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By email only

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Dear Secretary of State

Consultation: Improving the implementation of Biodiversity Net Gain for minor, medium and brownfield development

On behalf of the Office for Environmental Protection, I am pleased to provide our response to the above consultation.

Biodiversity Net Gain (BNG) is an important programme for the environment in England. As we stated in our 2022 advice,¹ we support its core ambition to ensure that habitats for wildlife are overall left in a better state than prior to development. We appreciate the aim of improving the standard regulatory outcome associated with in-scope development by requiring a 10% net gain and thereby achieving nature positive outcomes at a landscape-scale. The offsite unit market is also important to the delivery of better ecological outcomes, and, in principle, aligns with the Lawton principles of “more, bigger, better and joined” in making space for nature.²

We therefore welcome proposals with the overall aim of improving the implementation of BNG. In our view, any changes should aim to ensure that BNG contributes more to wider approaches to improving nature, aligns with the forthcoming revision of the Environmental Improvement Plan, and enhances prospects for meeting legally-binding targets for nature.

Clearly, the proposed reforms must be seen in the context of the government’s drive towards economic growth and associated development. We appreciate the government’s ambition to increase housebuilding, specifically its target of delivering 1.5 million homes

¹ Office for Environmental Protection, ‘Advice in Response to Biodiversity Net Gain Consultation’ (2022) <www.theoep.org.uk/report/oep-advice-response-biodiversity-net-gain-consultation> accessed 26 June 2025.

² John Lawton, ‘Making Space for Nature: A Review of England’s Wildlife Sites and Ecological Network’ (DEFRA 2010) <<https://castor-pc.gov.uk/wp-content/uploads/2020/07/Making-Space-for-Nature-A-review-of-Englands-Wildlife-Sites-and-Ecological-Network-DEFRA-2010.pdf>> accessed 12 March 2025.

over the Parliamentary term, and, in this context, we welcome its stated intention to secure better outcomes for nature at the same time as this acceleration in development.

The importance of BNG extends beyond its proximate relevance to developments, however. Fostering nascent nature markets is critical and the BNG regime has been important for creating mechanisms and confidence to facilitate private market investment in biodiversity improvements. Such confidence, extending well beyond BNG, is critical to mobilisation of private sector investment for nature, the scale of ambition for which is large, at £500M by 2027, rising to £1B by 2030.³

We therefore recommend that Defra approaches reform to BNG with caution.

The consultation includes proposals for significant design and methodological changes to BNG to address apparent challenges in its implementation. However, the consultation does not present any detailed evidence regarding the nature and extent of the challenges that the proposals are intended to address. We also note that while this consultation includes a variety of proposals, it does not include any assessment of the anticipated impact of the proposed reforms. We understand this challenge, given the short time that BNG has been in operation and the relatively scant evidence available with which to evaluate its performance.

As a consequence, the basis for which Government is making these particular proposals is not clear from the consultation. Neither is it clear what consequences the proposals may have, whether for the scale, quality and location of BNG actions, prospects for the BNG unit market, or, most importantly, for environmental outcomes. We are concerned that, in the absence of sufficient evidence, the proposed changes may have negative unintended consequences.

We therefore recommend that Defra provides fuller evidence to support the need for reform and for its proposals and their effects. An evidence pack should include an impact assessment and an analysis of stakeholder engagement for any future consultation or development of its proposals.

The Environmental Principles Policy Statement (EPPS) and the duty to have due regard to it during policy-making can assist government in achieving improved policy coherence and in contributing to wider environmental ambitions. In line with recommendations we made for improved transparency in relation to application of the EPPS duty when making policy,⁴ we would consider an evidence pack to be the logical place to set out how the EPPS has been applied and how it has informed development of this policy to date.

³ Department for Environment, Food & Rural Affairs, 'Environmental Improvement Plan 2023' (2023) 10 <<https://www.gov.uk/government/publications/environmental-improvement-plan>> accessed 19 October 2023.

