

Validation Requirements for Planning Applications

Biodiversity Net Gain Addendum

February 2024

Contents

1. Introduction	2
2. Background.....	2
3. Part 1 – mandatory national information requirements	3
The information requirements	3
Exemptions from the information requirements	4
Exemptions from the biodiversity gain condition.....	4
4. Part 2 – local validation requirements	5
5. Part 3 – guidance on the information required on our local list	5
Item 6 – Ecological Survey & Report.....	5
Item 11 – Head of Terms Proposal – s106 Legal Agreements	6
Item 19 – Plans and Drawings	6
6. Further reading	6
Appendix 1: Summary for different types of application.....	7

1. Introduction

- 1.1 This Addendum is to be read in conjunction with the November 2021 version of Reading Borough Council’s [Validation Requirements for Planning Applications](#) document. It outlines the mandatory national requirements for applications to comply with the biodiversity gain condition that will apply to applications for major development submitted on or after 12 February 2024 and for small sites submitted on or after 2 April 2024.
- 1.2 This Addendum is produced in advance of a full review of the Validation Requirements document. The full review will cover a number of areas, including considering whether there are to be local validation requirements relating to the biodiversity gain condition over and above the national requirements. Until an updated document is in place, only the national minimum validation requirements outlined here will apply.
- 1.3 This document is not a full description of how the biodiversity gain condition will function. There are a number of planning guidance documents that have been published by government which outline how it will work in practice and the requirements for both developers and the local authority.

2. Background

- 2.1 The Environment Act 2021 introduced a legal requirement for biodiversity net gain, by amending Section 90A and Schedule 7A of the Town and Country Planning Act 1990. This applies a condition to grants of planning permission to ensure that the biodiversity gain objective is met, with the objective being a 10% biodiversity net gain. This is known as the biodiversity gain condition.

- 2.2 The Act is supported by a series of regulations that together form the statutory framework for biodiversity net gain. Of particular importance is that the biodiversity gain condition will apply for major development from 12 February 2024, with the condition expected to apply for small sites from 2 April 2024.
- 2.3 The biodiversity gain condition is applied to all relevant developments by the law. It is not the same as a planning condition that will be included on the decision notice, and developers need to be aware of its existence and familiar with the requirements. It will mean a need to submit various information at planning application stage, with the details of how precisely the condition will be complied with to be the subject of a separate application for a biodiversity gain plan to be submitted after permission for the development is granted.

3. Part 1 – mandatory national information requirements

The information requirements

- 3.1 A planning application submitted on or after 12 February 2024 will not be valid unless the information below is provided unless it is specifically excluded from the information requirements (see 3.2 to 3.3). This will include applications for full planning permission (including householder) or outline planning permission.
- A statement as to whether the applicant believes that planning permission, if granted, would be subject to the biodiversity gain condition;
 - If the applicant believes that planning permission, if granted, **would not** be subject to the biodiversity gain condition, the reason for that belief;
 - If the applicant believes that planning permission, if granted, **would** be subject to the biodiversity gain condition, the following:
 - the pre-development biodiversity value of the onsite habitat on the date of application (or an earlier date) including the completed metric calculation tool used showing the calculations, the publication date and version of the biodiversity metric used to calculate that value;
 - where the applicant wishes to use an earlier date, the proposed earlier date and the reasons for proposing that date;
 - a statement confirming whether the biodiversity value of the onsite habitat is lower on the date of application (or an earlier date) because of the carrying on of activities ('degradation') in which case the value is to be taken as immediately before the carrying on of the activities, and if degradation has taken place supporting evidence of this;
 - a description of any irreplaceable habitat (as set out in column 1 of the Schedule to the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations [2024]) on the land to which the application relates, that exists on the date of application, (or an earlier date); and
 - a plan, drawn to an identified scale which must show the direction of North, showing onsite habitat existing (using the habitat classifications given in the Statutory metric) on the date of application (or an earlier date), including any irreplaceable habitat.

Exemptions from the information requirements

- 3.2 The validation requirements set out above apply to all applications for planning permission with the exception of an application for section 73 planning permission. The biodiversity gain condition itself will apply to section 73 applications unless the original planning permission to which the section 73 planning permission relates was made before 12 February 2024 (for major development) or 2 April 2024 (for small sites), but there is no requirement to submit the relevant information as it will have been submitted alongside the original application.
- 3.3 Applications for retrospective planning permission are not affected by these requirements. The same is true of forms of application other than those specified in paragraph 3.1, e.g. reserved matters, listed building consent, prior approval, certificates of lawfulness, discharge of condition or permission in principle.

