



Biodiversity Net Gain Interim Guidance Note

**London Borough of Sutton
April 2025**

Executive Summary

This Interim Guidance Note sets out the London Borough of Sutton's approach to the national mandate for Biodiversity Net Gain (BNG) introduced by the Government in February 2024. Together with the Council's existing Local Plan 2018 policies on biodiversity; Sutton's Biodiversity Strategy 2020-25 and the forthcoming London Local Nature Recovery Strategy (LNRS), this guidance forms an important part of Sutton's Environment Strategy 2019 commitment to 'Maintaining and enhancing the biodiversity value of the Borough'.

This Interim Guidance Note aims to support developers in meeting the Council's current expectations through the planning process by:

- setting out the basic mechanics of BNG and the Statutory Metric;
- defining what 'significant onsite habitat gains' are;
- setting a monitoring fee to be levied by the Council to monitor 'significant onsite habitat gains';
- although no local market currently exists for biodiversity offsetting, setting out the Council's intention to become an offset provider as swiftly as possible;
- setting out the level of detail which must be provided in planning applications in order to ensure that avoidable delays are prevented, from Validation through to the discharge of the Biodiversity Gain Plan;
- providing a template for the Biodiversity Gain Form which the Council requires to be submitted in support of each planning application; and
- providing model conditions and planning obligations likely to be set by the Council.

In the medium-term (c.2026), the Council will adopt a new Local Plan for the Borough. As part of the process of preparing updated planning policies on biodiversity, the Council is giving consideration to setting an uplift target over and above the minimum 10% for those sites captured by the BNG mandate. Until that point, the mandated 10% target will be applied to all developments that are not exempt from BNG.

The Council's existing Local Plan policies on biodiversity, landscaping and green infrastructure remain unchanged, except where they are superseded by the national mandate, and these are clearly set out in this document.

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Section One: Introduction

National Context

- 1.1** The Environment Act 2021 sets out an overarching ambition to halt species decline by 2030 and increase species abundance by the end of 2042. The Act strengthened the duty on local authorities to conserve and enhance biodiversity and introduced a new system of Local Nature Recovery Strategies. One of the Act's key provisions is the introduction of mandatory Biodiversity Net Gain (BNG) under which the majority of new developments must deliver at least a 10% net gain on the existing site baseline value for biodiversity, either on-site or off-site, or by buying statutory biodiversity credits as a last resort. BNG came into force on 12 February 2024 for major developments and from 2 April 2024 for smaller sites.
- 1.2** Accordingly, the Government's updated national planning policy framework (NPPF, December 2024)¹ requires that proposed developments should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to climate impacts. Local Plans must therefore promote the conservation, restoration and enhancement of priority habitats and ecological networks and pursue wider opportunities for securing measurable net biodiversity gains.
- 1.3** In February 2024, the Government finalised the secondary legislation² providing details of how BNG will operate and adopted the Statutory Biodiversity Metric³ (the 'Metric') developed by Natural England in order to provide ecologists, developers, planners with a means of assessing changes in biodiversity value brought about by development or changes in land management. The latest version is now mandatory for all developments, with some exceptions.
- 1.4** The Government's updated planning practice guidance (PPG) on BNG⁴ introduced in May 2024 confirms that, under the statutory framework for BNG, every applicable planning permission is deemed to have been granted subject to a general 'biodiversity gain' condition' to secure the 10% objective being met, through either onsite biodiversity gains, registered offsite biodiversity gains (or both) or Statutory Credits as a last resort, but the Biodiversity Gain Hierarchy must be followed. Once planning approval has been granted, this condition requires developers to submit and approve a pre-commencement Biodiversity Gain Plan before the start of construction on site. This will ensure that:

¹ the Government's updated NPPF (December 2024) is available at <https://www.gov.uk/government/publications/national-planning-policy-framework-2>

² the Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024 commenced BNG for most types of development and provides transitional Section 73 arrangements. The Biodiversity Gain Requirements (Exemptions) Regulations 2024 prescribe BNG exemptions for The Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 include provisions in respect of planning applications and the submission and determination of Biodiversity Gain Plans

³ details of how the statutory biodiversity metric is calculated are available at <https://www.gov.uk/guidance/biodiversity-metric-calculate-the-biodiversity-net-gain-of-a-project-or-development>

⁴ the Government's updated PPG on BNG is available here <https://www.gov.uk/guidance/biodiversity-net-gain>

- onsite biodiversity gains that have been identified through the development's approved plans and drawings are appropriately secured;
- any offsite biodiversity gains have been registered and allocated to the development; and
- biodiversity credits, if they are necessary, have been purchased.

1.5 Developers are encouraged to consider BNG from the earliest stages of project planning and design and to apply the Government's 'Biodiversity Gain Hierarchy'⁵.

1.6 Accordingly, Government's PPG states that the following information must be provided as part of any planning application subject to a standard BNG condition:

- a statement as to whether the applicant believes that planning permission, if granted, would be subject to the biodiversity gain condition;
- the pre-development biodiversity value of the onsite habitat including the completed metric calculation tool used and the publication date;
- 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;
- a description of any irreplaceable habitat (as set out in the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024); and
- a plan showing onsite habitat existing on the date of application (or an earlier date), including any irreplaceable habitat.

London Context

London Plan 2021⁶

1.7 London Plan Policy G6 on 'Biodiversity and access to nature' states that Local Plan policies should also support the protection and conservation of priority species and habitats that sit outside the network of Sites of Importance for Nature Conservation (SINCs) and seek opportunities to create other habitats, or features such as artificial nest sites, that are of particular relevance and benefit in an urban context. Development proposals should manage impacts on biodiversity and aim to secure net BNG. This should be informed by the best available ecological information and addressed from the start of the development process.

