (paragraph: 024 Reference ID8-023-20190721) and provides advice on how to achieve biodiversity net gain (paragraph: 023 Reference ID: 8-023-20190721)

A Green Future: Our 25 Year Environment Plan to improve the Environment” (25 YEP)

- 3.1.10. The 25 Year Environment Plan (25 YEP) sets out government action to help the natural world regain and retain good health and the approach to maintaining and enhancing the natural environment over a 25 year period from 2018. The Environmental Improvement Plan (EIP) was revised in 2023 with a new plan setting out how the Government will work with landowners, communities and businesses to deliver goals and set targets to measure progress.
- 3.1.11. The document sets out a number of goals and targets to achieve environmental benefits including the aim to embed an ‘environmental net gain’ principle for development, and particularly to:

“...mainstream the use of existing biodiversity net gain approaches within the planning system, update the tools that underpin them ...”.

These objectives will be enacted through the Environment Act.

The UK 30 x 30 target

- 3.1.12. 30 x 30 is a global initiative that has been endorsed by the UK Government. It seeks to conserve at least 30% of the world’s lands, freshwater and oceans by 2030. The UK Government committed to the protection of at least 30% of the UK for nature, in Nottinghamshire this equates to 64,800 ha. At the time of publishing this report, no detailed County wide spatial distribution had been agreed, but priority areas for targeting habitat creation will be identified in the Nottinghamshire Biodiversity Opportunity Maps (BOM)², and this will be further refined through the LNRS process. This initiative, alongside Nature Recovery Networks (a joined-up system of places needed to allow nature to recover and thrive) set a Framework for ecological restoration and improvement.
- 3.1.13. Other guidance that refers to the principles of BNG include: the National Infrastructure Commission's Design Principles and National design guide.

² A BOM has been prepared for some of the Nottinghamshire Districts. At the time of producing the Biodiversity Net gain SPD the Mansfield BOM had not been prepared.

Biodiversity Net gain consultation

- 3.1.14. At the time of publishing this SPD, the Department of Environment, Food and Rural Affairs (DEFRA) was consulting on the on the practical and legal implementation details of the new biodiversity net gain requirement for development.
- 3.1.15. The consultation set out some key issues and sought the views of interested parties, including Mansfield District Council. The consultation also usefully set out the indicative biodiversity net gain process which is set out in the table below.

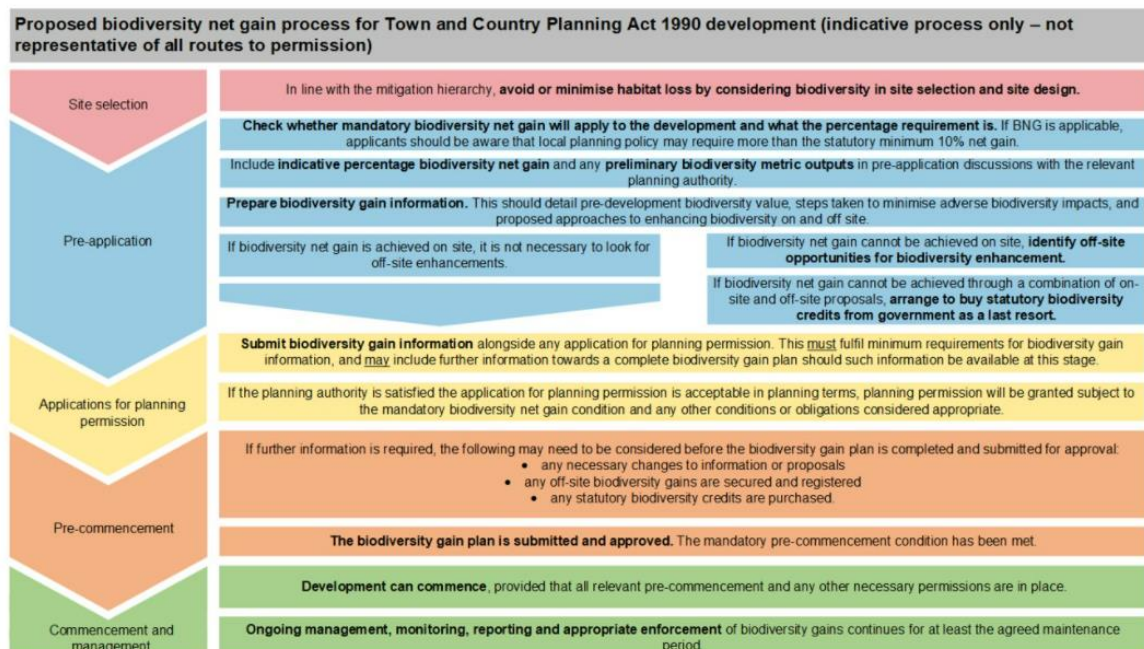


Figure 2: Summary process diagram for proposals as they would apply to Town and Country Planning Act 1990 development

(Source DEFRA 2022)

4. Local Context

Mansfield Local Plan

- 4.1.1 The Mansfield District Local Plan 2013 – 2033 was adopted in September 2020.

The Local Plan's 'Vision, issues and objectives' sets out the Council's desire that by 2033:

"...The natural assets in the district will have been protected and enhanced to help shape new places to live, increase biodiversity, and improve connectivity to benefit wildlife and the health and wellbeing of the district's residents.....".

- 4.1.2 Objective 12 of the Local Plan seeks to

"Protect, enhance, restore and maintain important natural resources, in and adjoining the district including wildlife, soil, air quality and geological resources, and the network of habitats and designated sites."

- 4.1.3 Policy NE2 is the primary policy relating to 'Biodiversity and geodiversity'. A copy of the policy is attached as Appendix A. In summary, the policy seeks to protect, enhance and manage the ecological network. In particular the policy indicates that:

1. Development proposals will be supported where, commensurate with their scale, location and type, they:....

c. seek to deliver a net gain in biodiversity across local and landscape scales..."

- 4.1.4 The policy in the adopted Local Plan pre-dates the Environment Act 2021 and therefore does not specify the minimum percentage Biodiversity net gain required. A BNG uplift of 10% will ultimately be enshrined within legislation through changes to the T&CP Act, at this time 10% will be the legal **minimum** net gain requirement.

Neighbourhood Plans

- 4.1.5 Mansfield District has only one Neighbourhood Area for the Parish of Warsop. The Neighbourhood plan is not sufficiently advanced to have any detailed

policy requirements in relation to Biodiversity and is not currently part of the development plan. Any Biodiversity policies within 'made' NPs will become part of the development plan.

Nottinghamshire Local Biodiversity Action Plan (NLBAP)

- 4.1.6 The Nottinghamshire local biodiversity action plan seeks to focus resources to conserve and enhance biodiversity through local partnerships. It is part of a national approach to biodiversity and identifies important species and habitats in the County, giving each one an action plan to aid their conservation.
- 4.1.7 The NLBAP assesses the current ecological situation and identifies the main threats to species and habitats. It sets targets for their conservation and restoration and outlines the required actions necessary to protect these elements of our environment.
- 4.1.8 The NLBAP identifies the diverse range of habitats and species that exist across Nottinghamshire generally including in Mansfield District. The NLBAP provides a useful reference for developers seeking to identify some of the main Biodiversity issues.
- 4.1.9 The BOM maps can be used until the LNRS process is complete.

Priorities for Net Gain in Nottinghamshire and Nottingham

- 4.1.10 All Local Planning Authorities (LPA) in Nottingham and Nottinghamshire have agreed to work together in order to develop an aligned approach to delivering BNG. The aims of the LPA partners are that:
 - 10% National Target is the minimum target for Nottinghamshire & Nottingham;
 - Partnership members will pursue a higher target of 20% on all developments above a threshold of 10 units where viability evidence permits; and
 - Partnership members will engage with promoters/developers of strategic sites to secure levels of at least 10% as part of the development of green and blue infrastructure

Birklands and Bilhaugh Special Area of Conservation

- 4.1.11 The Birklands and Bilhaugh Special Area of Conservation is a landscape-remnant of the historic Sherwood Forest, which is of world renowned cultural significance due to the high concentration of ancient oak trees and associated folklore. The designation was designated as one of 'European level' importance.
- 4.1.12 Newark & Sherwood District Council ('N&SDC') and Bassetlaw District Council ('BDC') commissioned consultants to produce a report pertaining to the Special Area of Conservation which identified that its zone of influence extended into Mansfield District.
- 4.1.13 The Council has taken legal advice on this issue which concluded that MDC are not obliged to abide by the zone of influence identified by N&SDC and BDC. However, it may be a material consideration in the determination of planning applications.

