

Cheshire Wildlife Trust response to the consultation for improving the implementation of Biodiversity Net Gain for minor, medium and brownfield development 24/07/25

Question : Do you support the following statements (yes/no):

I. Some changes should be made (please state which options you support with thresholds were applicable)

Yes, we support:

- Change to self and custom build development exemption to be replaced with 'single dwelling house' on a site of less than 0.1 hectares with no onsite priority habitats, and where the single dwelling house is the primary purpose of the development.
- A partial exemption of parks, gardens and playing fields development, but only as described in the consultation and where such development is not part of any wider development scheme.
- An exemption for development whose sole or primary objective is to conserve or enhance biodiversity provided No Net Loss of Biodiversity can be demonstrated.

Question : Do you agree that the self and custom-building exemption should be removed and that it should be replaced with an exemption for a single dwelling house?

Yes

Although we advise that there needs to be stricter controls to prevent the misuse of this exemption. This could be addressed by requiring these applications to provide a data search (including priority habitats and Local Wildlife Sites) to be submitted. If priority habitat or Local Wildlife Sites are present then the exemption shouldn't apply. In Cheshire we have seen the loss of priority habitats in a disused quarry when a self-build property was granted planning permission.

Question : Do you agree with the proposal for a 0.1 hectare threshold?

Yes

Although we advise that there needs to be stricter controls to prevent the misuse of this exemption. This could be addressed by requiring these applications to provide a data search (including priority habitats and Local Wildlife Sites) to be submitted. If priority habitat or Local Wildlife Sites are present then the exemption shouldn't apply and the

mitigation hierarchy should apply i.e. this exemption should not be used to drive forward inappropriate development.

Question : Do you agree the area de minimis threshold should be extended?

No

Please use this space to elaborate on your answer to the previous question

We do not support an extension to the de minimis threshold below which development is exempt from the BNG requirement. The reason is that there will be no requirement for the application to be supported by a data search to demonstrate no priority habitats, high/very high distinctiveness habitat or Local Wildlife Sites are present. This will inevitably lead to the loss of high value sites as many LPAs do not have the skills or resources to identify the high value sites.

There is also the risk that an extension to the threshold could lead to a misuse of the exemption, for example by phasing applications over time to ensure each is below the exemption level and so developing a larger area overall.

If it is extended then:

a) a data search must be used to demonstrate no priority habitats, high/very high distinctiveness habitat or Local Wildlife Sites are present. Where present the exemption must not apply.

b) For all exempt applications alternatives to help biodiversity should replace the current requirement for BNG. These could be a commuted sum for biodiversity (which could be pooled) set at a proportionate level. This will allow developer to avoid expensive legal costs. Another alternative would be to apply the urban greening factor.

Question: Do you think the BNG requirement should be removed for minor development (for example including up to 9 residential homes) please provide evidence for your response where possible.

No, we strongly oppose the exemption of all minor development. Minor development accounts for a significant proportion of TCPA planning applications and therefore if introduced, this exemption would result in a significant proportion of development not contributing to the BNG objective. This would lead to a continuation of the trend of biodiversity declines related to development observed historically (especially given the weakening of the mitigation hierarchy in the P&I Bill).

This would also significantly impact the development of one of the only government-backed, regulated private biodiversity markets in the world (the local off-site BNG unit sales market) that has established over the last year and a half, as fractional unit sales

to minor developments account for the majority (80%) of off-site unit transactions. Around 70% of the enquiries directed toward the Cheshire Wildlife Trust since February 2024 have been for fractional off-site BNG units, the majority of which were to support minor development. As an off-site provider, the Trust has observed the critical role fractional unit sales to minor development provide in addressing early year cashflow when delivering a habitat bank. Larger numbers of unit sales to major development often take longer to pass through the planning process, the habitat bank provider has to reserve units without being paid in full for a longer a period of time. This can mean that significant numbers of units are locked up for 12 to 18 months with little more than a 10-15% deposit being paid to the off-site unit provider while the planning process for major development is finalised. Smaller and fractional unit sales to minor developers that come through in greater numbers and are allocated and paid for in full much quicker therefore are critical to maintain a positive cashflow, especially in the early years of habitat bank delivery.