Exemptions from the biodiversity gain condition

- 3.4 Certain developments are exempt from the biodiversity gain condition in addition to the section 73 applications described in paragraph 3.2.
- 3.5 A small site exemption applies up to **2 April 2024** only. For applications submitted for small sites on or after that date, the validation requirements will apply. A small site is one which consists of:
- residential development where the number of dwellings is between 1 and 9, or if this is unknown, the site area is less than 0.5 hectares
 - commercial development where floor space created is less than 1,000 square metres or total site area is less than 1 hectare
 - development that is not the winning and working of minerals or the use of land for mineral-working deposits
 - development that is not waste development.
- 3.6 The following types of development are entirely exempt from the biodiversity gain condition.
- Developments below the threshold – developments that do not impact a priority habitat or impacts any habitat less than 25 square metres of habitat or 5 metres of linear habitat¹;
 - Householder applications;
 - Self-build and custom-build applications – developments that would consist of no more than 9 dwellings, are on a site no more than 0.5 ha and consists exclusively of self-build or custom housebuilding²;
 - Biodiversity gain site – developments solely or mainly for the purpose of fulfilling the biodiversity gain condition for another development;
 - Development forming part of, or ancillary to, the high-speed railway transport network;
 - An application for section 73 planning permission where the original planning permission to which the section 73 planning permission relates was made before 12 February 2024 (for major development) or 2 April 2024 (for small sites).

¹ This would for instance include applications for a change of use of a building only

² As defined in the [Self-build and Custom Housebuilding Act 2015 \(legislation.gov.uk\)](https://legislation.gov.uk)

3.7 However, the exemption from the biodiversity gain condition does not exempt the development from the information requirements set out in paragraph 3.1. For the above exempt forms of development, an applicant will therefore need to provide the following:

- a statement that the applicant believes that planning permission, if granted, would not be subject to the biodiversity gain condition; and
- the reasons for that belief.

3.8 It is the Council's understanding that the national standard planning application form will be amended to include fields for this information, and that, in the case of householder development, these fields will be pre-populated. Until the national forms are amended, an applicant will need to submit these statements separately, either within a Planning Statement or in a covering letter.

4. Part 2 – local validation requirements

4.1 This Addendum does not introduce additional local validation requirements at this stage. However applicants are strongly encouraged to set out how, if permission were to be granted, the biodiversity gain condition would be met and how the biodiversity gain hierarchy has been met.

5. Part 3 – guidance on the information required on our local list

5.1 Although this Addendum does not introduce any additional local validation requirements it does provide some commentary on how existing validation requirements relate to the new biodiversity net gain requirements and where information could be included that would assist in efficient processing of planning applications. This is set out below, with the references being to items in Part 3 of the Validation Requirements document.

Item 6 – Ecological Survey & Report

5.2 The guidance in this section of the document refers to a mitigation hierarchy. For those forms of development to which the biodiversity gain condition applies, there is now a distinct biodiversity gain hierarchy that applies. The applicant will be expected, during the course of the application process, to demonstrate how the biodiversity gain hierarchy has been complied with. In order of priority, the hierarchy is:

- avoiding adverse effects of the development on onsite habitat with a habitat distinctiveness score, applied in the biodiversity metric, equal to or higher than six;
- so far as those adverse effects cannot be avoided, mitigating those effects;
- so far as those adverse effects cannot be mitigated, habitat enhancement of onsite habitat;
- so far as there cannot be that enhancement, creation of onsite habitat;
- so far as there cannot be that creation, the availability of registered offsite biodiversity gain;
- so far as that offsite habitat enhancement cannot be secured, purchasing biodiversity credits.

- 5.3 The guidance also refers to demonstrating a net gain using the metric in order to comply with existing policies. This will continue to be helpful information in evidencing that the biodiversity gain condition can be complied with. The statutory biodiversity metric³ should be used.

Item 11 – Head of Terms Proposal – s106 Legal Agreements

- 5.4 Significant on-site enhancements or off-site provision of biodiversity net gain will need to be secured by condition, section 106 agreement or conservation covenant for a period of 30 years. Conservation covenants are not yet in effect. In the Council's view, a section 106 agreement will usually be the most effective way to secure ongoing provision, maintenance and monitoring of both on- and off-site biodiversity gain. Therefore, in complying with the validation requirement for heads of terms for s106, it would be useful to include the ongoing provision, maintenance of monitoring of biodiversity net gain.
- 5.5 Guidance on biodiversity net gain as part of legal agreements can be found at [Legal agreements to secure your biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/legal-agreements-to-secure-your-biodiversity-net-gain)

Item 19 – Plans and Drawings

- 5.6 Where it is proposed that the biodiversity gain condition will be met through on-site enhancements, it would be of great assistance if the location of these enhancements would be clearly marked on relevant plans and drawings, in particular on proposed site plans. The plans should include a post development habitat map showing, the assumed post development 'habitat condition' and the assumptions that have been made. Habitat condition must be shown as per the metric habitat classification (this will normally be different to landscaping plans). The map must be oriented north and at the same scale as the pre-development map submitted as part of the mandatory requirement.