⁵ further details in relation to the Biodiversity Gain Hierarchy are set out in Paragraph: 008 Reference ID: 74-008-20240214 of Government PPG at <https://www.gov.uk/guidance/biodiversity-net-gain>

⁶ the London Plan 2021 is available at <https://www.london.gov.uk/programmes-strategies/planning/london-plan>

LB Sutton Environment Strategy 2019

- 1.8** The Council declared a climate and ecological emergency in 2019, following which it updated its Environment Strategy to incorporate this commitment. The Strategy includes the following focus area: Maintain and enhance the biodiversity value of the Borough.
- 1.9** The strategy also states that *“Sutton will seek to further increase the amount of biodiversity delivered through each planning application, by incorporating a 20% net gain uplift (or 2 units per hectare, whichever is greater) to each development, through the updated Local Plan..., as well as mandatory levels for other biodiversity features (such as nesting/ roosting boxes and hedgehog holes).”*
- 1.10** However, it is important to note that any biodiversity uplift above and beyond the 10% target now mandated in legislation or mandatory levels for the provision of other biodiversity features on a development site cannot be enforced in absence of an adopted Local Plan Policy target which has been through Examination in Public (EiP)..

Local Plan 2018 - Policy 26 on ‘Biodiversity’

- 1.11** The concept of ‘biodiversity accounting’ was first introduced in LB Sutton through Part (a) of Policy 26 of Sutton’s current Local Plan 2018⁷ on ‘Biodiversity’:

Policy 26: Biodiversity (Local Plan 2018)

*(a) The Council will protect and enhance Sites of Importance for Nature Conservation, Green Corridors and biodiversity. It will ensure the restoration of Beddington Farmlands is completed to the agreed quality and implement its Biodiversity Action Plan and agri-environment schemes. **Major new development should result in no net loss in biodiversity value, as assessed against the DEFRA biodiversity offsetting metric, the Environment Bank Biodiversity Impact Calculator or any metric which the council subsequently adopts formally.** New development should incorporate opportunities to enhance biodiversity, wherever possible.*

(b) The Council will grant permission for developments that create, conserve or enhance biodiversity and improve access to nature, subject to other policies in the plan. In particular, the council will support the creation of:

- 1 hectare of new woodland.*
- 2 hectares of new chalk grassland at suitable locations.*
- Various habitat enhancements identified through the council's Biodiversity Action Plan and the Catchment Plans for the River Wandle & Beverley Brook.*

⁷ Sutton’s Local Plan 2018 is available at <https://www.sutton.gov.uk/w/the-local-plan>

(c) The Council will not grant planning permission within or adjacent to a SINC where there would be a damaging impact on the nature conservation value or integrity of the site, unless:

- (i) the need for and the benefits of the development clearly outweigh the harm.*
- (ii) where there are no reasonable alternative sites that would result in less harm.*
- (iii) where development can demonstrate no net loss for biodiversity and, where possible, net gains for biodiversity by providing mitigation and/or compensation measures.*

(d) The Council will not grant planning permission for development within a Green Corridor where there would be a significant damaging impact to the corridor, unless the need for and benefits of the development clearly outweigh the harm and where development can demonstrate no net loss for biodiversity by providing mitigation and/or compensation measures.

(e) The Council will grant planning permission for development provided that the development will not adversely affect the integrity and biodiversity of the Banstead Downs SSSI (Site of Special Scientific Interest) adjacent to the London Borough of Sutton.

- 1.12** However, at the time the Local Plan was adopted in February 2018, the new policy requirement set out in the third sentence of Part (a) for *“Major new development should result in no net loss in biodiversity value, as assessed against the DEFRA biodiversity offsetting metric, the Environment Bank Biodiversity Impact Calculator or any metric which the council subsequently adopts formally”* could not immediately be enforced through the development management process in the absence of either an agreed biodiversity metric or the means to secure the necessary funding for long term monitoring on major development sites. This necessitated the preparation of technical guidance⁸ on ‘biodiversity accounting’, which is now superseded by the national mandate, although the information within the technical guidance is still of use in understanding how the Metric works (see also Section 2).
- 1.13** The specific policy requirement in the third sentence of Part (a) (highlighted above) has now been superseded by the introduction of mandatory BNG and the Metric from February/April 2024 and updated Government planning practice guidance (PPG) from May 2024. The remainder of Local Plan Policy 26 - incorporating the rest of Part (a) together with Parts (b), Part (c) and (d) remain in force as of February 2025.
- 1.14** While the Local Plan 2018 has not been replaced and is still current as of April 2025, the Council made changes to its Validation Checklist⁹ in December 2024 to require planning applicants to submit a BNG Assessment for proposed developments where ≥ 25m² of vegetation is to be impacted, in line with the national mandate.

⁸ see Sutton’s Technical Guidance Note on ‘Building a Sustainable Sutton’ (April 2018)

<https://www.sutton.gov.uk/documents/20124/864129/Technical+Guidance+Note.pdf>

⁹ LB Sutton’s current Validation Checklist is available at

<https://www.sutton.gov.uk/documents/d/quest/accessible-london-borough-of-sutton-local-validation-list-2024>

Local Plan 'Issues and Preferred Options' document (Regulation 18)

- 1.15** The Council is preparing a new Local Plan for the Borough which, when adopted following Examination-in-Public (EiP), will replace the current Sutton Local Plan 2018. Following initial evidence gathering, an 'Issues and Preferred Options' document¹⁰ was published for consultation (Regulation 18) from July to September 2024.
- 1.16** The consultation document contains a number of draft policies and policy options dealing with biodiversity and habitats, including the following two policies which specifically deal with the Council's proposed response to mandatory BNG and the forthcoming introduction of a Local Nature Recovery Plan for LB Sutton.
- 1.17** Draft Local Plan Policy 6(b) on 'Biodiversity and Habitats' identifies four strategic options relating to the creation and enhancement of habitats and delivering an overall increase in biodiversity value across the Borough.