⁴ Office for Environmental Protection, 'A Review of Implementation of the Duty to Have Due Regard to the Environmental Principles Policy Statement in England' (2025) <<https://www.theoep.org.uk/report/positive-start-implementation-epps-more-can-be-done-says-oep>> accessed 26 June 2025.

Accordingly, we recommend that Defra sets out how the EPPS has been applied and informed development of this policy change.

In addition to our reflections below on three sections of this consultation, we have provided an annex summarising our recent assessment of the implementation of BNG, which we hope you will find informative. In this annex, we outline barriers to the effective operation of the regime and which we think are amenable to improvement. These include issues with on-site BNG, the resourcing and expertise of public authorities, and concerns about the design of the metric.

Section 1: Improving exemptions

The consultation proposes significant changes to the scope of the BNG regime, most notably to exempt minor developments. We are concerned by the extent of the proposed exemptions to BNG at such an early stage of its implementation.

Excluding minor development would significantly narrow the scope of the regime. We are concerned that the proposed exemptions come with the risk of cumulative impacts of greater habitat loss across small-site developments. Defra's 2019 impact assessment highlights the overall impact that minor developments can have in driving habitat loss, noting that whilst each development may not be considered "individually problematic", their cumulative impact has resulted in significant habitat loss.⁵

Minor developments are playing an important role in contributing towards the growing BNG market: the consultation highlights that 80% of transactions are associated with minor development.⁶ We are concerned that the proposed exemption of minor development would negatively affect investor confidence in the nascent BNG market, operation of this market, and mobilisation of private sector green finance more broadly (questions 5, 11).

Recent research, published during the period of this consultation, shows that sites of less than 1 ha were associated with the purchase of 38.3% of the biodiversity units sold on the market.⁷ Exempting minor development would therefore have a significant impact on the demand for biodiversity units. Given there are other ways of improving implementation that could be tried first, we consider this level of design change unwarranted at such an early stage. We outline some of these issues in the annex to this letter and in our 2022 advice submitted to the Consultation on Biodiversity Net Gain Regulations and Implementation.⁸

⁵ Department for the Environment, Food & Rural Affairs, 'Impact Assessment: Biodiversity Net Gain and Local Nature Recovery Strategies' (2019) 64 <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/839610/net-gain-ia.pdf> accessed 26 June 2025.

⁶ Department for the Environment, Food & Rural Affairs, 'Improving the Implementation of Biodiversity Net Gain for Minor, Medium and Brownfield Development' (2025) 21 <<https://consult.defra.gov.uk/defra-biodiversity-net-gain/improving-the-implementation-of-biodiversity-net-g/>> accessed 26 June 2025.

⁷ Natalie E Duffus and others, 'Early Outcomes of England's New Biodiversity Offset Market' [2025] bioRxiv 9–10.

⁸ Office for Environmental Protection, 'Advice in Response to Biodiversity Net Gain Consultation' (n 1).

Furthermore, proposals to exempt minor development would come with risk that developers falsely split developments, so as to fall under the relevant size threshold. This would, in turn, augment the risk of greater habitat loss associated with the proposed exemption. Sufficient safeguards would need to be introduced alongside any such exemption to mitigate such risks.

Accordingly, we consider that exempting minor development from BNG carries significant risk. Such an exemption will significantly narrow the scope of the regime and, in our view, is likely to impact the nascent off-site biodiversity credit market and lead to biodiversity loss, due to a significant proportion of developments not being required to deliver a net gain (questions 5 and 11).

We are perturbed by proposals to exempt parks, gardens and playing fields from delivering BNG. Wholesale exemption of these types of development may see significant loss of biodiversity in some instances, whereas with effective project design they might reasonably be expected to be beneficial for biodiversity (question 15). We consider that these developments should be judged on their individual planning applications.

Section 2: Streamlining the biodiversity net gain metric process

Some of the proposals in this section could have welcome, positive impacts. For example, providing additional guidance on the identification and management of habitats, and providing further clarification and guidance in other areas of the regime where developers and other interested parties have found the regime confusing (question 35).