Any blanket exemption for minor development would likely decimate the developing BNG market as well as be interpreted by the private sector as a lack of confidence in newly emerging nature recovery or nature-based solutions markets from the government, setting back much of the work that has been done by NGOs and businesses to develop and grow this area over the last few years. A strong regulation-backed market such as off-site BNG is critical to underpin the development of the wider voluntary biodiversity market across the UK and expanding the role of the private sector in nature recovery. This is clearly an ambition of the government as demonstrated in the latest call for evidence on expanding the role of the private sector in nature recovery by Government (published 12 June 2025). The scale and multitude of effects of the exemption of minor development from BNG cannot be understated.

Question: if minor development were to be exempted from BNG, do you agree that the de minimis threshold should be extended to cover other types of development outside of the minor development category having little or no impact on biodiversity?

No, we strongly oppose the exemption of all minor development.

Question : Do you agree that parks, gardens and playing fields development, as defined above, should be partially exempt from BNG? Please give evidence where possible.

Yes, we support a partial exemption of parks, gardens and playing fields development, but only as described in the consultation and it needs to be considered on a case by case basis. This is because some of these areas can be located in flood plain areas or in areas of high tide. In addition, this exemption should only be applicable to standalone development. It should not exempt development that is part of a wider development

scheme (e.g., any new buildings in parks, playing fields and gardens that are being brought forward as part of new residential or commercial development scheme should not be exempt).

We are also concerned there is no intention to introduce a size threshold for this proposed exemption so it could cover more than minor development.

Question: Do you agree that development whose sole or primary objective is to conserve or enhance biodiversity should be exempt from BNG? Please provide evidence where possible, including examples of developments that you think would be exempted.

Yes we do support this but only on the basis that the scheme can demonstrate No Net Loss of biodiversity. Clear guidelines and safeguards must be in place. This is because many unsuitable/inappropriate habitat creation schemes are coming forward which are resulting in the loss of high quality habitats (for example the creation of plantation woodland on priority grassland or heathland). A baseline assessment should be required (which will incur costs) but exemptions from the 10% and the 30 year management could be made if No Net Loss can be achieved.

Where No Net Loss can be demonstrated the same could apply to other interventions to deliver ecosystem services, such as natural flood management.

Exemptions should not be applicable for hard infrastructure such as visitor centres and car parks. Clearly exemptions should not be applicable for (offsite) BNG schemes which need to demonstrate an uplift from the original habitat distinctiveness and condition.

Question: Do you agree that temporary planning permission should be exempt from BNG? Please provide evidence where possible, including examples of developments that you think would be exempted. If yes, do you agree with the 5-year time limit?

No, temporary development should not be exempt. It is likely too complicated and too resource intensive for under resourced LPAs to track temporary development that is subsequently made permanent. Temporary impacts often result in the destruction of high value habitats (for example by compaction or removal of vegetation) so must be compensated for in some way, not just allowed under a blanket exemption.

Furthermore 5 years is certainly not a temporary impact and will result in the complete destruction of most impacted habitats.

There is no justification for an exemption. Biodiversity Net Gain was introduced to ensure development leaves nature in a better state than before and is supposed to be a means by which development can contribute to nature's recovery.

Although we strongly oppose exemptions if they are applied they should only be for low distinctiveness habitats and must be supported by an ecological appraisal.

Question: Do you think the SSM should be used for medium development?

No. In the context of this current consultation and the wider proposals to simplify the small sites metric we are strongly opposed to this proposal. The Small Sites Metric was specifically designed for use on small sites. Its use does not require an ecologist and it does not support the creation or enhancement of higher value habitats, which are important for the recovery of nature and reversing biodiversity declines. Combined with many of the other proposed changes to the SSM in this consultation (e.g. fixing the baseline at poor condition, changes to trading rules, rebranding as low impact) we would be deeply concerned about expanding its use for medium sized development. This could lead to BNG delivering worse outcomes for biodiversity and contributing less to nature recovery.

We believe considerations on widening the application of the SSM to medium sized developments, should not be determined until it is fully understood:

- what if any changes will be made to the SSM in light of this consultation; and
- the final outcomes from the thresholds working paper, which will determine the scale of medium sized developments.