Draft Regulation 18 Local Plan Policy 6(b) on 'Biodiversity and Habitats' (extract)

The Council will:

(b) Support the creation, enhancement and restoration of habitats throughout the borough; promote an overall increase in biodiversity value across the borough (as measured by the Statutory Metric for BNG); reduce areas of nature conservation deficiency and improve public access to nature over the Local Plan Review period in line with Sutton's Local Biodiversity Action Plan and, when introduced, the Local Nature Recovery Plan targets. Options for habitat creation and biodiversity enhancement targets are as follows:

Policy Options:

- **Preferred Option (Options 1-4 inclusive):** Set a range of strategic biodiversity targets to be delivered over the Local Plan period incorporating Options 1, 2, 3 and 4 (see below) and which are aligned with the relevant Local Nature Recovery Plan targets for LB Sutton.
- **Option 1 - Habitat Creation:** Set updated targets for the creation and enhancement of key habitats including woodland, chalk grassland and/or other key habitats over the Local Plan period which are aligned with Local Nature Recovery Plan targets (ha);
- **Option 2- Protecting SINC:** Set targets for maintaining the number, total area and extent of SINC within the borough and for reducing areas of deficiency to SINC (see Policy 36 on Nature Conservation Sites and Green Corridors) over the Local Plan period.
- **Option 3 - Increasing biodiversity value (borough):** Set an evidence-based target for achieving an uplift in the overall biodiversity value of the borough over the Local Plan period as measured by the Statutory Metric.

¹⁰ the Sutton Local Plan Issues and Preferred Options (Regulation 18) consultation document is available at <https://www.sutton.gov.uk/w/localplanreview>

- **Option 4: Increasing biodiversity value (specific areas):** Set a number of evidence-based targets for achieving an uplift in the biodiversity value of specific areas of the borough where (i) the current baseline biodiversity value is low e.g. Sutton Town Centre or where (ii) opportunities exist for habitat creation e.g. Beddington Farmlands/ Beddington Park (Statutory Metric).

1.18 Draft development management Policy 37 on 'Biodiversity Net Gain' sets out further policy options relating to BNG uplift targets for specific development sites.

Draft Regulation 18 Local Plan Policy 37 on 'Biodiversity Net Gain'

(a) In seeking to promote Biodiversity Net Gain (BNG), priority habitats and urban greening across the borough over the plan period in accordance with the national biodiversity net gain mandate; the aims of Sutton's Nature Recovery Plan (when introduced) and Local Plan Issue 6 on 'Biodiversity and Habitats', all development proposals must demonstrate at least the targeted % net gain in biodiversity value based on the Statutory Metric unless the proposed development:

- (i) impacts less than 25m² of habitat or 5m of linear habitat on the existing site and does not impact a priority habitat;
- (ii) is classified as self-build or custom build development consisting of no more than nine dwellings on a site no greater than 0.5 hectares (ha);
- (ii) is a residential extension or otherwise classified as householder development.

Policy Options:

- **Preferred Option 1:** Set a 20% BNG target for all development sites within the borough;
- **Option 2:** Set a 10% BNG target for all development sites within the borough;
- **Option 3:** Set a 20% BNG target for development sites located in town centres and their surrounding areas of potential intensification (APIs) and within strategic industrial locations (SILs). Set a 10% BNG target for all other development sites within the remainder of the borough; or
- **Option 4:** Where wider area-based BNG targets have been established by the Council in parts of the borough which are currently deficient or score zero biodiversity units (expressed in units per hectare), set the BNG site target accordingly in order to achieve the necessary uplift in biodiversity value.

(b) All planning applications subject to the BNG requirement set out under part (a) must be accompanied by:

- (i) a statement as to whether the applicant believes that planning permission, if granted, would be subject to BNG;
- (ii) the pre-development biodiversity value of the site based on the Statutory Metric including the completed calculation tool and the publication date; and

- (ii) a plan showing on-site habitat existing on the date of submission including any irreplaceable habitat.*

(c) Where planning permission is granted, the Council will apply the standard biodiversity gain condition where relevant to require the submission and approval of a biodiversity gain plan prior to the commencement of the development. Biodiversity gain plans must:

- (i) include a completed calculation tool for the approved development based on the Statutory Metric demonstrating that the appropriate BNG target will be met*
- (ii) demonstrate that the government's mitigation hierarchy and biodiversity gain hierarchy have been followed*
- (iii) support the aims of Sutton's Nature Recovery Strategy, any approved area-based targets set for achieving an uplift in biodiversity value and urban greening and address deficiencies in access to nature conservation sites where feasible;*
- (iv) demonstrate how BNG and urban greening objectives have been incorporated as an integral part of the development from the earliest stages of project planning and design*
- (v) ensure that soft landscaping schemes consist of at least 80% native and of local provenance (by number and species type), with the remainder wildlife-friendly species and provide both species and structural diversity, to maximise ecological niches; and*
- (vi) where it is not feasible to achieve the BNG target through on-site habitat creation, enhancement or restoration proposals, set out proposals in the following order of priority (a) deliver off-site habitat enhancements off-site on a borough site included on the national biodiversity gain sites register (b) make a financial contribution to a biodiversity tariff to be established by the Council; and (c) purchase statutory credits as a last resort and only if offsetting is not possible on Council owned land.*

(b) The Council will:

- (i) ensure that 'significant' on-site habitat creation, enhancement or restoration proposals are secured through a Section 106 agreement with the developer or via covenant in order to ensure compliance with the approved 'habitat values' set out in the submitted biodiversity gain plan and accompanying BNG calculations and site management over a period of 30 years;*
- (ii) assess biodiversity gain plans on a case-by-case basis to determine the 'best ecological outcome';*
- (iii) prepare a supplementary plan and/or design codes containing further BNG guidance including details of Council-owned sites included on the national biodiversity gain sites register; any BNG tariff to be established by the Council, further ecological design advice and minimum standards for wildlife features, landscaping, urban greening and data provision; and*
- (ii) monitor the delivery of BNG across the borough and report every 5 years.*

Project with Green Space Information for Greater London (GiGL)

