



**ENVIRONMENT AND CLIMATE CHANGE OVERVIEW AND SCRUTINY
COMMITTEE: 9 SEPTEMBER 2024**

BIODIVERSITY NET GAIN - SIX MONTHS ON

REPORT OF THE CHIEF EXECUTIVE

Purpose of report

1. This report is a summary of the introduction of mandatory Biodiversity Net Gain, which is a new requirement that has been introduced and is delivered through the planning system. The law has been in place since February 2024 for larger development sites.

Policy Framework and Previous Decisions

2. The Environment Act 2021 introduced mandatory Biodiversity Net Gain (from this point referred to as “BNG”) as a new requirement to be delivered through the planning system. BNG has been inserted into the planning legislation under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).
3. As a result, developments are now required to deliver a 10% increase in biodiversity above the pre-development status of a site and this will be secured through the determination of planning applications. The mandatory requirement for BNG commenced on 12 February 2024 for major sites and 2 April 2024 for smaller sites.

Background

4. To prepare for mandated BNG, a partnership of Local Planning Authorities across Leicestershire and Rutland collectively commissioned a report on how to introduce this requirement into planning processes. This was funded by all partners, using the government burden funding provided for this purpose.
5. The study and subsequent report, undertaken by consultants RSK Biocensus, was completed in September 2023 and its recommendations were taken forward by this partnership of district councils. Charnwood Borough Council and Leicester City Council have their own advice services and therefore did not take this advice model forward. It was agreed that the working model for ecology advice and support would be to host the service within Leicestershire County Council, with expansion of the existing Ecology Advice Team to include additional capacity to deliver the requirements of BNG. As a result of this, there has been a considerable amount of work undertaken to devise appropriate processes, to recruit and upskill staff and to provision the team with appropriate IT supporting database, storage and processing capabilities.

6. **Delivery mechanism and processes-** The Ecology and Biodiversity Team Manager has been developing the mechanism for delivery of BNG through the Ecology Advice service, including through discussion and information-giving at monthly meetings of the Planning Officer Forum (POF), attended by the Heads of Planning Services across Leicestershire and Rutland and also updating the Development Management Forum, a similar group attended by the Heads of Development Management across the region.
7. **BNG Sub-group-** Upon the request of the members of POF, a BNG sub-group has been formed, managed by the Ecology and Biodiversity Team Manager. This sub-group is made up of representation from all councils across Leicestershire and Rutland. Its aim is to collaborate and jointly agree the locally-set BNG processes within the planning mechanism, such as local validation and Section 106 obligations. This is a partnership approach to resolving remaining issues in relation to the rollout of the new legislation, where there are gaps in national legislation and planning practice guidance; or where the national legislation has allowed for some local interpretation of planning application validation requirements.
8. **Monitoring requirements-** There are new statutory monitoring requirements that come with BNG. The Obligations and Systems Manager and the Ecology and Biodiversity Team Manager are developing a Section 106 BNG Policy and Charging Schedule, in order that this long-term monitoring can be funded and carried out. This is a new responsibility as a result of BNG and the applicant will be charged for this service. The district councils will also be using this approach, which the Ecology Team will also monitor for cases in their area on their behalf.
9. **Reporting requirements-** the additional new statutory requirement through the Biodiversity Duty (also from the Environment Act 2021) requires Local Planning Authorities to report on BNG, the quantity and type of habitat being created through BNG. Officers are currently using the database system Mastergov for processing BNG information from planning casework. However, software options, which are specifically designed to extract and process these monitoring aspects of BNG, are also being investigated.

Consultation/ Training

10. **Member Briefing Sessions-** Mr Pain, Cabinet Lead Member for the Environment and Green Agenda hosted an All Member Meeting to introduce members to statutory BNG on Tuesday 6 February 2024. Mr Pain also hosted an additional briefing to members on BNG as part of his Lead Member Meeting on 16 April 2024.
11. **Officer Training-** BNG training for planning officers was jointly organised by the authorities across Leicestershire and Rutland and this was delivered by RSK Biocensus on Tuesday 30 January 2024.
12. **Member Training-** To prepare for the introduction of this new legislation, training was jointly organised for elected Members of authorities across Leicestershire and Rutland. The training was delivered by RSK Biocensus and took place on Thursday 29 February 2024. Its aim was to introduce BNG as part of the planning determination process and it was aimed in particular at members who sit on planning committees and take part in the decision-making process.

13. **Training for Parish and Town Councils-** Additional training was rolled out to Parish and Town Councils through the Parish Clerks Operational Meeting on Thursday 23 May 2024. The Ecology and Biodiversity Team Manager presented a training and information session at the Town and Parish Council Annual Conference on 1 July 2024.

Resource Implications

14. **Ecology and Biodiversity Team recruitment** - an important part of BNG delivery is the advice and support service, which is offered both internally for county planning applications but also to Leicestershire district councils (excluding Charnwood Borough Council) and Rutland Council through a contracted, costed service via a Service Level Agreement (SLA).
15. This new statutory requirement means that there is a considerable increase in staff resource required to delivery BNG, including the new requirement of monitoring offsite and significant on-site BNG through Section 106 obligations. The Team Manager has been undertaking significant recruitment in very challenging circumstances, with professional ecologist shortages across the country and the sector, including the commercial side of the sector.
16. **Ecology and Biodiversity Team upskilling** - In addition to recruitment, there is considerable “upskilling” of staff required, so that they are able to review and interpret new technical information being submitted as part of the BNG process. This includes the ability to assess the statutory metric tool, the use of the new habitat assessment methodology “UK Hab” and the associated Condition Assessments that describe the condition of a habitat. The team has been undertaking both internal and external training since February 2024 on this, making use of the national government burden funding to support this. Specialist training is available through the professional institute, CIEEM, through UK Hab Ltd and the Planning Advisory Service.
17. **Outputs and outcomes** - It is too early to provide measures of the beneficial impact of BNG on the local environment. This will become evident over time and data will be available through the Biodiversity Duty requirements to report on the quantity and quality of habitat creation, restoration and enhancement.
18. To date, the following figures provide a “basic” picture of what has been processed by the Ecology Team across the County Council and district councils within the service contract. These numbers relate to applications submitted after the first BNG “go live” date of 12 February 2024:

Number of planning applications processed: 866 (consults/reconsults/additional enquiries)

Of these 866 planning applications:

- BNG required: 75
- BNG-exempt under legislation: 162
- BNG not applicable: 606 (such as householder applications; also including smaller sites prior to 2 April 2024)
- BNG queries ongoing: 23 (advisory information provided)

Timetable for Decisions

19. There are no further decisions required at present.

Conclusions

20. The requirement for statutory BNG has a considerable impact upon the resources of Local Planning Authorities. Whilst this is in part met by additional burden funding from central government, this does not completely cover the additional resource requirements.
21. The partnership approach taken across Leicestershire and Rutland has helped to ensure consistency of approach to planning application decision-making. It has also helped to provide a collective understanding of the challenges that BNG brings.
22. There are several additional requirements, such as the requirements for monitoring off-site and significant on-site habitat creation/restoration, which have not been fully met by new government guidance as yet.

Circulation under the Local Issues Alert Procedure

23. None.

Equality Implications

24. There are no equality implications arising from this report.

Human Rights Implications

25. There are no human rights implications arising from this report.

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