5. General principles

- 5.1 Mansfield District Council, alongside the other Nottinghamshire's Local Planning Authorities, the Nottinghamshire Wildlife Trust, Natural England and the Environment Agency will work together to address the climate and biodiversity crises. All of these partners are seeking to ensure that Biodiversity Net Gain delivers for people and wildlife in an equitable way, consistently across the County. This will ensure that Mansfield District's (and Nottinghamshire County's) nature recovery delivers multiple benefits for all.
- 5.2 In order to achieve these objectives, this SPD has been prepared in the context of nine general principles which have been agreed between the LPA partners, Local Wildlife Trust and Natural England. These are:

Principle 1. Apply the Mitigation Hierarchy

The mitigation hierarchy is a key principle underpinning BNG in relation to new development. The hierarchy sets out the preferred approach to delivery of BNG in sequential order:

1. **Avoid** harm to biodiversity.
2. **Minimise** harm and address issues on-site where impacts are unavoidable.
3. **Compensation off site.** Where impacts cannot be avoided or minimized on site compensation should be delivered offsite and should be encouraged to contribute towards the Nature Recovery Network.

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

All new development should seek to avoid impacts on irreplaceable biodiversity. Some habitats and biodiversity features are irreplaceable or unique and impacts cannot be offset to achieve Net Gain. These include Ancient Woodland, veteran trees and the calcareous grasslands of the Magnesian limestone.

Principle 3. Be inclusive and equitable

It is important for developers to seek to achieve net gain in partnership with other stakeholders where possible and engage early in the design of new developments with ongoing engagement in the implementation, monitoring and evaluating of BNG.

It is important that restored and newly created habitats are fairly and equitably located to ensure no community is deprived of the benefits of nature's recovery. The emerging Nottinghamshire 'Local Nature Recovery Strategy' seeks to be inclusive and developers should be mindful of the strategy.

Principle 4. Address risks

Achieving BNG has associated risks. In order to mitigate any potential difficulties and uncertainty in delivering BNG a contingency should be added when calculating biodiversity losses and gains in order to account for any remaining risks and to compensate for the time between the losses occurring and gains being fully realised.

Principle 5. Make a measurable Net Gain contribution

Net gain needs to be measurable while directly contributing towards nature conservation priorities. Developments should deliver 'additionality' for biodiversity whilst contributing to nature's recovery. The use of the latest Defra Biodiversity Metric³ should be used to measure the amount of net gain.

Principle 6. Achieve the best outcomes for biodiversity

In order to achieve the best outcomes for biodiversity it is essential to use robust, credible evidence. This will ensure that:

- Compensation is ecologically equivalent in type, amount and condition and accounts for the location and timing of biodiversity losses.
- Providing for a different type of biodiversity to that which is lost delivers greater benefits for nature conservation.
- Net Gain 'locally' also contributes towards 'nature conservation priorities' at local, regional and national levels.
- Existing habitats are enhanced or new habitats created.
- Ecological connectivity is enhanced by creating more, bigger, better and joined areas for biodiversity

Principle 7. Be additional

The SPD seeks to achieve nature conservation outcomes that demonstrably exceed existing obligations not simply deliver something that would occur anyway.

Principle 8. Create a Net Gain legacy

The SPD seeks to ensure that Net Gain generates long-term benefits by:

³ Defra Biodiversity Metric 4.0 at the time of drafting this report.

- Encouraging engagement between stakeholders to jointly agree solutions that secure Net Gain in perpetuity.
- Seeking to secure long-term management for at least 30 years (as required in the Environment Act).
- Designing Net Gain for biodiversity to be resilient to external factors, especially climate change.
- Mitigating risks from other land uses.
- Avoiding displacing harmful activities from one location to another.
- Supporting local-level management of Net Gain activities.

Biodiversity gains should be secured in perpetuity (the legislation is defined as 30 years minimum). Long term management and ownership beyond the 30-year period is encouraged.

Evidence of the impact of Biodiversity Net Gain should be reported to the Nottinghamshire Environmental Records Centre to capture delivery towards the emerging Nottinghamshire Local Nature Recovery Strategy, which has biodiversity targets and a spatial mapping evidence base. This can then be used to promote good practice amongst developers.

Principle 10. Achieving High Quality Design

Seeking to secure BNG should be an integral part of achieving high quality urban design and place making. A holistic approach should be pursued that aims to deliver high quality places for people and nature. BNG should not only add to the quality of the natural environment but should also seek to enhance the built and historic environment.

Principle 11. Optimise sustainability

Seek that Biodiversity Net Gain contributes to and seeks to optimise wider environmental benefits for a sustainable society and economy. This includes the important role that biodiversity has to play in climate change mitigation, adaptation and resilience and our ability to meet our global and local climate change ambitions which will in turn protect biodiversity.

Principle 12 . Be transparent

Communicate all Net Gain activities in a transparent and timely manner, sharing the learning with all stakeholders.

6. Assessing Biodiversity net gain (the Biodiversity metric)

- 6.1 The Biodiversity Metric (the Metric) is a tool for calculating and assessing an area's value to wildlife. The metric uses habitat features to calculate a biodiversity value for a particular site. It can be used by ecologists acting on behalf of developers carrying out a biodiversity assessment and LPAs who are interpreting metric outputs in a planning application. It can also be used by communities and other interested parties who want to understand the impacts of a local development. It can also be used by landowners or land managers who want to provide biodiversity units from their sites to others where agreed.
- 6.2 The metric is used to calculate how a development will change the biodiversity value of a development site.
- 6.3 The Metric can be used to:
- Assess the biodiversity unit value of an area of land
 - Demonstrate biodiversity net gains or losses in a consistent way
 - Measure and account for direct impacts on biodiversity
 - Compare proposals for a site - such as creating or enhancing habitat on-site or off-site
 - Help design, plan and make land management decisions that take better account of biodiversity.
- 6.4 The metric calculates the values as 'biodiversity units'. Biodiversity units are calculated using the size of the habitat, its quality and location.
- 6.5 The metric and calculator tool has been designed by the Department for Food and Rural Affairs and Natural England. The Metric is to be used by people with competent ecological expertise. The interpretation of its results can be carried out by a wider range of interested parties who have suitable ecological expertise, including Local Planning Officers, communities and other interest groups.
- 6.6 The Planning Practice Guidance⁴ supports the use of the Metric as a pragmatic way to calculate the impact of a development and the net gain that can be achieved.

⁴ Paragraph: 025 Reference ID: 8-025-20190721

- 6.7 Guidance⁵ on the use of the Metric, including the calculator tool, has been produced by 'Natural England'. At the time of drafting this SPD, Biodiversity Metric 4.0 was the most up to date version. It has been updated and replaced the beta Biodiversity Metric 2.0 (JP029) first published in 2019.
- 6.8 Potential developers with sites requiring assessment using the Metric should refer to the appropriate 'User Guide'⁶, Calculation tool⁷, Habitat condition assessment sheets⁸ and 'Technical Supplement'⁹.
- 6.9 The level of net gain is established by comparing the 'pre-development' unit score with the 'post development' unit score. For major development, the 'post-development' unit score must represent a 10% increase on the 'pre-development' unit score. The process for assessing impacts using the Metric is broadly as follows:

1. Establish Baseline Biodiversity Unit Score (Pre-development)

Assess the existing number of Biodiversity Units on the site (pre-development) using the latest version of the Metric.