- 1.19** In preparation for the introduction of mandatory BNG from February 2024, the London Borough of Sutton worked with Green Space Information for Greater London (GiGL) and other partners to develop a better understanding of existing habitat types and biodiversity value across the Borough, in terms of the extent, distinctiveness, condition, strategic significance and biodiversity units associated with each habitat. This project was undertaken for the purpose of creating a high-level baseline for the whole Borough as part of the Local Plan evidence base and to inform wider discussions on how BNG should be implemented in Sutton.
- 1.20** Nonetheless, on-site habitat assessments undertaken by appropriately qualified ecologists will be necessary in order to generate more granular and up-to-date baseline information for specific sites. This evidence base can then be used as a starting point for undertaking site-specific calculations and setting biodiversity targets for individual development sites (including emerging Local Plan site allocations) and possibly for wider areas of growth, based on the Statutory Metric.
- 1.21** As of February 2024, total biodiversity units (BUs) for the 4,461 ha surveyed were calculated as 7,556 BUs. However, this is an underestimate and this baseline information is expected to change over time, as new data becomes available.

Intelligent Sustainability Management System (ISMS) (Ai-Dash Ltd)

- 1.22** The Council is utilising an automated satellite-based system which can remotely map land coverage and habitats across the Borough. For any given area or site, an indicative biodiversity value is generated, based on the raw data and assumptions built into the system. These indicative biodiversity values are then refined by a process of 'ground truthing' in order to arrive at definitive baseline biodiversity scores, against which to set BNG targets. The system is designed to be used by developers and their ecologists in preparing BNG plans and to enable the delivery of BNG targets to be monitored over a period of 30 years.
- 1.23** As of April 2025, the Intelligent Sustainability Management System (ISMS) developed by Ai-Dash Ltd has analysed habitat cover and biodiversity value for a substantial part of the Borough, covering a total area of c.1,000ha of LBS owned land. To date, initial outputs have been mapped and estimated baseline biodiversity values generated for Sutton Town Centre and its Area of Potential Intensification (API), parks and green spaces and emerging Local Plan Site Allocations.
- 1.24** Baseline biodiversity values for different types of area generated by GiGL and the Ai-Dash system may be used as the basis for setting long-term Local Plan targets for achieving an uplift in BNG for specific sites and for wider areas.

The Need for Interim BNG Guidance

1.25 Interim BNG Guidance for LB Sutton is needed for the following reasons:

- to ensure that the Council, as a local planning authority, has the necessary development management procedures in place to ensure that the mandatory 10% BNG target is delivered for all qualifying developments;
- to update and replace the Council's existing 'Biodiversity Accounting' guidance which was included in Sutton's Technical Guidance Note 'Building a Sustainable Sutton' adopted in July 2018;
- to provide clarity for LBS planning officers, developers and ecological consultants on how the Council intends to implement the 10% BNG mandate within the Borough within the context of the introduction of the Statutory Metric; the Government's updated planning practice guidance on BNG and local biodiversity objectives set out in the Council's Biodiversity Strategy 2020-25¹¹; the Borough Climate Emergency Strategy and the forthcoming Local Nature Recovery Strategy;
- to ensure that, prior to the adoption of Sutton's new Local Plan, the BNG legislation and associated Government planning practice guidelines (PPG) are carried forward and interpreted in a proactive manner that avoids the risk of increased costs to the Council and delays to planning applications, that might otherwise arise from planning officers having to develop an *ad hoc* approach to validating, determining and monitoring an increased number of applications; and
- to increase the likelihood that future income generated from biodiversity offsetting and investment for Nature Based Solutions (NBS) is used to enhance biodiversity within LB Sutton rather than outside the Borough boundaries. The absence of locally agreed offsetting arrangements within the Borough (i.e. doing nothing and following the statutory guidance), currently forces offsite habitat creation and offset money to go to commercial habitat bank providers, or Statutory Credits.

1.26 The following aspects of the development management process are covered in this Interim Guidance Note (IGN) in the chapters that follow:

- **Background to how BNG works (Section 2):**
 - What is BNG, how does the Metric work and what do developers need to know?
- **Pre-Application Advice (Section 3):**
 - How will the Council work with developers and their consultants to ensure that BNG objectives are taken into account from the earliest stages of project planning and design?
 - How should BNG be accommodated as part of the Council's pre-application advice service and what fees should be set?

¹¹ Sutton's Biodiversity Strategy 2020-25 is available at <https://www.sutton.gov.uk/w/biodiversity-and-wildlife-biodiversity-strategy>

- **Validation Requirements (Section 4) and Appendices 1 and 2**
 - What types of development are exempt from BNG and what evidence needs to be provided by planning applicants to demonstrate this?
 - What are the Council's minimum BNG information requirements and what supporting documents are required to enable planning applications to be validated (for both exempt and qualifying developments)?
- **Determination of Planning Applications, Model Conditions, Informatives and Section 106 Obligations (Section 5)**
 - What are the Council's minimum BNG information requirements to enable planning applications to be determined (for qualifying developments) having regard to the legislation; Government PPG on BNG and best practice?
 - How should the Council define 'significant' onsite habitats in order to ensure that proposed on-site enhancements can then be secured via a Section 106 agreement (or conservation covenant) or through a condition for 30 years?
 - Where planning permission is granted, what planning conditions and informatives may be included by the Council in the Decision Notice (in addition to the general biodiversity gain condition)?
 - What Section 106 planning obligations may be secured in order to ensure that the proposed biodiversity enhancements are implemented, managed and monitored over a period of at least 30 years? (Model wording based on the template produced by the Planning Advisory Service (PAS) is proposed.)
- **Determination of the Biodiversity Gain Plan (Section 6)**
 - What must be included in the Biodiversity Gain Plan and what are the minimum information requirements?
- **Biodiversity Offsetting (Section 7)**
 - What approach should the Council take towards offsetting, given that the local planning authority cannot direct developers to it and that all offsite losses now need to be accounted for via the Nation Gain Site Register¹²?
- **Monitoring and Enforcement (Section 8)**
 - What monitoring fee should be charged by the Council via Section 106 to enable the Council to recoup the cost of the necessary officer time and expertise required to evaluate, monitor and enforce biodiversity enhancements being delivered in line with approved BNG plans for each site, over a timeframe of at least 30 years?
 - How should factors such as site size, biodiversity unit provision and habitat complexity be taken into account?