The impact of the proposed new size thresholds for developments are not yet known. Current practice will often involve large developers with large development sites, splitting out the area into multiple smaller developments for sale to medium sized developers. There is a significant risk of new loopholes being created and developers exploiting this to minimise the amount of BNG needed to be achieved either on site or off-site as a result of these proposed new exemptions and development size thresholds.

Question: Do you think the SSM should be able to be used on sites with European protected species present?

No

Proper application of the mitigation hierarchy should ensure that development is steered away from sites with protected European species present. But if a development is proposed and approved on such a site, we would not support the use of the small sites metric given the proposed changes to simplify the metric in this consultation and to reclassify it as a low impact metric.

We believe considerations on widening the application of the SSM to allow its use on sites with European Protected species, should not be determined until it is fully understood what if any changes will be made to the SSM in light of this consultation.

Question: Do you think the SSM should be able to be used on sites with protected sites present?

No as a protected site is likely to mean priority habitat is present or may be present in a degraded state. It's important that a full metric assessment is used in this situation.

Question: If these changes are taken forward, and the SSM is re-badged as a low impact metric. Do you think there should be any other restrictions on use of the SSM?

We strongly oppose re-badging of the term SSM as a low impact metric. This is because development of smaller sites can have a **high** impact on biodiversity (even if high/very high distinctiveness habitat is absent). For example if a site hosts particular species or species' assemblages, or if the site acts as an important buffer or stepping stone, or is located in an area otherwise devoid of wildlife i.e. just because a development is small does not necessarily mean low impact. Using the term low impact could lead to false assumptions about the biodiversity value. If changes are to be made we suggest using the term 'small and medium sites metric SMSM'

Question: Do you think the trading rules should be removed in the SSM (which contains only medium and low distinctiveness habitats)? If no, do you think the trading rules should be amended in the SSM to allow the losses of any medium distinctiveness habitat to be compensated for with any other medium distinctiveness habitat (but not with low distinctiveness habitats)?

The trading rules should not be removed from the SSM. Offsetting the losses of medium distinctiveness habitats with low distinctiveness habitats (trading down) will have significant effects on the quality of compensatory habitat provided by a significant proportion of TCPA development. This will likely exacerbate biodiversity losses across many habitat types. For example, if a relatively species rich 'other neutral grassland' can be compensated for by the provision of a species poor modified grassland, there will be a net loss in species diversity even if the area of modified grassland provided as compensation is larger.

While allowing the losses of any medium distinctiveness habitat to be compensated for with any other medium distinctiveness habitat may simplify the process for developers, we do not believe it is an appropriate amendment to make.

This change is likely to lead to over or under-delivery of different habitat types based on BNG unit uplift per ha, cost and viability alone. This competes with good practice principles such as the concept of right habitats being delivered in the right place or delivery of habitats in line with the LNRS. For example, the cost to create and manage 1 ha of other neutral grassland is lower than the cost to create and manage 1 ha of other broadleaved woodland. The other neutral grassland also delivers more units per ha, meaning woodland creation is less viable.

It may be more appropriate to group certain broad habitat types together based on similar ecological function rather than a total relaxation of the trading rules e.g., in groups of two (grassland and cropland) or groups of three or more (individual trees, woodland & forest and heathland and shrub) as long as there is no trading down.

Question 30: Do you think habitat condition should be fixed at ‘poor’ for baseline habitats, and ‘moderate’ for the target condition of enhanced habitat in the SSM?

No, we strongly oppose this proposal as this would fundamentally undermine the BNG process and result in ridiculous scenarios where non-existent enhancements could be claimed. This is because habitats in good condition at baseline would be entered as poor condition, allowing an ‘uplift’ to moderate condition. Furthermore it will result in the baseline of all TPCA development sites with moderate or good condition habitats being undervalued.

There is already a wide margin for error as we (and others) have seen when scrutinising metric calculations submitted in support of planning applications. We find that many schemes are claiming a 10% net gain but in actuality are only achieving no net loss. Increasing the probability that a site’s baseline has been undervalued by fixing baseline condition at poor means the likelihood of any percentage gain actually being delivered by a scheme reduces even further (even if the target condition is capped at moderate).