6. Further reading

- 6.1 A significant amount of further guidance on biodiversity is available on the government website at [Biodiversity and ecosystems - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/biodiversity-and-ecosystems)

³ [Statutory biodiversity metric tools and guides - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/statutory-biodiversity-metric-tools-and-guides)

Appendix 1: Summary for different types of application

Table 1: Summary of the application of the biodiversity gain condition and information requirements to different types of application between 12 February 2024 and 2 April 2024

<p>A. Information requirements apply Biodiversity gain condition applies</p>	<p>Applications for the following unless listed in B below:</p> <ul style="list-style-type: none"> • Full planning applications for major development • Outline planning applications for major development
<p>B. Information requirements apply Biodiversity gain condition does not apply</p>	<ul style="list-style-type: none"> • Applications for small sites, i.e. residential development of 1-9 dwellings or less than 0.5 ha or commercial development for less than 1,000 sq m or 1 ha. • Householder applications • Full or outline applications for the following types of major development: <ul style="list-style-type: none"> - Developments that do not impact a priority habitat or impacts any non-priority habitat less than 25 square metres of habitat or 5 metres of linear habitat⁴; - Biodiversity gain site – developments solely or mainly for the purpose of fulfilling the biodiversity gain condition for another development; - Development forming part of, or ancillary to, the high-speed railway transport network.
<p>C. Information requirements do not apply Biodiversity gain condition applies</p>	<ul style="list-style-type: none"> • Applications to vary or remove conditions under section 73 for major development where the original planning permission was made after 12 February 2024 unless listed in D below
<p>D. Information requirements do not apply Biodiversity gain condition does not apply</p>	<ul style="list-style-type: none"> • Applications to vary or remove conditions under section 73 where the original planning permission was made before 12 February 2024 for major development • Applications to vary or remove conditions under section 73 for the following types of major development where the original planning permission was made after 12 February 2024: <ul style="list-style-type: none"> - Developments that do not impact a priority habitat or impacts any non-priority habitat

⁴ Priority habitats are those defined under Section 41 of the 2006 Natural Environment and Rural Communities Act. Non-priority habitats include those habitats in the statutory metric not identified as priority habitats, and include for instance modified grassland, whilst linear non-priority habitats include hedgerows.

	<p>less than 25 square metres of habitat or 5 metres of linear habitat;</p> <ul style="list-style-type: none"> - Biodiversity gain site – developments solely or mainly for the purpose of fulfilling the biodiversity gain condition for another development; - Development forming part of, or ancillary to, the high-speed railway transport network. <ul style="list-style-type: none"> • Retrospective planning applications • Discharge of condition • Certificates of lawfulness • Non-material amendments • Listed building consent • Advertisement consent • Approval of reserved matters • Prior determination demolition • Prior notification
--	---

Table 2: Summary of the application of the biodiversity gain condition and information requirements to different types of application from 2 April 2024

A. Information requirements apply Biodiversity gain condition applies	<p>Applications for the following unless listed in B below:</p> <ul style="list-style-type: none"> • Full planning applications • Outline planning applications
B. Information requirements apply Biodiversity gain condition does not apply	<ul style="list-style-type: none"> • Householder applications • Full or outline applications for the following types of major development: <ul style="list-style-type: none"> - Developments that do not impact a priority habitat or impacts any non-priority habitat less than 25 square metres of habitat or 5 metres of linear habitat; - Developments exclusively for self-build or custom housebuilding between 1 and 9 dwellings and on sites of less than 0.5 ha; - Developments solely or mainly for the purpose of fulfilling the biodiversity gain condition for another development; - Development forming part of, or ancillary to, the high-speed railway transport network.
C. Information requirements do not apply	<ul style="list-style-type: none"> • Applications to vary or remove conditions under section 73 for major development where the original planning permission was made after 12 February 2024 or small sites where

Biodiversity gain condition applies	the original planning permission was made after 2 April 2024 unless listed in D below
<p>D.</p> <p>Information requirements do not apply</p> <p>Biodiversity gain condition does not apply</p>	<ul style="list-style-type: none"> • Applications to vary or remove conditions under section 73 where the original planning permission was made before 12 February 2024 (for major development) or 2 April 2024 (for small sites) • Applications to vary or remove conditions under section 73 for major development where the original planning permission was made after 12 February 2024 or small sites where the original planning permission was made after 2 April 2024 for the following types of development: <ul style="list-style-type: none"> - Developments that do not impact a priority habitat or impacts any non-priority habitat less than 25 square metres of habitat or 5 metres of linear habitat; - Developments exclusively for self-build or custom housebuilding between 1 and 9 dwellings and on sites of less than 0.5 ha; - Developments solely or mainly for the purpose of fulfilling the biodiversity gain condition for another development; - Development forming part of, or ancillary to, the high-speed railway transport network. • Retrospective planning applications • Discharge of condition • Certificates of lawfulness • Non-material amendments • Listed building consent • Advertisement consent • Approval of reserved matters • Prior determination demolition • Prior notification