¹² the National Gain Site Register is available at <https://www.gov.uk/guidance/register-a-biodiversity-gain-site>

Section Two: How Biodiversity Net Gain works and what Developers need to know

What is Biodiversity Net Gain?

- 2.1 Biodiversity Net Gain (BNG) uses a metric based mechanism for attempting to quantify the 'biodiversity units' of a specified area of land.
- 2.2 As set out above, all developments that are not exempt from Biodiversity Net Gain need to use the Statutory Biodiversity Metric (or, Small Sites Metric, if applicable).
- 2.3 Metrics are surrogates for complete measurements of total biodiversity found within a specific area and are a **tool** to be used to provide consideration of the biodiversity value of a given area of habitat. Metrics can never provide full consideration of the biodiversity in any given area but can provide an indication of equivalency between different habitats.
- 2.4 BNG **ONLY** applies to habitats; species are not counted within the Metric but form an integral consideration for developers and their agents, as well as the Local Planning Authority, in weighing up impacts from a development.
- 2.5 As such, the usual ecological reports (such as a Preliminary Ecological Appraisal, Preliminary Roost Assessment, Nesting Birds Checks etc.), are all still required.
- 2.6 For more information on what surveys a developer needs to undertake, see Validation Information: Biodiversity¹³.

How does the Metric work?

- 2.7 The Metric(s) work on a multiplication system, which varies slightly for pre-development ('baseline') scores versus post-development scores.

Baseline calculations

- (a) Each habitat has an area (submitted within the Metric in hectares);
- (b) Each habitat is assigned a 'distinctiveness' score, based on aspects such as habitat rarity, species richness etc., running from 'very high' (score 8) to 'very low' (score 0);
- (c) The condition (if applicable) of that habitat, running from 'good' (score 3) to 'poor' (score 1) to Not Applicable (score 0);
- (d) Strategic Significance of how important the location is within a local and regional context. This will be based on the London Local Nature Recovery Strategy¹⁴, which is due to be published in September 2025.

¹³ Sutton's 'Validation Information: Biodiversity document' (LBS, 2024) is available at <https://www.sutton.gov.uk/documents/d/guest/validation-information-for-biodiversity-2024>

¹⁴ available <https://www.london.gov.uk/programmes-strategies/environment-and-climate-change/parks-green-spaces-and-biodiversity/local-nature-recovery-strategy>

(e) Therefore:

Area x Habitat Distinctiveness x Condition x Strategic Significance = baseline BNG values

- 2.8** Any change to any of these variables affects the outcome of the baseline values.
- 2.9** It is imperative that, at the point of determination, all of the variables are accurately submitted within the Metric and have a corresponding evidence base, via survey information, condition assessment sheets, GIS shapefiles etc. otherwise this will lead to delays in the determination of the application. See [Section Five](#) for more information.