By implementing this change it is effectively enabling thousands of schemes to now claim a gain in biodiversity when evidence shows the opposite is true.

The original aim of fixing the baseline habitat for SSM developments at ‘medium’ was to take a precautionary approach and provide confidence that the condition was not undervalued in the absence of an ecologist.

Question: Are there any other changes to the SSM or metric process for minor and medium development that should be considered to overcome challenges or streamline the process?

It is important that any simplification of the process embeds the Precautionary principle. This is the aim of the current SSM and it should not be undermined by altering the metric in a way that undermines BNG as a concept

An alternative approach (if the aim is to simplify the process) would be to remove all low distinctiveness habitats from the baseline. In this scenario all habitats would be assessed as medium distinctiveness and moderate condition at baseline and grouped as either woodland/trees/scrub, grassland/cropland, wetland, etc. Trading rules should still apply but would require only medium distinctiveness/moderate condition to be targeted post-development. Newly created habitats of low distinctiveness would not count towards BNG. If this is disadvantageous to the developer, then the option of using the full metric would still be available (with an ecologist doing the assessment).

Question: Do you think some habitats of the same broad type with the same value should be amalgamated in the SSM?

Yes, for certain habitats only and the grouping of habitats could be based around ecological function where they are the same distinctiveness. For example, the ecological function of many medium distinctiveness scrub habitats is the same and breaking scrub down into multiple habitat types does not change the score in the metric. This would not work in some cases though where the broad habitat type is much more broad e.g. lakes, intertidal, urban. Scots pine woodland should not be amalgamated with broadleaved woodland types.

Question: Do you think the habitats in the SSM should be reviewed, to ensure they are easily identified by non-ecologists?

Yes, provided the SSM takes a very precautionary approach.

Simplification could help reviewers but it must not result in worse outcomes for nature. The precautionary principle must be embedded in the process. It is a trade off and employing an ecologist to do the full metric is the preferred outcome and must be supported by the system (i.e. making it the cheaper option)

Question: Do you think there should be a watercourse module in the SSM, or should all developments within the riparian zone of watercourse habitats use the main metric tool?

Development in the riparian zone should require the main metric tool to be used. All development in the riparian zone should require the input of a qualified ecologist anyway, so forcing the use of the main metric should not add any additional burdens on the developer.

Question: Do you think providing additional guidance on the identification and management of habitats in the small site metric would be helpful?

Providing additional guidance may be useful, but we do not believe it will address the issues around competency as described in the consultation. Ecology is a subjective science, even amongst professional surveyors there is often variation in habitat distinctiveness and condition survey results across the same site. Therefore, it is not realistic to assume that more guidance for non-qualified professionals will improve the accuracy of completed SSMs. This will inevitably have a knock on effect on under-resourced LPA officers that will need to check more metrics with a higher chance of containing inaccuracies, causing further delays. In our opinion, it would be much more efficient to require a professional, suitably qualified and competent ecologist to undertake the SSM as well as the full version of the metric. This is because the likelihood of the metric being completed accurately first time is much greater. This would lead to a reduced burden on LPA officers, as the majority of metrics submitted would be correct first time and require less amendments/comments and re-submissions.

Question: Do you think more clarity is required within the definition of a competent person undertaking a BNG assessment using the SSM, and reviewing the completed SSM? If yes, do you have any suggestions as to how competency could be defined for the SSM?

As above, the definition of a competent person undertaking a BNG assessment using the SSM should be the same as for the full metric. This is even more important if the precautionary principle is removed from the SSM. This should be a professional, suitably qualified and competent ecologist. This could be defined via membership of CIEEM or certification of competency from an accredited trainer such as CIEEM. CIEEM requires all members to record and upload evidence of CPD, so an option could be enforcing specific CPD requirements for ecologists that want to be competent in the use of the metric e.g., completed a certified training course, number of metrics completed, number of hours worked on metrics per year etc. This could be uploaded to CIEEM's CPD web portal. BASIS accreditation for farm advisors has a minimum number of CPA hours per year that accredited advisors must undertake to maintain accreditation. This model could be followed by CIEEM, specifically for BNG.