2. Design net gains into development proposals

Use the information to design the site layout using the principles of the Mitigation Hierarchy. All schemes need to evidence early consideration of habitat retention and enhancement of the best quality habitats on-site.

3. Calculate Projected Biodiversity Unit Score (Post-development)

Calculate the Headline Results of the Biodiversity Net Gain Metric for the completed development (final scheme design scheme). This must demonstrate how a minimum 10% Net Gains will be achieved over a 30-year time period. If it does not, return to stage 2 and re-design the scheme to create additional biodiversity net gain.

⁵ The Natural England Guidance can be found at:

<http://nepubprod.appspot.com/publication/6049804846366720>

⁶ The user guide can be found at: <http://nepubprod.appspot.com/file/6449751093673984>

⁷ The calculation tool can be found at: <http://nepubprod.appspot.com/file/6242570327031808>

⁸ The habitat condition assessment sheets can be found at:

<http://nepubprod.appspot.com/file/6101399382523904>

⁹ The Technical Supplement can be found at: <http://nepubprod.appspot.com/file/4739529476145152>

4. Submit Biodiversity calculations for validation

The submission of the stand-alone document and associated Metric Spreadsheets (containing the calculations) that shows a minimum 10% Net Gain increase in biodiversity from the DEFRA Metric should be provided at validation stage.

5. Formulate a Post Construction Environment Management Plan.

Establish a management plan to ensure that the post development enhanced habitats can be effectively managed to achieve their target condition for a minimum 30-year period in line with DEFRA recommendations. This may be secured by way of planning condition.

- 6.10 The expectation is that Biodiversity Net Gain is secured within the development site in accordance with the 'Mitigation Hierarchy'.
- 6.11 It should be noted that the Metric is based solely on habitat calculations and does not take into account impacts on protected species or Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 ¹⁰, and other scarce species as listed in the NLBAP. This should be undertaken as a separate exercise through the Ecological Impact Assessment (EclA) process, and a gain in those species should also be achieved.
- 6.12 In cases where 10% BNG cannot be achieved on-site, the applicant may explore measures for the creation of compensatory biodiversity units on land off-site separate to the application site. This is known as biodiversity offsetting. Planning Practice Guidance indicates that such off-site measures can be secured on other land in the control of the developer or another party or through 'habitat banks' which comprise areas of enhanced or created habitats which generate biodiversity unit 'credits'. This would be subject to the relevant agreements with landowners and mostly secured through section 106 planning agreements.

¹⁰ This refers to habitats and species listed within the NLAP under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 - Habitats and Species of Principal Importance.

7 Supplementary Planning Guidance

7.1 The SPD sets out twelve areas which supplement policy NE2 of the adopted Mansfield Local Plan.

7.1.1 The guidance is set out below.

1. Minimum net gain

7.1.2 Policy NE2 (1.c) of the Local Plan indicates that development proposals will be supported where they “... *seek to deliver a net gain in biodiversity across local and landscape scales...*”

7.1.3 The policy is silent on the quantum of net gain. The Environment Act sets the legislative framework for the introduction of mandatory minimum 10% Biodiversity net gain. The SPD reflects the current legislative position and is therefore not unreasonably introducing new policy.

7.1.4 Research undertaken by Vivid Economic on behalf of MHCLG and DEFRA¹¹ concluded that there is strong evidence that on-site mitigation is possible at little or no cost for the majority of development sites. In circumstances where viability and feasibility allow, development proposals will be encouraged to provide above the minimum. It is acknowledged that Mansfield District Council cannot insist on this as it would introduce new policy. Any policy requirements uplifting the 10% would need to be considered through the new Local Plan and based on evidence including viability assessment.

BNG SPD 1: Minimum net gain

A. All impacts to Biodiversity caused through development (Net Gains and Net Losses) should be measurable.

B. In accordance with National Legislation, development proposals will be supported where they demonstrate a minimum of 10% Biodiversity net gain.

¹¹ ‘Biodiversity Net Gain: preliminary housing viability analysis’ (Vivid Economics 2018)

C. Developers will be encouraged to provide more than 10% Biodiversity net gain where this is feasible and viable. A target of 20% Biodiversity Net gain is encouraged

2. Setting thresholds for development types and use of the metric

7.2 Local Plan policy NE2 is silent on the thresholds for seeking BNG. Legislation and Guidance indicates that Biodiversity net gain is required for all development (other than some exemptions for permitted development and householder development). The SPD reflects the legislation and is therefore not unreasonably introducing new policy.

7.2.1 The use of the Biodiversity metric 4.0, and any future revisions to the metric once nationally approved, is a requirement on all major developments. The Metric should be submitted for both Outline and Detailed planning applications and in some cases for reserved matters applications once detailed design has been finalised. The Council will identify the requirement for BNG metric submission as part of the local validation list.

7.2.2 A simplified 'Small Sites Metric' has been developed by Natural England for use on smaller sites that fall below the following threshold and where both of the following criteria are met:

1) Development sites where;

- For residential developments the number of dwellings to be provided is between one and nine inclusive on a site having an area of less than one hectare;
- Where the number of dwellings to be provided is not known the site area is less than 0.5 hectares; or
- For all other development types where the site area is less than 0.5hectares or less than 5,000sqm

2) Where there is no priority habitat present within the development area (excluding hedgerows and arable margins)

7.2.3 Use of the small sites metric is not mandatory at present and further guidance is anticipated in 2023. Mansfield District Council does not wish to impose unnecessary additional burdens to small site developers but encourages the use of the small sites metric to help improve the cumulative delivery of BNG.

MDC will take a pragmatic approach to the submission of a small sites metric recognising the additional burdens to smaller developers. For example, where proposals involve the regeneration of urban brownfield sites a metric is unlikely to be warranted. It is likely that the small sites metric will be required on all 'designated' sites. Unless mandated a judgement will be made by the Case Officer as to whether one is needed.

- 7.2.4 Previous versions of the Metric that have been applied to ongoing proposals can continue to be used for the duration of the project unless requested to do otherwise by their client or Mansfield District Council. This is because biodiversity unit values in metric 2.0 generate different results to those generated by Biodiversity Metric 4.0.

BNG SPD 2: Setting thresholds for development types and use of the metric

- A. In accordance with National Legislation all major development proposals of 10 or more dwellings, more than 0.5 hectares of land or 5,000sqm will be required to use the Biodiversity Metric 4.0, or the latest adopted version of the Metric, in order to demonstrate compliance with the minimum requirement of 10% Biodiversity net gain**
- B. Small scale development proposals below this threshold will be encouraged to use the 'Small Sites Metric' where appropriate.**
- C. Any development where the first use of the metric is after July 2021 should default to the 3.1 version. On projects commenced prior to this and already using Metric 2.0 these users should continue to use that metric (unless requested to do otherwise by their client or consenting body) for the duration of the project it is being used for¹².**

¹² Natural England Guidance indicates: "Users of the previous Biodiversity Metric 2.0 should continue to use that metric (unless requested to do otherwise by their client or consenting body) for the duration of the project it is being used for as they may find that the biodiversity unit values metric 2.0 generates will differ from those generated by Biodiversity Metric 3.0" -

<http://publications.naturalengland.org.uk/publication/6049804846366720>.

3. How to measure net gain

7.3 Policy NE2 of the Mansfield Local plan 2013 to 2033 does not specify how to measure BNG. The use of the DEFRA biodiversity metric to measure net gain is required through government legislation and guidance. In order to determine whether a proposal meets the 10% minimum BNG, the applicant will be expected to submit detailed proposals demonstrating how BNG is to be achieved. It is expected that the assessment will be carried out by a suitably qualified ecologist in accordance with the Metric and survey work based on current best practice standards at the time. Appointing an ecological consultant early on in a project is advised. This will help to ensure the best possible outcomes for achieving BNG on-site.

7.3.1 The approach to achieving BNG should start with assessing and understanding the type and value of biodiversity being affected by the development proposed. This is dependent on the location of the site within the ecological network and the type, area and quality of ecological assets that are present, as determined by using the Defra Biodiversity Metric 4.0.