However, it is proposed to allow the small sites metric to be used on protected sites, and on sites with European protected species present (questions 25-26). Protected sites have been designated by virtue of their very significant contribution to, indeed their necessity for, the conservation of certain nationally important habitats and species. Among these, European protected species are defined as requiring strict protection because they are vulnerable, rare or endangered across their continental range.

The consultation document suggests that the small sites metric should only be used on “small-scale sites containing lower value habitats”.⁹ This description does not apply to any protected sites and is especially inaccurate in respect of those designated as European sites. It may also not be accurate for sites that support European protected species. The importance of European sites and European protected species is recognised in the Conservation of Habitats and Species Regulations 2017, which require strict tests to be passed before plans and projects that may affect these sites and species can be permitted.

Due to the importance of these sites and species, it would not be accurate to describe development affecting them as “low impact”, and we caution against the proposal to allow for the small sites metric to be used in such instances. Moreover, as developers would

⁹ Department for the Environment, Food & Rural Affairs, ‘Improving the Implementation of Biodiversity Net Gain for Minor, Medium and Brownfield Development’ (n 5) 28.

presumably be required to engage professional ecologists to complete the necessary assessments under the Habitats Regulations, proposals to allow for use of the simplified metric in such circumstances would appear to come with limited practical benefit for developers.

We consider that the proposal to fix the habitat condition to poor for baseline habitats when applying the small sites metric is likely to lead to an overall unintended *net loss* of those habitats for which condition is not evidenced (question 30). This would be at odds with the precautionary principle. We also draw a link to the concerns we raise above regarding proposals to extend use of the small sites metric. We do not consider it appropriate to fix baseline habitat condition as “poor” in instances where protected sites and European protected species are present. Various parallel statutory obligations require action to be taken to restore protected species and habitats to favourable status. Requiring developers to deliver BNG according to a much lower baseline would be inconsistent with these wider requirements.

We are concerned that the proposals to exclude watercourses and related surveys from the metric would be a missed opportunity to address environmental concerns due to the impacts of physical habitat modifications in rivers (question 34, 37-38). In England, approximately four in ten rivers are not achieving Good Ecological Status due to the effects of physical modifications.¹⁰ The proposed change to the metric could create a lack of coherence with environmental commitments, legal requirements, and government’s wider ambitions for the quality of the nation’s rivers.

Section 3: Increasing flexibility to go off-site for minor development

At the heart of this section is the proposal to make it easier for minor developments to deliver BNG off-site. As we discuss in the annex to this letter, the location where gains are delivered, compared to where losses are incurred, is an important consideration for achieving benefits to biodiversity. We note that where BNG is achieved on-site, this may result in better local access to nature but the site may be at greater risk of disturbance (for example, from recreational pressure). Strategically planned and delivered off-site BNG may also support greater connectivity to priority natural habitats, potentially amplifying its benefit.

We consider there is merit in amending the Spatial Risk Multiplier assessment methodology so that it is based on Local Nature Recovery Strategy (LNRS) areas, rather than Local Planning Authority boundaries (questions 45-46). As we set out in our recent report, LNRS have a pivotal role to play in steering local priorities for nature.¹¹ Much work

¹⁰ Environment Agency, ‘State of the Water Environment Indicator B3: Supporting Evidence’ (2025) <www.gov.uk/government/publications/state-of-the-water-environment-indicator-b3-supporting-evidence> accessed 26 June 2025.

¹¹ Office for Environmental Protection, ‘A Review of Local Nature Recovery Strategies and Their Role in Contributing to Nature Recovery Commitments in England’ (2025) <www.theoep.org.uk/report/local-nature-recovery-has-important-part-play-helping-government-deliver-its-win-win> accessed 26 June 2025.

has gone into their production, including applying the longstanding principles of Lawton's Making Space for Nature review. This, along with the governance changes proposed through English devolution, means that LNRS should be the primary framework to ensure coherence in the delivery of on-the-ground actions needed for nature recovery.

Therefore, we highlight the opportunity for Defra to set out the relationship between the delivery of BNG and other flagship programmes such as LNRS and, in due course, the Environmental Delivery Plans proposed in the Planning and Infrastructure Bill.