Question: Should a different watercourse condition survey be employed for minor development using the watercourse metric?

No, this will likely lead to confusion over when a MoRPh/full RCA is required over the revised watercourse condition assessment.

Question: Should a different watercourse condition survey be employed for minor development using the watercourse metric when there is no impact?

No. Even if it is claimed there are no impacts, developers should be required to provide a 10% uplift if part of the riparian zone falls within the red line boundary of a

development. There are highly likely to be indirect impacts to the watercourse (e.g., disturbance, pollution etc.) if any of the red line boundary falls within the riparian zone of a watercourse. Scenarios where there are demonstrably no impacts to the watercourse (including indirect impacts) are likely to be so rare that it does not make sense to amend the rules around them.

Question: Do you think that minor developments should be able to agree with the relevant planning authority that they do not need to complete the watercourse module of the metric when there is no impact?

Scenarios where there are demonstrably no impacts to the watercourse (including indirect impacts) are likely to be so rare that it does not make sense to amend the rules around them. It is also highly likely that a suitably qualified ecologist will be required to make that judgement, meaning developers will need to employ an ecologist anyway, who could just spend their time completing the metric and delivering a net gain.

Question: What specific features or improvements would you like to see in a digital version of the metric tools?

- Intuitive ways to visualise data in the metric row by row, pre and post intervention. This could be done by hovering over a row in the baseline or post-intervention tab to highlight the corresponding habitat parcel on a digital map/plan.
- Ability to interrogate unit surplus/deficits on a row by row basis, i.e., quantify the loss/uplift each habitat parcel is generating between the baseline and post-intervention states across the entire site.

Question: Do you think we should allow biodiverse features to be counted within vegetated gardens being created as part of a development? If yes, do you have any suggestions of how we should account for biodiverse features in vegetated gardens being created as part of a development?

No. There is no way to enforce the management of these features on the occupiers of the unit. This means any biodiverse features could be removed, destroyed or mismanaged to be ineffective as soon as the plot is occupied. This goes against a fundamental principle of BNG which is the long-term (30 yr minimum) securement of biodiversity gains.

Question: Do you agree the biodiversity gain hierarchy should be updated for minor development?

Yes.

Question: Would relaxing the biodiversity gain hierarchy for minor development support small developers to deliver BNG more easily?

Yes.

Question: Do you think placing off-site habitat enhancements with the same preference as onsite habitat enhancements for minor development would deliver better outcomes for nature? Please provide evidence to support your answer where possible.

Yes. As described in the supporting text of the consultation, the Lawton principles clearly identify that more, bigger, better, joined up habitat is essential for reversing biodiversity declines (across both habitats and the species that utilise them). The benefits associated with aggregating offsets into single, larger, strategically located sites far outweigh the benefits of piecemeal, small-scale interventions on-site that are likely to be subject to significant levels of disturbance and inappropriate management. Habitats are likely to be more robust, contain a higher species diversity and exist in more complex mosaics when delivered off-site. Species that utilise these off-site habitats are more likely to breed and forage more successfully as their requirements are met away from operational impacts such as disturbance or pollution.

A key improvement that could be realised as a result of this change would be a significantly reduced monitoring and enforcement burden on already under-resourced LPAs. If 10 development sites delivered compensation on site, that would be 10 separate sites that would need to be monitored and potentially enforced on by LPA officers. If those same 10 sites all delivered the required gains off-site, one a single habitat bank, that is one site that needs to be monitored and potentially enforced upon (if secured via a S106). It is possible that the off-site location is secured via a conservation covenant with a Responsible Body that is not the LPA meaning that the LPA is almost entirely relieved of the duty to ensure the gains are delivered, managed and maintained over the long term. In turn this frees up LPA officers to spend more time supporting ecologists and developers to deliver sustainable nature-friendly development schemes, thereby reducing the overall impact of development on biodiversity.

Question: Should the Spatial Risk Multiplier be disapplied for minor development purchasing off-site units?