7.3.2 In order to maximise the BNG on site, an iterative process to calculating the biodiversity value and subsequent potential gains is encouraged throughout the design process and should be carried out at the following stages:

- Pre-application
- Design
- Application
- Construction
- Post-construction

7.3.3 The Biodiversity Metric 4.0 tool (or subsequent versions) published by Natural England and Defra is the prescribed tool for measuring BNG. Natural England has published a user guide containing the key principles and rules in applying the metric¹³. These principles and rules should be adhered to by prospective developers and will be used by the council when considering development proposals.

7.3.4 The Metric uses 'habitat' as a proxy for wider biodiversity with different habitat types scored according to their relative biodiversity value (adjusted depending on the condition and location of the habitat). 'Biodiversity units' are calculated

¹³ <https://publications.naturalengland.org.uk/publication/6049804846366720>

for that specific project or development, based on criteria such as the habitat distinctiveness, condition and extent. The metric includes three separate calculations for 'area-based habitats', 'linear hedgerows' and 'rivers' and all these must be completed where appropriate. The assessments are in a standardised spreadsheet format.

BNG SPD 3: Process for measuring net gain

In order to effectively measure BNG, all new development proposals should:

- A. Use a suitably qualified ecological consultant to survey and prepare the BNG report, Metric spreadsheets and Biodiversity Management Plan (BMP)**
- B. Conform with the process specified in the latest Natural England / DEFRA user guidance for Biodiversity Net Gain**
- C. Use the new British Standard for designing and implementing Biodiversity Net Gain – BS8683 and guidance offered through the Construction Industry Research and Information Association (CIRIA) 'Biodiversity Net Gain: good practice principles for development C776a'.**
- D. Be based on site surveys and assessments of habitats and species carried out at the appropriate times of the year and using best practice methodologies in line with the latest standards**
- E. Be an iterative process that seeks to optimise the delivery of BNG at all stages of the design process including: application; development and post-development**
- F. Be used for the following key stages, which should be set out in the report:**
 - a. The 'Baseline' Biodiversity Unit Score (Pre-development)**
 - b. Design net gains as required into the development proposals (having regard to the mitigation hierarchy)**
 - c. Calculate Predicted Biodiversity Unit Score (post development)**
 - d. Submit Biodiversity calculations for validation**
 - e. Formulate a Construction and post-construction Environment Management Plan**

- G. Be accompanied by a report (including Executive summary) that clearly sets out the process that has been followed including:**
 - a. How the assets were identified**
 - b. How the design has sought to encapsulate net gains into development proposals**
 - c. How the Mitigation hierarchy has been applied**
- H. Submit the Biodiversity calculations for validation including full versions of the Biodiversity metric spreadsheets**
- I. Formulate a Biodiversity Management Plan that sets out how the net gains are to be provided, maintained and monitored in the long term**
- J. Assess the baseline position and net gain at the point that planning permission is applied for. Where the Council considers deliberate harm to biodiversity assets has taken place in the recent past the baseline date will be as the site would have been at January 2020.**
- K. Be in a format so that the assessment of BNG using the calculator can easily be undertaken by the Local Planning Authority**
- L. Note the EclA process is essential to, but separate, from the BNG calculations process.**

4. Establishing the Value of Assets - evidence required

- 7.4** The fundamental principal of BNG is that it seeks to apply an objective 'measurable' approach. The scoring process is enshrined within the Metric tool. In addition to the mechanistic approach set out in the tool there are other principles that prospective developers can follow in order to optimise the gathering of evidence to inform the Metric.
- 7.4.1** One of the key principles is that prospective developers communicate all Net Gain activities in a transparent and timely manner, sharing the learning with all stakeholders. Whilst it is the responsibility of Mansfield District Council as the LPA to consider the BNG report, there is expertise in other areas that can help to inform the evidence. This includes Nottinghamshire Wildlife Trust,

Nottinghamshire County Council Ecological Officers and reference to the Nottinghamshire Biological and Geological Records Centre (NBGCR).

7.4.2 The evidence required to support the Metric include identifying and measuring:

- The area of each habitat and length of each linear feature present within the application site;
- The habitat type (including indicator species);
- Habitat condition;
- Impact of the development based upon proposed layout, both on-site and off-site; and
- Onsite biodiversity mitigation and compensation measures.

7.4.3 The area to be surveyed (and associated calculations) should include the whole of the proposed development site and adjacent land where impacts upon adjacent habitats are anticipated. This may include the consideration of protected habits at some distance, but which may suffer indirect impacts that result in habitat degradation, such as through dust, hydrological changes etc.

7.4.4 The deliberate clearing of valuable habitats before the application process is illegal under the Environment Act. Where there is evidence of deliberate neglect or damage to any of the habitats and species, their deteriorated condition will not be taken into consideration and the ecological potential of the site prior to any deterioration will be used to decide the acceptability of any development proposals. The baseline for the metric will be the habitats present prior to site clearance. The biodiversity value of the habitats lost will be estimated based upon a desk-based assessment and professional judgement.

BNG SPD4 – Evidence required

When preparing BNG evidence to support development proposals, in accordance with the requirements of the Biodiversity Metric, prospective developers should:

A. Provide evidence to measure:

- a. The Area of each habitat and length of each linear feature present within application site
 - b. The Habitat type including indicator species
 - c. Habitat condition
 - d. The Impact from development based upon the planning layout - both onsite and offsite
 - e. The measurable impact of onsite biodiversity mitigation and compensation measures.
- B. Assess the condition of habitats in accordance with the guidance provided with the latest version of the Metric.
- C. Produce three separate calculations for each of the habitat types: area-based habitats; linear hedgerows and rivers. Each parcel of habitat should be recorded on a separate line within the metric detailing the habitat type, condition and connectivity.
- D. Produce a Biodiversity Management Plan that sets out how any net gain will be delivered, maintained and monitored.
- E. Not deliberately clear the site of valuable habitats prior to the assessment and submission of the BNG report

5. The BNG hierarchy

- 7.5 Policy NE2 of the Mansfield Local Plan 2013 - 2033 is silent on the BNG hierarchy. Policies NE2 (6) and NE2 (7) set out the policy position in relation to 'Irreplaceable habitats' and 'Avoidance, mitigation and compensation of adverse impacts on nature conservation'
- 7.5.1 The mitigation hierarchy is enshrined in Government Policy and primarily seeks to avoid harm to biodiversity and ensure mitigation is appropriate in terms of its quantity and quality. A key principle of BNG is that it seeks to 'avoid' adverse impacts and that any 'mitigation' and improvements are delivered on the site where the development is proposed. Compensation off site is generally a last resort.

- 7.5.2 Where impacts on biodiversity are unavoidable the hierarchy indicates that these should be minimised and addressed on-site, if there are impacts that cannot be mitigated through BNG on or off-site, then the development should be refused. Where on-site mitigation is not possible or does not generate maximum benefit for biodiversity compensation should be delivered offsite and should be encouraged to contribute towards the Nature Recovery Network. Only as a last resort are developers able to purchase 'Biodiversity credits' that could secure net gain that is not local. 'Outsourcing' of BNG is the least favoured option. It could result in promoters seeking the lowest cost option rather than the most beneficial in Biodiversity terms.
- 7.5.3 Development proposals should follow the mitigation hierarchy from the outset and seek to avoid negative impacts on biodiversity.
- 7.5.4 This is imperative for habitats deemed as irreplaceable and schemes which result in a loss or deterioration of irreplaceable habitats will not be supported in accordance with criterion 6 of Local Plan Policy NE2. These habitats include historic wetlands and species-rich grasslands, ancient woodland, including ancient semi-natural woodland and plantations on ancient woodland, and aged or veteran trees.
- 7.5.5 Prospective developers will need to fully understand the ecological implications of their proposals. Once this is understood, it is essential that applicants apply the Mitigation Hierarchy to demonstrate how ecological issues have been considered and how an optimal Biodiversity Net Gain solution has been reached in the proposal.
- 7.5.6 In applying the mitigation hierarchy applicants should demonstrate how they have:
- a) Sought to 'avoid' the loss of existing biodiversity on-site (quantity and quality of habitat and populations status of Sn41 and protected species present)
 - b) Mitigated the impact of development on biodiversity on-site or nearby where avoidance is not possible
 - c) Considered other options, and the reasons why, when a) and b) above are not possible.
- 7.5.7 As a last resort, development proposals should set out how they will compensate through on and off-site improvements or financial contributions /

credits. It is not possible for particular ecological assets to be compensated for by the creation of non-comparable assets.