I hope that you find our response to this consultation to be useful. We would welcome the opportunity to see additional detail as it becomes available and provide further feedback.

We would be pleased to discuss this further with you or your officials.

Yours sincerely



Dame Glenys Stacey
Chair of the Office for Environmental Protection



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Annex 1. OEP assessment of BNG

The OEP has undertaken an initial appraisal of the implementation of BNG to understand the strengths of the regime, its challenges and, where appropriate, whether these issues are associated with design or implementation. We trust that our appraisal and evidence can be of assistance to Defra as they undertake their own assessment of the regime.

BNG has not been in operation very long. It became operational in England in 2024 as an obligation for most developments under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

Due to the early stage of its implementation, there is limited publicly available evidence to assess the strengths of the regime and challenges to its effective operation. Of the available evidence, there are concerns regarding reporting requirements for on-site BNG; biodiversity outcomes associated with on-site net gain; resourcing and expertise; and some concerns with the design of the metric.

There are also lessons from the operation of BNG-type policies in other jurisdictions that we consider valuable for England. We also refer to our 2022 advice submitted to the Consultation on Biodiversity Net Gain Regulations and Implementation¹² to highlight that there are existing concerns about the BNG regime that are yet to be addressed, the majority of which have not been addressed in the current consultation.

Differing reporting requirements for on-site BNG

When implementing a BNG obligation, developers may deliver the gain on-site or off-site. The biodiversity gain hierarchy prioritises the delivery of on-site biodiversity and most net gain activity does currently occur on-site.¹³

An ongoing and consistent area of concern is that on-site BNG sites are subject to different governance arrangements compared to off-site activities. Notably, developers are not required to register on-site activity details on the biodiversity gain sites register, whereas this is mandatory for off-site BNG activity.¹⁴ This register requires details including: location; map or plan of the site boundaries; habitat types to be created or

¹² Office for Environmental Protection, 'Advice in Response to Biodiversity Net Gain Consultation' (n 1).

¹³ The Environmental Audit Committee cites research estimating 50-90%. Eftc (2021) cite estimates of 50%. Rampling and others (2023) cite that over 90% of biodiversity units in early adopter jurisdictions in their sample were delivered on-site. Note that the figures from Rampling and others were collated from information from 2020-22 before BNG became mandatory reflecting a different policy scenario to that of 2025. See, Economics for the Environment Consultancy Ltd (EFTEC), 'Biodiversity Net Gain: Market Analysis Study' (2021) ii-iii, 21 <<https://randd.defra.gov.uk/ProjectDetails?ProjectId=20608>> accessed 14 July 2025; Emily E Rampling and others, 'Achieving Biodiversity Net Gain by Addressing Governance Gaps Underpinning Ecological Compensation Policies' (2024) 38 Conservation Biology e14198, 9; Environmental Audit Committee, 'The Role of Natural Capital in the UK's Green Economy' (2025) HC 501 para 82 <<https://committees.parliament.uk/committee/62/environmental-audit-committee/news/206702/wavering-government-support-for-nature-investment-schemes-could-see-green-spaces-slip-away-from-communities/>> accessed 14 July 2025.

¹⁴ Department for the Environment, Food & Rural Affairs, 'Search the Biodiversity Gain Sites Register' (18 March 2024) <www.gov.uk/guidance/search-the-biodiversity-gain-sites-register> accessed 26 June 2025.

enhanced; the habitats on the site allocated to the development; and the relevant Local Planning Authority or responsible body.