Yes, as it would enable gains to be delivered more strategically off site, where they deliver the best outcomes for nature. However, it may be more appropriate to restrict this to habitats of medium distinctiveness and below only to ensure there is no loss of priority, high and very high distinctiveness habitat types out of local areas entirely. Any relaxation/disapplication of the SRM should also be supported by strengthening of rules around on-site compensation of habitats that support protected or priority species which may be locally important/distinct and could be lost from areas permanently as a result of changes to the SRM.

Question: Should the Spatial Risk Multiplier assessment methodology be amended, so that it is based on Local Nature Recovery Strategy and National Character areas rather than Local Planning Authority and National Character areas?

We strongly support the SRM change from LPA area to LNRS area (i.e., no penalties for offsetting within the same LNRS area), however this should only apply to off-site locations that fall within the LNRS network as mapped (e.g., only the core, buffer, corridor and opportunity areas) as opposed to just anywhere within the entire LPA boundaries that form an LNRS area. This would add significant additional support to the delivery of LNRS across the country.

Question: Should we review the metric habitat definition, condition assessment criteria and guidance to assist with the correct identification and classification of OMH?

Unsure

Question: Should we allow alternative habitat delivery for the loss of Open Mosaic Habitat?

In our opinion there are two scenarios that should be considered:

1. The OMH being lost on site is generic in nature and does not have any unusual component habitats or communities resulting from the site's specific underlying soils/spoil/environmental conditions. E.g., bare ground, neutral grassland, scrub, wet hollows etc.
2. In addition to the generic components of OMH (E.g., bare ground, neutral grassland, scrub, wet hollows etc.), a component of the OMH being lost on site is a rare or unusual vegetative community or niche species that is a direct result of the site's specific underlying soils/spoil/environmental conditions. E.g., salt tolerant vegetative communities forming on salt deposits/mine spoil away from coastal areas, calcareous grasslands on chalk spoil or in disused lime beds rather than naturally occurring as a result of underlying limestone geology etc.

Under scenario 1 we would support alternative habitat delivery for the loss of OMH, as long as a component of high distinctiveness habitat is included within the newly created habitats and the off-site delivery area is within the LNRS network (to improve chances of colonisation of the new habitat by more mobile species).

Under scenario 2 we would only support alternative habitat delivery for the loss of OMH where the rare or unusual communities or species and the underlying soils/spoil/environmental conditions are translocated or recreated at the off-site location via bespoke compensation. The other more generic habitats forming the

mosaic could be recreated without the need for translocation or the use of bespoke compensation.

Question: Do you have any suggestions as to the habitat mosaic which may provide the same ecological benefits as OMH or the key considerations we should be incorporating?

As above

Question: Do you have any further suggestions of how we could improve the viability of brownfield sites with Open Mosaic Habitat present, in relation to their BNG requirement?

As above

Are there any other changes to the SSM or metric process for minor or medium development that should be considered to overcome challenges or streamline the process

- *Statutory Metric User Guide and strategic significance* The Cheshire Wildlife Trust is strongly opposed to changes made to the statutory metric user guide on strategic significance just ahead of mandating BNG for TCPA developments. We urge Government to use this opportunity to review the strategic significance guidance and revert to the tested guidance in version 4 of the metric. These changes were made without testing and without consultation and are hugely problematic. For example, if a development is on a Local Wildlife Site (where there is a published Local Nature Recovery Strategy in place), under the statutory metric it will score '1' for S.S in the baseline (i.e. it will get no uplift for being the right habitat in the right place etc). Previously under metric 4.0 this habitat was valued at 15% higher at baseline in recognition of it being the right habitat in the right place (i.e. the 1.15 S.S multiplier was applied at baseline).

As a result of the changes the metric will now inadvertently weight the creation of new habitat over existing habitat, artificially (and inaccurately) boosting the post-development value. This artificial boost post-development has been shown to turn a large net loss into a very significant net gain in the metric, despite destroying important habitats in the process.

Furthermore the problem is compounded because the pre-development value of existing habitat is lower, meaning the overall number of units required to meet the 10% gain will be lower.

This change weakens the quantitative purpose of the metric, which was designed to measure the pre and post-development biodiversity value i.e. the revised metric can no longer be used as a tool to objectively measure changes in biodiversity value.