- 7.5.8 In providing information to the District Council on how the mitigation hierarchy has been applied applicants are advised to answer the following questions:
- a) What impact does the proposed design have on identified assets?
 - b) If there is an impact, can the scheme be redesigned to remove or reduce that impact?
 - c) If the impact cannot be avoided, can the impacts be mitigated?
 - d) If the impact cannot be avoided or mitigated, can it be compensated for?
 - e) If compensatory measures are proposed will they be on-site, offsite but nearby or offsite entirely?
 - f) What are the compensatory measures?
 - g) How will they be applied?
 - h) In all cases, does the avoidance, mitigation or compensation demonstrate a Biodiversity Net Gain?

SPD BNG 5 – Applying the mitigation hierarchy

- A. The mitigation hierarchy seeks to secure BNG based on the following priority order:**
 - a. Avoid the loss of existing biodiversity on-site**
 - b. Mitigate the impact of development on-site (where avoidance is not possible)**
 - c. Mitigate the impact off site but nearby where avoidance and on-site compensation are not possible**
 - d. Compensate through off-site provision**
 - e. Purchase BNG credits for off-site provision.**
- B. Development schemes must follow the mitigation hierarchy and from the outset seek to avoid negative impacts on biodiversity**
- C. Habitats deemed as irreplaceable and schemes which result in a loss or deterioration of irreplaceable habitats will not be supported**
- D. Adverse and irreversible impacts on the habitats of Section 41¹⁴ / Biodiversity Action Plan species will not be supported.**

¹⁴ Section 41 of the Natural Environment and Rural Communities Act 2006

- E. Each development proposal should include a clear reasoned statement on how the mitigation hierarchy has been rigorously applied.**
- F. Where development proposals have an impact on existing on-site and off-site ecological features, the following hierarchy will be applied in order to protect and enhance those features. In order of preference, proposals should seek to:**
- a. Avoid any adverse impacts on quantity and quality of ecological features and secure a minimum of 10% net gain (Avoid)**
 - b. Secure the retention of most important ecological features on site with supplemental mitigation to secure a minimum of 10% net gain (Mitigate on-site)**
 - c. Mitigate any lost habitats through creation of compensatory biodiversity units on land separate from, but local to, the application site (biodiversity offsetting) of at least 10% net gain (Mitigate off-site)**
 - d. Financial contributions towards Biodiversity ‘habitat banks’ or ‘credits’ (Compensate)**
- G. In the exceptional circumstances where the Metric demonstrates that off-site compensation is the only option, site developers must demonstrate the re-creation of the unit value of the biodiversity lost, plus the additional 10% Biodiversity Net Gain enhancement as a minimum**
- H. Off-site provision should normally be secured on one of the identified receptor sites and where financial contributions are proposed these should, as a minimum, use the recommended Defra figure¹⁵**
- I. Where off-site provision is proposed, there must be a clear mechanism for delivering the net gain**

¹⁵ £11,000 per biodiversity unit was the most up to date figure at the time of publication.

6. Ways to achieve Biodiversity net gain

- 7.6 The Biodiversity Metric provides the tool for measuring BNG and the relative weights to varying habitats. However, it does not address some of the practical ways in which development proposals can secure this.
- 7.6.1 Where an impact on an ecological asset is identified, it is the responsibility of the applicant to identify how that impact will be avoided, mitigated, or compensated for in accordance with the mitigation hierarchy (see BNG SPD 5 above).
- 7.6.2 Where an impact on an ecological asset is identified, applicants must propose how that impact will be avoided, mitigated, or compensated and how 10% net gain will be secured. Habitat creation proposals, both on and off-site, must not be of lower value or distinctiveness than those that would be lost. Habitat creation to secure BNG must be additional and not deliver something that would occur anyway.
- 7.6.3 Ideally BNG would seek to recreate the habitats that have been lost. However, this is not always practical or desirable and it may be possible that BNG may be secured on and off-site in other ways including but not limited to:

Habitat Creation

- Incorporating green walls by providing climbing plants on unused walls as nesting habitat for birds, bat roosts and for invertebrates
- Considering the use of green or 'living' roofs that feature local native vegetation.
- Providing integral house 'bricks' for swifts and bats, or integral nest boxes and ledges for barn owls
- Encouraging the use of bat boxes, house sparrow boxes, house martin / swallow nests etc.
- Encouraging wildlife-friendly climbing plants on houses and boundary fences/walls

Planting and Landscaping

- Designing landscaping with biodiversity as the key consideration
- Using native species of seasonal value and interest to local wildlife in planting schemes

- Creating rough grassland areas as wildlife corridors with appropriate mowing regimes
- Planting nature-depleted open spaces with native grass and wildflower mixes
- Encouraging allotment creation with hedgerows, fruit tree avenues, beetle banks and other wildlife corridors
- Creating environmental features in parks and open spaces, including copses, ponds, ditches, rough areas and dead wood piles
- Providing some standing dead wood or lying dead wood (where safe to do so)
- Maximising tree canopy cover with the aim of covering no less than 20% of the developed area
- Linking the site to a network of green corridors within the locality and seeking to complement the Nature Recovery Network by delivering habitats that can provide connectivity and function
- Providing wildflower meadows, grass-cut mazes or verges that are appropriate in a semi-urban context.
- Considering the potential for planting new community orchards using local varieties of apple, pear and plum
- Creation of buffer strips along water courses and farmland
- Improving and re-naturalising waterways wherever possible, when heavily modified

Drainage and Water Management

- Including reedbed and willow filtration systems within sustainable drainage systems (SUDS)
- Providing soft-edged drainage ditches in place of underground pipes where possible
- Providing a sizeable amount of rough grass and if possible woodland, to encourage newts, frogs and toads and other water-loving creatures
- Retaining rough riparian grassland or sandy banks with some overhanging trees to encourage kingfishers, sand martins, water voles and otters where there are natural streams or rivers adjoining the development
- Considering soft engineering options instead of canalising watercourses
- Actions which improve and re-naturalise waterways wherever possible

- Consider building a sand martin wall in a relatively undisturbed areas

7.6.4 In all cases, the Local Planning Authority consider that delivery of BNG should seek to contribute towards design quality and a sense of place. An holistic approach to BNG should align with achieving good design in terms of: high quality streets, open spaces, Green Infrastructure and soft landscaping.

BNG SPD6 – Approaches to securing BNG

- A. All new developments should seek to incorporate BNG in a way that contributes towards high quality design and a sense of place.**
- B. When considering how to secure BNG in association with development proposals, prospective developers should:**
 - a. Seek to replace the habitats being lost with the same or similar habitat where possible and practicable.**
 - b. Provide a higher value habitat (as defined by the Metric) that would not be incongruous to its location and would not propose higher quality habitats in small, poorly located or compromised spaces.**
 - c. Where it is not practicable or desirable to pursue a ‘like for like’ replacement of existing on-site habitat types, developers will be encouraged to consider a wide variety of on-site features that are locally suitable and result in a demonstrable uplift in value. Options can include habitat creation, planting and landscape and/or drainage and water management.**
 - d. Consider the impacts on the wider environment surrounding the development site including those caused by disturbance during construction and occupancy of the development, habitat fragmentation and isolation effects, hydrological changes, noise and pollution such as dust and Nitrogen Oxide (NOx) emissions.**
 - e. Consider how the biodiversity net gain could also deliver benefits for:**