Peer-reviewed research has highlighted concerns that, without this same reporting requirement, on-site BNG may fall into a “governance gap”. These concerns include the low likelihood of monitoring by resource-constrained local planning authorities; lack of reporting requirements; a lack of standardised national approach to verifying/recording biodiversity gain; and a low likelihood of enforcement action.¹⁵ Other research has highlighted that having different standards for on-site and off-site mitigation risks providing a “clear pathway for developers to achieve their legal obligations by investing in lower quality mitigation measures on-site” compared to off-site, as such issues have been seen in the US system for wetland mitigation.¹⁶ Other research has estimated that 27% of biodiversity units within a sample sits within a “governance gap” due to high risks of non-compliance, and a low likelihood of monitoring.¹⁷

In our advice on the 2022 consultation on BNG, we recommended that on-site activity should be included in the register. Without this, there is a two-tiered governance system and tracking where gains will be delivered is difficult.¹⁸ Experience from Australia suggests that the absence of easily accessible planning information can lower trust in decision-making processes, and can mask where biodiversity offset measures are not delivering but are in fact leading to biodiversity *net loss*.¹⁹

At present, reporting on and evaluating on-site BNG will be recorded separately for each on-site development on more than 200 online Local Planning Authority websites. This absence of centralised reporting obligations will hinder effective policy-level evaluation (both from Defra and third parties).²⁰ In particular, we can see that, without such centralised recording, it will be difficult to draw meaningful policy-wide conclusions on: ecological outcomes, compliance, and recurring challenges.

In Defra’s Impact Assessment for Nationally Significant Infrastructure Projects, reference was made to success rates of BNG-type projects varying from 0% to 74%, with other research identifying rates of 6% to 20%.²¹ These figures and the complexity of multi-

¹⁵ Rampling and others (n 17); National Audit Office, ‘Implementing Statutory Biodiversity Net Gain’ (2024) HC 729; Sophus OSE zu Ermgassen and others, ‘Exploring the Ecological Outcomes of Mandatory Biodiversity Net Gain Using Evidence from Early-Adopter Jurisdictions in England’ (2021) 14 Conservation Letters e12820; Sophus OSE zu Ermgassen and others, ‘The Ecological Outcomes of Biodiversity Offsets under “No Net Loss” Policies: A Global Review’ (2019) 12 Conservation Letters e12664.

¹⁶ Sophus zu Ermgassen and others, ‘Five Golden Rules for Scientifically-Credible Nature Markets’ [2025] SocArXiv; cited by Palmer Hough and Morgan Robertson, ‘Mitigation under Section 404 of the Clean Water Act: Where It Comes from, What It Means’ (2009) 17 Wetlands Ecology and Management 15.

¹⁷ Rampling and others (n 17).

¹⁸ Answer to question 38, Office for Environmental Protection, ‘Advice in Response to Biodiversity Net Gain Consultation’ (n 1).

¹⁹ See, especially, Chapter 4: Trust in the EPBC Act, Chapter 10: Data, information and systems, and Chapter 11: Environmental monitoring, evaluation and reporting in Graeme Samuel, ‘Independent Review of the EPBC Act’ <www.dcceew.gov.au/sites/default/files/documents/epbc-act-review-final-report-october-2020.pdf> accessed 15 July 2025; David B Lindenmayer and others, ‘The Anatomy of a Failed Offset’ (2017) 210 Biological Conservation 286.

²⁰ As discussed, for example, in zu Ermgassen and others, ‘Five Golden Rules for Scientifically-Credible Nature Markets’ (n 20).

²¹ Joseph W Bull and others, ‘Biodiversity Offsets in Theory and Practice’ (2013) 47 Oryx 369; Martine Maron and others, ‘Faustian Bargains? Restoration Realities in the Context of Biodiversity Offset Policies’ (2012) 155 Biological Conservation 141, 141–148 cited in; Defra, ‘Biodiversity Net Gain for Nationally Significant

decade obligations highlight the importance of sufficient information being made available to support monitoring, reporting and auditing of project and policy-wide progress, including by external stakeholders.²²

Conflicting objectives associated with on-site BNG

Concerns have been raised that on-site activity will struggle to deliver the outcomes needed to achieve net gain.²³ One key issue is the risk of conflicting objectives for on-site BNG sites, particularly public access and biodiversity outcomes. While BNG can increase public access to nature,²⁴ research has indicated that when sites are subject to recreational pressure, this may improve access to green space but lead to poor biodiversity outcomes.

