

## **Chapter 6: Biodiversity**

### **Introduction**

- 6.1 The Greater Cambridge Biodiversity Supplementary Planning Document was adopted in 2022 and provides detail on how developments should address biodiversity and Biodiversity Net Gain (BNG). This Planning Obligations SPD focuses on the financial mechanisms and how it will be addressed in s106 Agreements.

### **Policy Context**

#### **Cambridge**

- 6.2 Cambridge Local Plan 2018 Policy 70: Protection of Priority Species and Habitats, requires no net loss in biodiversity. In addition, a range of other policies address matters that could relate to or impact on biodiversity.

#### **South Cambridgeshire**

- 6.3 South Cambridgeshire Local Plan 2018 Policy NH/4: Biodiversity, requires no net loss in biodiversity. In addition, a range of other policies address matters that could relate to or impact on biodiversity.

#### **Greater Cambridge (Cambridge and South Cambridgeshire)**

- 6.4 Greater Cambridge Shared Planning Biodiversity SPD (2022) provides practical advice and guidance on how to develop proposals that comply with the NPPF and the district-wide policies. The SPD guidance foresees changes subsequently brought about through the Environment Act 2021, including the introduction of statutory BNG of 10%, with an aspirational vision to achieve 20% BNG encouraged as best practice.
- 6.5 In respect of delivery of BNG, the SPD advises that the Councils will seek to use planning conditions to secure on site habitat creation and its long-term management, and obligations, such as s106 Agreements, where BNG is on land outside the applicant's control.

#### **Development types from which Obligations will be sought**

- 6.6 BNG is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act

2021). Schedule 7A defines what types of development are eligible for statutory BNG provision.

6.7 Under Schedule 7A, the types of development eligible for statutory BNG provision generally include:

1. Major developments: These are developments as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2010, which include:
  - Residential developments of 10 or more homes or on sites larger than 0.5 hectares.
  - Non-residential developments with a floorspace of 1,000 square meters or more, or on sites larger than 1 hectare.
2. Minor developments: While initially minor developments (fewer than 10 homes or smaller commercial developments) were not required to meet BNG requirements, changes have meant that a range of minor developments are now encompassed by statutory BNG provisions.
3. Nationally significant infrastructure projects (NSIPs): Large-scale infrastructure projects, such as transportation, energy, or water infrastructure, fall under statutory BNG requirements as per the Environment Act.
4. Development on public land: Any development by public authorities or on public land that triggers planning approval will generally be subject to the BNG provisions.

6.8 There are exemptions for certain types of developments, including:

- Householder applications (extensions, renovations, etc.).
- Development within the curtilage of existing homes.
- Self-build and custom build housing under a certain development and plot size.
- Some permitted development rights projects.

### Key Aspects of Statutory Biodiversity Net Gain

- Developers must ensure at least **10% biodiversity net gain** compared to the pre-development baseline.
- BNG can be delivered **on-site** or **off-site** (through purchasing biodiversity credits or enhancing nearby habitats).
- The biodiversity improvements must be maintained for at least **30 years**.

6.9 These provisions aim to ensure that new developments contribute positively to the environment, enhancing habitats and ecosystems alongside development

projects. The Biodiversity SPD encourages 20% but does not set this as a requirement.

### **Form in which an obligation is made**

- 6.10 For the purposes of Biodiversity Net Gain (BNG), s106 Agreements are one of the mechanisms under paragraph 9 of Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) necessary to secure the maintenance of significant onsite habitat enhancements for at least 30 years. They are also required to register sites with the UK government for offsite gains (unless conservation covenants are used). Certain exemptions to statutory BNG apply as set out in the above legislation.
- 6.11 If BNG is required from a development proposal, a condition is imposed on a planning permission to secure its provision and development cannot commence until the condition is discharged. BNG can be achieved onsite, offsite (through an associated s106 Agreement) or through the purchase of statutory biodiversity credits.
- 6.12 As such, how BNG is delivered is determined on a case-by-case basis depending upon the context and constraints present at each site which will inform how and where biodiversity net gain can be delivered and whether a pre-existing s106 Agreement is in place at a recognised habitat bank. Such s106 Agreements will be with the LPA and the landowners and managers of the habitat banks and will be required to set out the appropriate long-term management and monitoring arrangements for off-site BNG.
- 6.13 Applicants must ensure that planning applications are supported by adequate ecological information, using up-to-date desk studies and site assessment by competent ecologists to inform survey methodologies sufficient in scope to allow the impact of a proposal to be appropriately assessed. This includes householders and developers of small sites, where there may be unexpected risks of impacts to habitats and species. Depending on the nature, scale and location of the development proposal, applicants will likely need to provide the following:

### **A Preliminary Ecological Appraisal (PEA)**

- 6.14 A PEA is often carried out by ecologists as an initial means of recording the habitats and condition of a development site and predicting the likely ecological constraints and impacts that might arise from its development.