- i. **people's physical and mental well-being (such as through access to nature and recreational space)**
 - ii. **climate change mitigation, adaptation and resilience (such as flood management and 'urban cooling' effects)**
- C. There should be no net loss of priority habitats and species within the District**
- D. Habitats should, where possible be replaced on a like for like basis to avoid habitat degradation. The loss of one habitat should not be replaced by a different type of habitat unless it can be evidenced that this is of a higher value and delivers greater benefits for nature conservation**
- E. Development proposals should consider the direct and indirect impacts and implications of rare and endangered species within the District. There should be no loss of rare and endangered, Section 41 and protected species¹⁶ or their habitats**
- F. Prospective developers are strongly encouraged to seek the advice of the Nottinghamshire Wildlife Trust and Nottinghamshire County Ecologist in order to identify the most appropriate solution for delivering BNG**
- G. Evidence of Net gain should be reported to the Nottinghamshire Geological and Biological Records Centre in order to capture delivery towards the Nottinghamshire Local Nature Recovery Strategy**

7. How net gain will be secured - planning condition and legal agreement

- 7.7** The delivery, maintenance and monitoring of BNG as part of development proposals legitimises the process. The mechanism for securing the delivery of BNG will normally be through planning conditions and / or Section 106 Planning Obligations. In exceptional circumstances where off-site compensation through the use of Biodiversity credits are proposed then 'Conservation Covenants' may be possible and the obligation could be secured through a legal agreement or other measures such as a Management Agreement pursuant to Section 39 of the Wildlife and Countryside Act 1981.

¹⁶ As defined nationally under Section 41 of the NERC Act (2006) and in the Nottinghamshire Local Biodiversity Action Plan

7.7.1 The PPG¹⁷ indicates that:

“Planning conditions or obligations can, in appropriate circumstances, be used to require that a planning permission provides for works that will measurably increase biodiversity....”

7.7.2 Mansfield District Council supports planning applications that are accompanied by a ‘Biodiversity Management Plan’ (BMP). BMP accompany the Biodiversity Metric spreadsheets and lay out the specific goals for biodiversity (species and habitats) and the means by which these goals will be achieved, including the establishment of specific habitat enhancements, their maintenance and monitoring. The PPG¹⁸ indicates:

“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.....”

7.7.3 All planning applications for major development (including Outline and Detailed applications and reserved matters) should include a net gain assessment using the most up to date metric as part of the submission. In most cases, Mansfield District Council will apply a condition or section 106 obligation to ensure conformity with the agreed BMP and Metric spreadsheets.

7.7.4 Where a full BMP is not submitted (for example on outline planning applications where final design details are not known) a condition will be sought that seeks to ensure that the development in question cannot be commenced unless a BMP is submitted to and approved by the local planning authority as part of the reserved matters application. It is the responsibility of the applicant / site promoter / developer to devise the strategy and to be clear how it will deliver the net gain.

7.7.5 Where a full BMP and assessment has been submitted and agreed, planning conditions or Section 106 obligations will be used to secure the on-site habitat creation, enhancement, maintenance and monitoring.

¹⁷ Paragraph: 023 Reference ID: 8-023-20190721

¹⁸ Paragraph: 027 Reference ID: 8-027-20190721

- 7.7.6 The financial contributions required in order to deliver and subsequently maintain BNG will be secured through a Section 106 agreement. The amount of contribution will be dependent on the scale and nature of development. Where off-site credits are proposed the contribution will be sought in line with the latest agreed formula.
- 7.7.7 The legislation and guidance seeks to secure BNG for a minimum period of 30 years. In order to secure ongoing monitoring, the Council will require submission of ecological reports at agreed intervals in order to evidence maintenance of the habitats that have been secured as part of the BNG.
- 7.7.8 In all circumstances, a legal agreement between the council and developer will be drawn up requiring that the actions of the BMP are undertaken and ensuring that the responsibility of undertaking the BMP to be passed onto any subsequent landowner.
- 7.7.9 Where biodiversity offsetting is being proposed a legal agreement between the Council and interested developer parties will be required. In such circumstances, the legal agreement may seek to secure the actions required to deliver the BNG and any financial sums to cover the costs of this work – including the transfer of funds from the developer to the offset provider.

BNG SPD 7 – Securing BNG in the long term

- A. Mansfield District Council will use planning conditions and section 106 legal agreements to secure the provision, maintenance and long term monitoring of Biodiversity Net gain required as part of development proposals¹⁹.**
- B. Detailed Planning applications that require BNG should be accompanied by a Biodiversity Management Plan (BMP) to set out goals for biodiversity (species and habitats), the means by which these goals will be achieved, their maintenance and monitoring. Planning conditions or section 106 legal agreements will be used to ensure compliance with the BMP.**

¹⁹ In exceptional circumstances where BNG is to be secured off-site and section 106 agreements are not appropriate an agreement under Section 39 of the Wildlife and Countryside Act may be pursued.

- C. Where development proposals are accompanied by a robust Biodiversity Management Plan (BMP) that has been agreed, conditions will be attached to secure compliance with the BMP.**
- D. Where outline planning applications are submitted, they should be accompanied by a detailed BMP to ensure that the BMP is actually achievable.**
- E. Where BNG off-setting compensation is proposed, section 106 agreements will be required to ensure delivery and on-going maintenance. In some circumstances the Council will consider the use of 'Conservation covenants' to secure off-site delivery.**
- F. In exceptional cases where a developer is unable to deliver on-site or locate and secure an appropriate off-site location for biodiversity offsetting, a financial payment to the Council will be required via a S.106 planning obligation or via Section 39 of the Wildlife and Countryside Act.**

8. Biodiversity Net Gain in designated sites

7.8 Mansfield District contains or abuts a wide range of designated sites and priority habitats that are protected because of their special ecological status. These include:

- Designated European sites (now called the National Site Network) – including Special Protection Areas (SPA) and Special Areas of Conservation (SAC).
- Designated national sites – including Sites of Special Scientific Interest (SSSI) and a National Nature Reserve (NNR)
- Local Sites – Including Local Nature Reserves (LNR), Local Wildlife Sites (LWS) and Local Geological sites (LGS)
- Priority habitats and species

7.8.1 The adopted Local Plan sets out the policy approach to the development on designated sites. Designated sites have a higher level of protection and the application of BNG policies on such sites is applied differently. The fundamental principal is that designated sites are avoided. Adverse impacts

on 'Irreplaceable habitats'²⁰ such as ancient woodland and veteran trees resulting in the loss, deterioration and/or fragmentation of habitats should also be avoided.

7.8.2 In terms of international designated sites, Birklands and Bilhaugh SAC is located just outside the district to the east of Market Warsop. There are seven SSSIs and one NNR at Sherwood Forest located just outside the district to the east of Market Warsop. There are nine LNRs, more than 80 LWS, and more than 10 LGS.

7.8.3 BNG does not apply to statutory designated sites or irreplaceable habitats and requirement for BNG does not over-ride the legal protections that are afforded to these sites through various legislation including:

- Natural Environment and Rural Communities Act (NERC 2006)
- Conservation of Habitats and Species Regulations 2017 (as amended)

7.8.4 The key principle for Nationally and Internationally designated sites is that any harm to the designated habitats should be avoided.

7.8.5 In addition to nationally and internationally designated sites, Mansfield (within Nottinghamshire) has a range of priority habitats. Paragraph 179 (b) of the NPPF seeks to:

“..... promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species”

7.8.6 The fundamental principal is that there should be no net loss of priority habitats within Mansfield District and no net loss of rare and endangered species. This means for instance the loss of acid grassland due to a development, should be replaced by the creation of a larger area of high quality acid grassland, rather than replaced with a different habitat such as broadleaved woodland. The aim therefore is to replace “like for like”, and so avoid incentivising specific habitat and species degradation.

²⁰ At the time of publication Natural England were reviewing the list of irreplaceable habitat. This should be referenced once published.

BNG SPD 8 – Designated sites

For developments which have an impact on International and National designated sites and Irreplaceable habitats, development proposals should seek to avoid harm, either direct or indirect, to any Biodiversity assets that underpin the designation. There is a presumption against development that harms designated sites.