Among three net gain scenarios (i. prioritising local access to nature for residents most affected by the new development, ii. maximising the additional biodiversity value of the offsite land parcels, and iii. balancing public access and biodiversity value), research has found that the outcomes of scenarios will differ depending on location choice. For scenario ii., researchers noted that the amount of land needed to reach the target was lower due to being able to pursue high-distinctiveness and condition sites if there are not requirements for local site choice and public access. The researchers noted that the “balanced” scenario (iii.) creates new habitat accessible by the new community in the development, aims to divert public access to the newly created habitat and relieves public pressures on the other nearby high biodiversity value sites (in the scenario, a mostly wooded nature reserve and Site of Special Scientific Interest). Researchers note that the logic and design of scenario iii. delivers public access to nature, but may prevent high conservation value habitat from forming even if supporting relieving pressure from other important sites.²⁵ This indicates that the location of BNG activity matters, as this can determine the level of public access to green space and can impact the delivery of biodiversity outcomes.

In our 2022 advice, we noted Defra’s objective to increase access to nature and that net gain away from the impact site can reduce this access. We raised concerns about recreational pressure for on-site activity, and how this may impact net gain delivery.²⁶

Infrastructure Projects’ (2021) 18 <<https://consult.defra.gov.uk/defra-net-gain-consultation-team/consultation-on-biodiversity-net-gain-regulations> accessed 15 July 2025. There is a wide library of literature on the issues impacting the success of biodiversity net gain-type policies. See, for example, RF Ambrose, ‘Wetlands Mitigation in the United States: Assessing the Success of Mitigation Policies’ (2010) 19 *Wetlands Australia* 1; Lindenmayer and others (n 23); Philip Gibbons and others, ‘Outcomes from 10 Years of Biodiversity Offsetting’ (2018) 24 *Global Change Biology* e643; April E Reside and others, ‘How to Send a Finch Extinct’ (2019) 94 *Environmental Science & Policy* 163.

²² Answer to question 40, Office for Environmental Protection, ‘Advice in Response to Biodiversity Net Gain Consultation’ (n 1).

²³ See, for example, Rampling and others (n 17); zu Ermgassen and others, ‘Exploring the Ecological Outcomes of Mandatory Biodiversity Net Gain Using Evidence from Early-Adopter Jurisdictions in England’ (n 19); Jonathan Wentworth, ‘Biodiversity Net Gain’ (Parliamentary Office of Science and Technology 2024) POSTnote 728 15–16 <<https://post.parliament.uk/research-briefings/post-pn-0728>> accessed 26 June 2025.

²⁴ Department for the Environment, Food & Rural Affairs, ‘Improving the Implementation of Biodiversity Net Gain for Minor, Medium and Brownfield Development’ (n 5).

²⁵ Thomas Atkins and others, ‘A Pragmatic Framework for Local Operationalisation of National-Level Biodiversity Impact Mitigation Commitments’ [2025] *EcoEvoRxiv* 9–12.

²⁶ Answer to question 30, Office for Environmental Protection, ‘Advice in Response to Biodiversity Net Gain Consultation’ (n 1).

Public authorities should have sufficient resourcing, capacity and expertise to effectively deliver BNG

Resourcing, capacity and expertise issues experienced by regulators or Local Planning Authorities remain significant barriers.²⁷ These challenges may hinder identification of errors in biodiversity gain statements, timely processing of applications, monitoring, assessing compliance, and enforcement.

These challenges were flagged by stakeholders prior to BNG's launch, including in our 2022 advice. A 2021 CIEEM survey-based study found that 38% of surveyed Local Planning Authorities (112 of 298 authorities who responded) acknowledged that it was not practical for them to deliver a net gain policy, with 21% (24) citing insufficient ecologist staff and 41% (46) resources.²⁸ Defra (2019) estimated that 197.6 full-time equivalent (FTE) ecologists were needed in 152 upper-tier authorities and 59 FTE staff in Defra and Natural England to support net gain delivery.²⁹ Similar concerns were raised in a survey-based study undertaken by the Association of Directors of Environment, Economy, Planning and Transport (ADEPT) and the Association of Local Government Ecologists (ALGE) (2022) who found that the majority of respondents reported that their resourcing, capacity and expertise is not sufficient to support additional work from BNG.³⁰