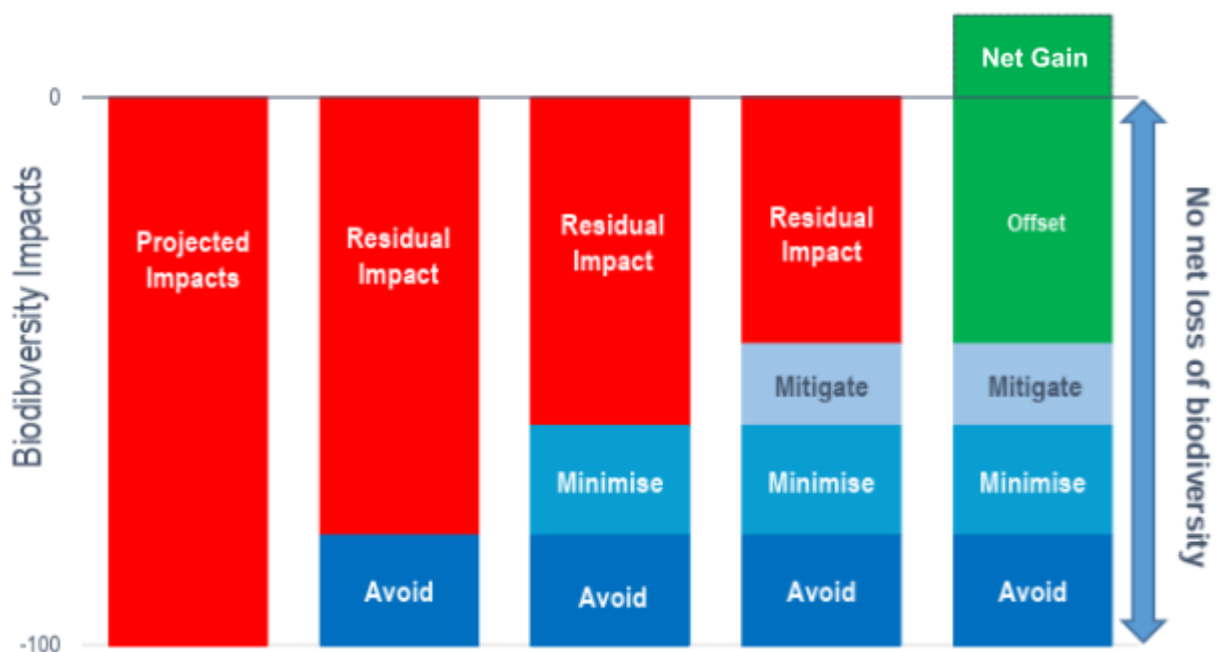
Post-development Calculations

- 2.10** In addition to the multiplications for the baseline BNG values, post-development values take into account a number of further multipliers, known as '**risk multipliers**' for the creation of new habitat, or, the enhancement of retained habitats:
- (a) Temporal risk - the time taken to deliver a specific habitat to an agreed condition, to deliver a specific BNG unit value (either created or enhanced);
 - (b) Delivery risk - the difficulty of creating (or enhancing) a specific habitat; and
 - (c) Spatial risk - the difficulty in creating a suitable parcel of land within an ecologically coherent network (**only applies to offset sites**).
- 2.11** Further, the post-development values take into account habitats that are **lost** to the development, **retained** habitats (those set out in the baseline values and how much area, if at all, is impacted by the development) and those retained habitats that are **enhanced** in 'condition', i.e. they may be in 'poor' condition and enhanced to 'moderate condition', which gives an uplift in biodiversity units.
- 2.12** In **all** cases, the Mitigation Hierarchy (**Figure 2.1**) must be followed, followed by the Biodiversity Gain Hierarchy; that is, any loss of habitat is likely to be penalised by the 'risk multipliers' for the creation of new habitats, so higher value habitats should avoid being negatively impacted.
- 2.13** As shown in **Figure 2.2**, the Mitigation Hierarchy is a stepwise / iterative process for the evaluation of impacts, with Net Gains for biodiversity only coming at the end of the process, when the Mitigation Hierarchy has been followed.
- 2.14** The Metric also incorporates '**Trading Rules**', which are set out in detail in the Statutory Biodiversity Metric User Guide (particularly Table 3, page 14). In short, Trading Rules **must** be followed and the provision of lower value habitats to compensate for the loss of higher value habitats ('downtrading') is not permitted.

Figure 2.1: The Mitigation Hierarchy



Figure 2.1: The Mitigation Hierarchy: Iterative considerations to achieve Net Gains



2.15 There is also special provision within the Metric(s) for **habitat degradation**, that is, habitats that have been removed or reduced in their biodiversity value to ‘game the system’ and make Net Gains easier. When considering a site for purchase, or even to undertake ‘management’ or maintenance’ on a site one owns, developers need to fully consider the impacts of habitat degradation, as there are strong punitive measures around the assessment of degraded sites, including applying increased baseline biodiversity values and increasing the time for habitats to be created (increasing the ‘Temporal Risk’ and thus, reducing the value of these created habitats).

2.16 Biodiversity Offsetting is set out in Section Seven, for when sites cannot achieve their mandatory Net Gain uplift within the Redline Boundary (RLB) of the application.

Section Three: Pre-Application Advice

Sutton's Pre-Application Advice Service

- 3.1** Government planning practice guidance (PPG) stresses that BNG must be considered throughout the planning process and should not just be a post-permission matter. Developers are therefore encouraged to consider BNG requirements in initial site selection and from the earliest stages of project planning and design. Where appropriate, applicants should use the Council's pre-application service prior to the submission of any subsequent planning application.
- 3.2** Early engagement with planning officers from the Council's Development Management Team, with expert input from LBS Biodiversity Officers, will help to establish whether the proposed development is subject to BNG; enable feedback on the proposed strategy for achieving the BNG objective and how the Biodiversity Gain Hierarchy has been utilised to inform the design and layout of the proposal.
- 3.3** Further details of the Council's paid-for pre-application planning advice service for prospective planning applicants and businesses are set out on the Sutton website¹⁵.

Sutton's Pre-Application Charging Schedule

- 3.4** Sutton's Pre-Application Charging Schedule¹⁶ sets out Technical Meeting Fees which will apply where applicants are seeking further guidance and advice from internal Council departments outside of standalone pre-application meetings.
- 3.5** The Schedule has now been updated to account for the introduction of mandatory BNG and to ensure that developers are made aware of the availability of biodiversity advice at all stages of the planning process, from the pre-application stage; the preparation of supporting documents for the purpose of validation; meeting the minimum information requirements to enable the planning application to be determined; the preparation of Biodiversity Gain Plans; the discharge of the statutory biodiversity gain condition; Section 73 applications; and the preparation of draft Habitat Management and Monitoring Plans.
- 3.6** The updated Schedule reflects the fact that additional concept, pre-application, follow-up and Biodiversity Gain Plan/ conditions meetings are likely to be required to address BNG issues for all qualifying developments. While Category A 'Householder Developments' are exempt from mandatory BNG requirements, additional meetings and associated fees are identified for Categories B to G respectively.

¹⁵further details of the Council's pre-application advice service are available at <https://www.sutton.gov.uk/w/pre-application-planning-advice>

¹⁶the Council's current Pre-Application Advice Charging Schedule (November 2024) is available at <https://www.sutton.gov.uk/documents/d/quest/sutton-pre-app-charging-doc-november-2024>

3.7 Given that additional BNG meetings offered as part of the Council's pre-application advice service will necessarily require the involvement of LBS Biodiversity Officers, the pricing reflects the 'Technical Meeting Fees' set out in the previous Charging Schedule. Once the developer has chosen the range of pre-application services required, applicants are invited to submit their application using the Council's online Pre-Application Form¹⁷.