The 10% Biodiversity net gain proposed on sites that contain or abut designated sites should, where possible, seek to complement the habitat typology that underpins the designation

Where development has an adverse impact on a priority habitat, any loss and additional minimum 10% net gain, should be on a like-for-like basis in terms of the habitat lost. But there is a presumption against development proposals that have an adverse impact on designated or irreplaceable habitats.

9. Long term management

7.9 In order to maintain a long term legacy for Biodiversity net gains resulting from development, legislation contained within the Environment Act requires that any BNG is secured for a minimum of 30 years.

7.9.1 In order to secure this 30 year legacy, Mansfield District Council will need to ensure that management and monitoring requirements are:

- legally binding (through section 106 agreements and planning conditions for on-site BNG and Section 39 Agreements for off-site BNG);
- adequately funded where the ongoing maintenance and monitoring is not proposed to be carried out directly by the initial developer for 30 years;
- informed by regular but proportionate monitoring on how the habitat creation or enhancement is progressing, indicating any remedial action necessary;
- ensuring that any remedial action and compliance with the BMP is enforced.

7.9.2 Long term management and ownership beyond the 30-year period needs to be considered by the developer in discussion with Mansfield District Council. The District Council will not normally be responsible for maintaining BNG sites in the longer term and it is the responsibility of the developer to identify and secure solutions.

7.9.3 The legitimacy of securing BNG is underpinned by enforcing compliance with approved schemes. Mansfield District Council has limited 'in-house' resources

to regularly monitor and ensure compliance. Effective mechanisms to secure compliance will therefore be required including a clear commitment to monitoring set out in the BNG Plan (secured by financial agreements or committed resources to carry out ongoing monitoring and enforcing non-compliance).

BNG SPD9 – Long term monitoring, maintenance and management of BNG

Development proposals that deliver habitat creation or enhancement as part of delivering biodiversity net gain should be maintained for at least 30 years

Maintenance of Biodiversity net gain beyond the minimum 30 year period is strongly encouraged

Planning conditions will be used to secure the longer term protection of existing and new areas of Biodiversity created as part of development proposals where necessary and reasonable to do so

In order to effectively monitor how the required habitat creation or enhancement is progressing the Council will seek regular but proportionate monitoring. This will be the responsibility of the developer or any subsequently appointed party and will be secured by planning condition or section 106 or Section 39²¹ legal agreement including the financial contributions required in order to effectively monitor compliance with the proposed habitat creation or enhancement.

The Local Planning Authority, Conservation Covenant's responsible body or any other appointed body, will seek to monitor and enforce²² compliance with the agreed BNG Plan. Any deficiencies identified or failure to deliver the identified BNG should result in remedial action at the earliest opportunity.

10. Nature Recovery Network, Local Nature Recovery Strategy and BNG

7.10 The Government has produced the document 'A Green Future: Our 25 Year Plan to Improve the Environment'²³. The primary aim of the document is to:

“.....leave our environment in a better state than we found it”.

7.10.1 The document sets out a number of goals and targets to achieve environmental benefits including the aim to embed an 'environmental net gain' principle for development, and particularly to:

²¹ Section 39 of the Wildlife and Countryside Act 1981

²² At the time of drafting this SPD DEFRA were consulting on

²³ Updated in 2023.

“...mainstream the use of existing biodiversity net gain approaches within the planning system, update the tools that underpin them.....”

7.10.2 The 25 year plan includes plans for development of a national Nature Recovery Network (NRN) to protect and restore wildlife and provide opportunities to re-introduce species that have been lost. The aim of the NRN is to provide 500,000 hectares of additional wildlife habitats nationally. The NRN also seeks to link existing protected sites and landscapes, as well as urban green and blue infrastructure.

7.10.3 The 25 year plan also introduces provisions requiring the development of Local Nature Recovery Strategies (LNRS) across England. Local Nature Recovery are spatial strategies that seek to establish priorities and map proposals for specific actions to drive nature's recovery and provide wider environmental benefits.

7.10.4 For the area that it covers, each LNRS will;

- agree priorities for nature's recovery
- map the most valuable existing areas for nature
- map specific proposals for creating or improving habitat for nature and wider environmental goals

7.10.5 Biodiversity net gain can help to contribute towards the Nature Recovery network and align with the aspirations of the Local Nature Recovery Strategy. LNRSs will provide the legal underpinning for the NRN. They will prioritise investment in habitat restoration and creation. BNG is one of the investment tools available to support delivery of the LNRS and the NRN.

BNG SPD 10 - Nature Recovery Network, Local Nature Recovery Strategy, Biodiversity Opportunities Map and BNG

Where possible, all proposals to deliver BNG as part of new development should seek to align with the Nottinghamshire Local Nature Recovery Strategy and Biodiversity Opportunities Map and contribute more widely to the national Nature Recovery Network

Where on-site provision of net gain is not possible, off site habitat enhancement should be made in accordance with the Nottinghamshire LNRS

Locations for off-site BNG habitat enhancement will be informed by maps to guide the provision of compensatory habitat

Where the LNRS has not yet been completed, developers are encouraged to use the Biodiversity Opportunity Map (BOM)²⁴ being prepared by Nottinghamshire Biodiversity Action Group to identify potential sites for off-site habitat enhancement

11. Off-setting and compensatory sites in Mansfield District and Nottinghamshire County

7.11 Mansfield District contains a wide variety of valuable habitats including woodland, heathland, wetland, grassland, ponds, rivers and other water areas.

7.11.1 The Nottinghamshire Biodiversity Opportunity Map and LNRS will help to identify key habitats within the District and where new habitat creation could contribute to the delivery of a stronger NRN and help to meet the 30x30 target.

7.11.2 The mitigation hierarchy seeks to deliver BNG on the site where development is proposed. In the circumstances where this is not possible or expedient, BNG should be secured as close as possible to the development site.

7.11.3 Mansfield District Council alongside its partners in Nottinghamshire have sought to identify a variety of sites where off-site compensatory BNG can be secured. The preferred site will depend on:

- the nature of the development proposed
- the proximity of the compensatory site to the development proposed
- the type of Biodiversity that is being lost as part of the proposal
- the best location to maximise BNG based on the BOM and the emerging LNRS.

7.11.4 The sites available for off-site provision are fluid with additional sites being identified. Private sector operators have also started to identify sites for BNG in Nottinghamshire including within and adjacent to Mansfield. Private sector sites will be allowed where they provide an appropriate solution which optimises securing BNG and can be demonstrated to help strengthen local habitat networks.

²⁴ Being developed for Mansfield District at the time of production of this SPD.

7.11.5 Where BNG cannot be secured on site, developers will be encouraged to liaise with the Local Planning Authority in order to identify the best location to provide compensatory provision from the range of sites available.

7.11.6 Mansfield District, alongside its Local Authority partners in Nottinghamshire is seeking to develop and update a Biodiversity Opportunities Map²⁵ that will identify potential sites for the implementation of BNG and other opportunities to enhance Biodiversity in the County.

BNG SPD 11 - Off-setting and compensatory sites in Mansfield District and Nottinghamshire County

Where, in exceptional circumstances, BNG cannot be secured on-site as part of development proposals, developers should agree the location for off-site compensatory provision with the Local Planning Authority in advance of a decision being made

The choice of site to secure off-site BNG should be from the list of suitable sites in the Mansfield District. Where no, or less suitable, sites are available in Mansfield District, sites in the wider Nottinghamshire can be used.

The preferred site for off-site BNG will be informed by:

- **the type of Biodiversity that is being lost as part of the proposal**
- **the proximity of the compensatory site to the development proposed**
- **the best location to maximise BNG**
- **the nature of the development proposed**

Potential BNG off-setting sites should be selected from the Nottinghamshire Biodiversity bank of Available sites²⁶.

Alternative sites, including privately owned sites are allowable where it can be demonstrated that they offer the optimum opportunities for BNG and are at least as suitable as sites identified from the Nottinghamshire Biodiversity bank of Available sites.

²⁵ The BOM for Mansfield was being developed at the time of drafting this guidance.