The NAO (2025) reported that many local authorities feel unprepared to implement BNG.³¹ Broader commentary on nature markets includes concerns that underfunding regulators can leave them unable to perform their duties, including enforcement, effectively.³²

The Home Builders Federation expressed concern that insufficient resourcing will cause delays in the planning system.³³ Similarly, ADEPT suggest that "limited LPA capacity means only the riskiest biodiversity gain plans are likely to be fully assessed".³⁴ The Institute of Environmental Sciences, EPIC and ALGE reflected that resourcing challenges in local authorities may mean it is unlikely that Local Planning Authorities will undertake monitoring outside of a risk-based and reactive approach.³⁵ This links to our earlier section on the differing governance arrangements for on-site BNG, and highlights the complexity of delivering the regime effectively.

²⁷ Morgan Robertson, 'The State of No Net Loss/Net Gain and Biodiversity Offsetting Policy in English Local Planning Authorities' (2021) CIEEM <<https://cieem.net/resource/lpa-survey-morgan-robertson/>>; National Audit Office (n 19); Environmental Audit Committee (n 17); Laura Snell and Mike Oxford, 'Survey of Local Planning Authorities and Their Ability to Deliver Biodiversity Net Gain in England: Do Local Planning Authorities (LPAs) Currently Have the Necessary Expertise and Capacity?' (Association of Local Government Ecologists 2022) <www.adeptnet.org.uk/sites/default/files/media/2022-07/ALGE-ADEPT%20Report%20on%20LPAs%20and%20BNG_0.pdf> accessed 15 July 2025.

²⁸ Responses were received from 306 of 352 (86.9%) Local Planning Authorities in England from May 2019 to December 2020, see Robertson (n 31) 6–7.

²⁹ Department for the Environment, Food & Rural Affairs, 'Impact Assessment: Biodiversity Net Gain and Local Nature Recovery Strategies' (n 6) 52.

³⁰ Snell and Oxford (n 31) vi.

³¹ National Audit Office (n 19) 30.

³² zu Ermgassen and others, 'Five Golden Rules for Scientifically-Credible Nature Markets' (n 20) 12, 15.

³³ House Builders Federation, 'HBF Responds to Mandatory Biodiversity Net Gain Requirement' <www.hbf.co.uk/news/hbf-responds-to-mandatory-biodiversity-net-gain-requirement/> accessed 26 June 2025.

³⁴ Wentworth (n 27).

³⁵ The Institution of Environmental Sciences, EPIC, and Association of Local Government Ecologists, 'BNG in Practice: One Year on from Mandatory Implementation' (2025) 33 <www.the-ies.org/sites/default/files/reports/bng_in_practice_report_2025.pdf> accessed 26 June 2025.

Concerns about the metric and design of BNG

As a relatively new regime, BNG has received limited empirical scrutiny. In designing and implementing the regime and metric, there is a careful balance to be struck between achieving ease of use and the rigour in appropriately calculating biodiversity loss and required gain.

Early research suggests that the metric does not adequately account for habitat important for birds, butterflies and invertebrates because there is limited consideration of connectivity or floral resource availability, which are important predictors of insect abundance.³⁶

As BNG continues to be implemented, further research is expected to assess the operation of the regime on different taxa and habitat types. For example, there has been some academic commentary on how the metric overly simplifies the heterogeneity of habitat types such as grasslands and Open Mosaic Habitat.³⁷

³⁶ Cicely AM Marshall and others, 'England's Statutory Biodiversity Metric Enhances Plant, but Not Bird nor Butterfly, Biodiversity' (2024) 61 *Journal of Applied Ecology* 1918; Natalie E Duffus and others, 'Leveraging Biodiversity Net Gain to Address Invertebrate Declines in England' *Insect Conservation and Diversity* <<https://onlinelibrary.wiley.com/doi/abs/10.1111/icad.12820>> accessed 26 June 2025.

³⁷ Duffus and others (n 40).