¹⁷ the Council's Pre-Application Form is available https://sutton-self.achieveservice.com/service/Pre_application_planning_advice_for_Sutton

Section Four: Validation Requirements

Biodiversity Net Gain Exemptions

- 4.1** The following categories of development are exempt from BNG under Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024:
- Section 73 applications where the original permission was granted prior to April 2024;
 - Householder developments¹⁸;
 - Permitted developments;
 - development subject to the *de minimis* exemption. Defined as ‘Development that does not impact a priority habitat and impacts less than 25 square metres (e.g. 5m by 5m) of onsite habitat, or 5 metres of linear habitats such as hedgerows’;
 - Self-build or custom build (CSB) developments¹⁹;
 - Development of a biodiversity gain site. Development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the biodiversity gain condition which applies in relation to another development.
- 4.2** Where the applicant believes that the BNG does not apply to the proposed development, this should be indicated in the Biodiversity Statement and in the Council’s Biodiversity Gain Form (Appendix 1) to be submitted in support of the planning application. All supporting evidence must also be provided in order to meet the requirements of Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015²⁰.
- 4.3** The nationally prescribed planning application form template provides for these reasons to be set out. Updated Government planning practice guidance (PPG) on BNG confirms that applicants “...will be expected in this statement to set out what exemption(s) or transitional provision(s) apply to the development. In some cases, the exemption or transitional provision will be evident as they relate to the type of permission. For example, the planning application form for household development already includes a pre-populated statement”.
- 4.4** In other cases where the relevant exemption is not automatically evident from the planning application form, such as for proposals considered (by the applicant) to be subject to the ‘*de minimus*’ exemption, for self-builds and for custom build (CSB) developments, supporting evidence must be provided as part of the Biodiversity Statement to demonstrate the basis for this. Example scenarios are provided in the updated Government PPG.

¹⁸ as defined within Article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015

¹⁹ as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015

²⁰ available at <https://www.legislation.gov.uk/uksi/2015/595/article/7>

- 4.5** It should be noted that where an exemption is being claimed for a self-build proposal, this must be secured by entering into a Section 106 agreement with the Council, with all legal costs to be paid for by the applicant.

Validation documents

- 4.6** The Council's minimum BNG information requirements at Validation²¹ stage are as follows:

For all proposed developments

- a **Biodiversity Statement** setting out whether or not the BNG applies to the proposed development together with supporting evidence. For developments which are considered to be exempt (by the applicant), this must also be stated in the relevant part of the standard planning application form.
- a completed **Biodiversity Net Gain Form** using the Council's template ([Appendix 1](#)). The Biodiversity Net Gain Form alone may be considered sufficient for Validation purposes provided that it contains all of the necessary information and supporting evidence in accordance with the minimum requirements set out below.

A Developers' Checklist is also provided ([Appendix 2](#)) to help ensure that all aspects have been considered and submitted. However, this checklist does not need to be submitted with the planning application.

For developments considered by the applicant to be exempt from BNG

- Provision of supporting evidence in the Biodiversity Statement and/or the Biodiversity Gain Form, as appropriate, to justify the applicant's view that the proposed development is exempt, particularly for *de minimis* and self-build or custom build (CSB) developments.
- For CSB exemptions, the applicant must provide all necessary evidence that the 2015 Act²² is being complied with; that is: the development has significant input ('building or completion' or architectural design) from the applicant, who will be using this as their 'sole or main residence'.

For developments subject to BNG

- Confirmation in the Biodiversity Statement and/or the Biodiversity Gain Form as appropriate that the applicant believes that planning permission, if granted, the development would be subject to the biodiversity gain condition;
- The **pre-development biodiversity value(s)** of the site based on the Statutory Metric²³ on the date of application or earlier proposed date (as appropriate);

²¹the London Borough of Sutton's Validation List is available on the Council's website at

<https://www.sutton.gov.uk/documents/d/quest/accessible-london-borough-of-sutton-local-validation-list-2024>

²² the Self-Build and Custom Housebuilding Act 2015 is available at <https://www.legislation.gov.uk/ukpga/2015/17/section/1>

²³ details of how the Statutory Metric is calculated is available at

<https://www.gov.uk/guidance/biodiversity-metric-calculate-the-biodiversity-net-gain-of-a-project-or-development>

- The **completed Statutory Metric calculation** tool (as an **xlsx** file - see the Statutory User Guide Section 9 ‘Preparing a metric for submission’, pg.61) showing the calculations of the pre-development biodiversity value of the onsite habitat;
- **Plan(s)**, drawn to an identified scale and showing the direction of North, showing onsite habitat existing on the date of application.
- A statement on whether activities have been carried out after 30 January 2020 and prior to the date of application that have resulted in loss of onsite biodiversity value or ‘**degradation**’²⁴;
- A description of any ‘**irreplaceable habitat**’²⁵ on the pre-development site;
- A description of how the proposed development intends to deliver the objective of at least a 10% gain in biodiversity value through the **Biodiversity Gain Hierarchy**;
- A **draft Biodiversity Gain Plan**;
- A **draft Habitat Management and Monitoring Plan** setting out the proposals for long term maintenance of ‘significant onsite’ habitats to be secured through a planning condition or planning obligation; and
- **all** onsite and offsite (if applicable) Habitat Plans to be submitted as a **GIS shapefile**, containing the redline boundary and all onsite habitat, to Greenspace Information for Greater London (GiGL) Data Standards²⁶, particularly G021 Site Surveys²⁷ and G081 Habitat Data Standards²⁸.

4.7 In preparing Biodiversity Statements (and subsequent Biodiversity Gain Plans at the pre-commencement stage) developers should have regard to the Sutton’s ‘Validation Information: Biodiversity document’²⁹. This sets out the Council’s detailed guidelines and minimum requirements to ensure that applicants have undertaken all necessary ecological surveys, in the correct season and to the necessary standards, to avoid preventable delays in determining the application.

²⁴ habitat ‘degradation’ is defined here <https://www.gov.uk/guidance/biodiversity-net-gain#para36>

²⁵ the definition of ‘irreplaceable habitat’ is provided in column 1 of the Schedule to the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024 available at <https://www.legislation.gov.uk/uksi/2024/48/schedule/made>

²⁶ <https://www.gigl.org.uk/recording-surveying/links-and-resources/survey-data-standards-and-guidance/>

²⁷ <https://www.gigl.org.uk/wp-content/uploads/2022/10/G021SiteSurveys.pdf>

²⁸ <https://www.gigl.org.uk/wp-content/uploads/2022/10/G081HabitatDataStandards.pdf>

²⁹ Sutton’s ‘Validation Information: Biodiversity document’ (LBS, 2024) is available at <https://www.sutton.gov.uk/documents/d/quest/validation-information-for-biodiversity-2024>

Section Five: Determination of Planning Applications and Applying the General Planning Condition on Biodiversity Net Gain

Recording BNG Planning Applications

- 5.1** In order to address the additional data collection requirements arising from the introduction of mandatory BNG, the Council will utilise an appropriate data management system to automate and synthesise BNG data associated with specific development sites, thus reducing officer time and the additional burdens of monitoring and reporting on BNG planning applications.
- 5.2** Long-term funding to enable the continued use of the data management system (and officer time) will be secured via the Section 106 monitoring fee for each application where the Biodiversity Gain Plan has been approved in accordance with the standard BNG condition.