²⁶ The priority sites will be agreed by the Nottinghamshire Biodiversity Net Gain Planning Group, in accordance with the BOM and the LNRS.

Based on suitability, new sites will be added to the bank of available sites. All sites, including those on public, private and NGO land will be thoroughly assessed in terms of their suitability.

Where off-site provision is proposed on either public land or private sites its long term maintenance will be secured by Section 39 legal agreement or equivalent.

12. The UK 30 x 30 target

7.12 The Government is commitment to achieving 30% of the land protected for nature by 2030 (the 30x30 target).

7.12.1 Following the global push to protect and conserve at least 30% of the world's lands, freshwater and oceans by 2030, the UK Government committed to the protection of at least 30% of the UK for nature. In Nottinghamshire this equates to some 64,800 ha.

7.12.2 The 30% threshold of habitat cover in a landscape has been determined as the point at which the spatial distribution and area of habitat is generally sufficient to provide connectivity for a range of species populations. Thresholds will differ between landscape types but the 30% threshold has been supported for woodlands and grasslands which make up much of the lowland habitat matrix of the UK including parts of Mansfield District and Nottinghamshire County.

7.12.3 The 30% coverage is a useful strategic national, regional and sub-regional target but is only part of securing a healthy ecological network in recovery for nature that covers each county. Nature Recovery Networks will help to identify potential solutions that encourage the joined-up systems of places needed to allow nature to recover and thrive.

7.12.4 BNG and the NRN will be important mechanisms contributing to meeting the 30x30 target in Nottinghamshire.

BNG SPD 12 - UK 30 x 30 target

Where possible, the provision of BNG resulting from new developments should contribute to the objectives of the Nature Recovery Network and help to deliver the Government's 30 x 30 target

13. Use of 'The Environmental Benefits from Nature tool'

7.13 The Environmental Benefits from Nature tool (EBN tool) developed by Natural England is designed to work alongside Biodiversity metric 4.0 and provide developers, planners and other interested parties with a means of enabling wider benefits for people and nature from biodiversity net gain.

7.13.1 The EBN tool is biodiversity-led and recognises that healthy, diverse and resilient ecosystems are essential to underpin the long-term delivery of multiple ecosystem services considering multiple objectives, for example siting new woodland in an optimum location for flood protection or air quality regulation, improving public access for recreation, creating flower-rich grassland to benefit pollinators, providing green roofs for cooling, and planting the right tree species with maximum potential for carbon storage.

BNG SPD 13 - Environmental Benefits from Nature tool

Where possible, developers will be encouraged to use the Environmental Benefits from Nature tool help to deliver wider environmental benefits associated with BNG

14. Biodiversity Net gain and Green Infrastructure

7.14 In addition to the Biodiversity Net gain SPD, Mansfield District Council has produced a Green Infrastructure (GI) SPD which sets guidance on how developers can seek to deliver Green Infrastructure as part of new development. In particular, the SPD seeks to elaborate on the GI policy IN2.

7.14.1 There are opportunities for new Green Infrastructure to accommodate Biodiversity Net Gain and for BNG solutions to become part of wider GI solutions. Most forms of GI lend themselves to incorporating Green Infrastructure.

7.14.2 The Planning Practice Guidance recognises that:

“...High-quality networks of multifunctional green infrastructure contribute a range of benefits, including ecological connectivity, facilitating biodiversity net gain and nature recovery networks and opportunities for communities to undertake conservation work.”

7.14.3 Natural England provide guidance relating to the provision of Green Infrastructure which includes potential benefits for the provision of Biodiversity. This can be accessed via the following link:
<https://designatedsites.naturalengland.org.uk/GreenInfrastructure/Home.aspx>

7.14.4 The 'Biodiversity Net gain' and 'Green Infrastructure' Supplementary Planning Documents have been prepared separately, however, they should be read in conjunction in order to deliver mutual benefits, but recognising that whilst land for biodiversity is part of GI, it is not always suitable for public access or recreational use.

GI SPD 14 - Biodiversity Net Gain and Green Infrastructure

Where new development is required to provide Biodiversity Net Gain, opportunities should be explored to provide the BNG within areas of existing on-site Green Infrastructure, and where on-site provision is not feasible, provision of BNG on GI off-site within the Mansfield District should be explored. Options for delivering BNG in Green Infrastructure include:

- **Multi-functional habitats on green buildings roofs and terraces**
- **Tree-lined streets and the retention of hedgerows within developments**
- **As part of Sustainable Drainage Systems which enhance biodiversity for example by incorporating ditch habitats and pond networks**
- **Natural Green Spaces within open spaces**
- **Creating larger-scale natural habitats within informal open spaces, country parks and play areas**
- **An extensive network of green and blue corridors (and associated buffer zones) and natural habitat**
- **Restoring watercourses to a more natural state²⁷**
- **Linear routes for cyclists and pedestrians containing opportunities for habitat creation**
- **Transport links (streets, railway lines, cycle-ways etc.) that include verges of priority habitat, hedgerow, wildflower-rich grassland along railway lines, roads, streets, and pedestrian and cycle networks.**

²⁷ Such as removal of redundant physical modifications (such as weirs) which increases potential for migration of

BNG is not always compatible with GI, particularly where there is public access (as described above). BNG should not be provided for accessible GI where there are sensitive species and vulnerable habitats.

Appendix A – Policy NE2 of the Mansfield Local Plan 2013 to 2033

“Biodiversity and geodiversity

1. Development proposals will be supported where, commensurate with their scale, location and type, they:

- a. protect, enhance and contribute to the management of the ecological network of habitats and sites of European, national and local importance (statutory and non-statutory);
- b. avoid and/or minimise adverse individual and or cumulatively impacts, on biodiversity, geodiversity and ecosystem services;
- c. seek to deliver a net gain in biodiversity across local and landscape scales; and
- d. prioritise the de-fragmentation, restoration, retention and sensitive management of habitats and landscape features, to allow for the movement of wildlife.

Designated European sites

2. Development proposals will not be permitted where they would have an adverse impact on the integrity of a site of European significance unless it has been demonstrated that there:

- a. are no alternatives;
- b. are imperative reasons of overriding public interest; and
- c. all necessary compensatory measures will be required to ensure the overall coherence of the network of European sites, as a whole, is protected.

Designated national sites

3. Development proposals will not be permitted where they would have an adverse impact on a designated national site. Exceptions will only be made where the benefits of the development clearly outweigh both the adverse impacts on the designated national site and the national network of such sites.

Designated local sites

4. Development proposals will not be permitted where they will have a significant adverse impact on a designated local wildlife site, local nature reserve, or local geological site. Exceptions will only be made where the reasons for, and benefits of, the proposed development clearly outweigh the adverse impact on the loss or deterioration of the designated site.

Sherwood Forest possible potential Special Protection Area (ppSPA)

5. Where development is proposed within 400 metres of the non-designated Sherwood Forest ppSPA, a risk based approach, as set out in Natural England's Advice Note to Local Planning Authorities, will be adopted to all planning applications in relation to the possible potential special protection area for the Sherwood Forest region.

Irreplaceable habitats

6. Planning permission will be refused for development resulting in the loss, deterioration and/or fragmentation of irreplaceable habitats, including ancient woodland and veteran trees, unless there are wholly exceptional reasons and a suitable compensation plan exists.

Avoidance, mitigation and compensation of adverse impacts on nature conservation

7. In exceptional circumstances where adverse impacts on designated sites and irreplaceable habitats are demonstrated to be unavoidable and the benefits outweigh the harm, as set out in 2 to 6 above, development proposals will only be permitted where:

- a. impacts are appropriately mitigated, with compensation measures towards loss used as a last resort where mitigation is not possible; and
- b. appropriate provision for management is made.

Species, habitats, landscape features

8. On sites supporting protected species, important landscape features, and priority habitats and species (as defined by legislation), development proposals will only be supported where:

- a. it can be demonstrated that the benefits of the development clearly outweighs the impact on species, habitats, important landscape features; and
- b. that appropriate avoidance, mitigation, enhancement and management measures can be satisfactorily secured."