## Habitat Surveys

- 6.15 A Habitat Survey will be required where a PEA indicates that further surveys are required to support a planning application. The results of all such surveys and associated details of necessary mitigation measures will need to be submitted to validate an application. This is necessary to provide the LPA with certainty of likely impacts and that effective and deliverable mitigation can be secured. Surveys of the development site to calculate the pre-development biodiversity value of the onsite habitat should ideally be done shortly before the submission of the planning application. Older surveys can be used where there has been no material change to the onsite habitat when the planning application is submitted.

## Biodiversity Metric

- 6.16 Where an applicant believes the development would be subject to a BNG requirement, the application must be accompanied by the minimum information set out in Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 using the relevant and most up-to-date Defra Biodiversity Metric tool. This is to establish the pre-development biodiversity value(s), either on the date of application or earlier proposed date (as appropriate).
- 6.17 Pre-development biodiversity value must be calculated before any site clearance or other habitat management work has been undertaken, by the applicants or anybody else. However, if this is known to have happened, on or after 30th January 2020 the condition of the site will be taken as the habitat baseline stated in Schedule 14 Part 1 paragraph 6 of the Environment Act 2021.

## Biodiversity Gain Plans

- 6.18 Some applicants may want to submit draft [Biodiversity Gain Plans](#), including completed metrics of the post-development value of the onsite habitat, alongside a planning application. These draft plans may be particularly helpful if there are firm proposals for onsite habitats, including landscaping plans, which can generate an accurate post-development value for the onsite habitat.

## Exemptions

- 6.19 Government guidance sets out [the types of development that are currently exempt from the mandatory BNG requirements](#). The necessity of securing

BNG requirements through a s106 obligation (either as net gain or statutory BNG of a minimum of 10%) are to be determined on a case-by-case basis.

### Further guidance

- 6.20 Applicants are encouraged to engage with the LPA before submitting their application to identify, understand and seek to resolve issues; this will help to improve both the efficiency and effectiveness of the planning application process and identify whether a s106 Agreement may be necessary to secure BNG. In this regard a fee-payable [Pre-Application service](#) has been set up at Greater Cambridge Shared Planning to specifically advise on BNG. This includes understanding the likely costs of purchasing BNG credits as opposed to on-site delivery. Best practice for site planning should follow the mitigation hierarchy of avoid, minimise, rectify, reduce and off-set as set out at para. 5.2 of the Biodiversity SPD and in NPPF guidance.
- 6.21 If a developer wishes to deliver BNG off-site, a number of options will be available to secure this. The planning service has already negotiated and agreed s106 Agreements with offsite providers for the establishment of habitat banks locally that will act as important resources for those developments which cannot attain full onsite BNG.
- 6.22 S106 Agreements with landowners within the Greater Cambridge Area who provide BNG credits include County Farms at Lower Valley Farm and the Wildlife Trust at Flack Field and Fleam Dyke. Advanced negotiations with two other landowners at Yen Farm (West Wrattling) a site at Coploe Hill (Ickleton) and land owned and managed by Cambridge Past Present and Future are underway.
- 6.23 Should off-site BNG provision be proposed to be delivered at any site with a pre-existing s106 Agreement in place that secures long term managed provision and monitoring contributions for the planning service, a s106 obligation is unlikely to be required and the BNG provision can be secured and discharged via planning condition.
- 6.24 To discharge a Biodiversity Gain Plan condition which seeks to secure off-site BNG, the LPA will need to ensure the BNG will be appropriately managed and monitored with fees for undertaking this. If a developer applies to discharge a BNG condition reliant on off-site provision where there is no associated s106 Agreement securing long term management or monitoring contributions, BNG conditions will not be discharged.
- 6.25 If a planning proposal (pre-determination) seeks to secure off-site BNG on a site where no s106 management and monitoring provisions are in place, it will

be appropriate to encourage early drafting of a s106 Agreement in consultation with ecology officers.

**Links:**

[Greater Cambridge Shared Planning Biodiversity Supplementary Planning Document \(2022\)](#)

[Biodiversity Net Gain Advice - Greater Cambridge Shared Planning Service Website](#)

Biodiversity gain plan templates - [DEFRA website](#).