Cross-Checking of Biodiversity Information

- 5.3** Once the planning application has been validated, the baseline information included in the Application Form and Biodiversity Statement and other supporting documents must be cross-checked with specialist ecological input from LBS Biodiversity Officers. The data management system will be used to identify any inconsistencies with the application of the Statutory Metric.
- 5.4** Developers must therefore ensure that all documents provide consistent and accurate information, so as to avoid preventable delays to the determination of the application. This includes information within landscaping plans and Green Space Factor (GSF) / Urban Greening Factor (UGF) assessments that relate to habitats and their areas / lengths.

Publicity and Consultation on BNG Planning Applications

- 5.5** Once a BNG planning application has been validated, and in line with the updated Government PPG, the Council will undertake a period of publicity and consultation where views on the proposed development can be expressed in the usual way. As part of this consultation, the information submitted as part of the application, including the Biodiversity Statement, will be made publicly available for comment.
- 5.6** As part of the usual internal consultation arrangements, the LBS Biodiversity Officers will be invited to provide expert ecological input amongst other internal Council departments. The comments will focus upon issues such as:

- the accuracy of the baseline biodiversity values reported in the Biodiversity Statement and Statutory Metric for the pre-development site;
- the accuracy of all other documents that set out habitats and areas, including landscaping plans, and Green Space Factor (GSF) and/or Urban Greening Factor (UGF) plans and proposals;
- the completeness and accuracy of the Biodiversity Gain Form where one has been prepared (see Appendix 2);
- whether the Biodiversity Gain Hierarchy has been applied;
- the draft Biodiversity Gain Plan (where provided); and
- the draft Habitat Management and Monitoring Plan and proposals for the long-term enhancement and maintenance of habitats through planning conditions and planning obligations.

5.7 There are no statutory requirements to consult a particular body prior to determining a planning application specifically related to biodiversity net gain. The normal consultation arrangements for planning applications apply. Natural England is not a statutory consultee for BNG matters in relation to individual applications; it should only be consulted where it is a statutory consultee under Article 18 of the Town and Country Planning (Development Management Procedure) Order 2015.

Defining 'Significant Habitat'

- 5.8** 'Significant onsite habitat gains' need to be secured by a planning condition or s106 obligation, for at least 30 years of management and monitoring and this will normally be set out in a Habitat Management and Monitoring Plan (HMMP). Habitats deemed 'insignificant' do not need any formal monitoring but should be secured by condition (if applicable) to provide ongoing habitat values.
- 5.9** If a local planning authority defines significant onsite habitats³⁰, it can then use a Section 106 planning obligation to charge a monitoring fee (to pay for staff time and monitoring software to help make the process easier) for each monitoring report it needs to read, evaluate and act on, over the minimum 30 year period for each development.
- 5.10** 'Significant habitat' is defined as follows for the purpose of implementing BNG within the London Borough of Sutton:

³⁰ further guidance on defining 'significant on-site habitats' is provided at <https://www.gov.uk/guidance/make-on-site-biodiversity-gains-as-a-developer>

Definition of 'Significant onsite Habitat gains' for LB Sutton

'Significant onsite habitat' is any habitat, either retained, created, or retained & enhanced, that is of 'medium' habitat distinctiveness or above and / or 'moderate' condition or above within the Statutory Biodiversity Metric, except for:

- ***planters and window boxes etc;***
- ***private gardens, allotments and other food growing areas, where these are managed and maintained by private citizens or not-for-profit groups, unless the creation of private gardens or food growing areas is deemed by the Council to be of such a size, scale and location that the creation or enhancement of these habitats is deemed to be 'strategically significant' by the Council****

**defined as whether these habitats, either individually or cumulatively, create new green spaces in areas previously without green space of such a size, or in such a location, that they contribute towards ecological connectivity, species recovery, or otherwise provide other significant ecosystem services. The relevant definitions set out in the Statutory Metric should be consulted where necessary.*

Determining the Planning Application

- 5.11** The statutory framework for BNG involves the discharge of the biodiversity gain condition following the granting of planning permission to ensure the objective of at least 10% net gain will be met. The determination of the Biodiversity Gain Plan under this pre-commencement condition is the mechanism to confirm whether the development meets the biodiversity gain objective. Given this, unless the submitted Biodiversity Statement fails to set out an objective for the development to deliver at least 10% net gain on- or offsite, it would generally be inappropriate for the Council to refuse a planning application on the grounds that the biodiversity gain objective will not be met.
- 5.12** However, in determining planning applications subject to BNG, the Council will consider more broadly whether the biodiversity gain condition is capable of being successfully discharged. Updated Government PPG provides the following list of matters that should be considered:
- the appropriate balance expected between onsite gains, offsite gains and the use of statutory biodiversity credits for the development, taking account of the Biodiversity Gain Hierarchy;
 - Whether the type and location of any significant onsite habitat enhancements proposed for onsite gains are appropriate, taking into account other policies to support biodiversity (including local nature recovery strategies) and other wider objectives (e.g. policies for design, open space provision, and tree retention); and

- Any planning conditions / obligations which need to be imposed to secure any significant onsite habitat enhancements, including any conditions / obligations requiring the maintenance of the enhancement for at least 30 years after the completion of the development.

5.13 Prior to the determination of the planning application, the relevant planning case officer and LBS Biodiversity Officer(s) will seek to enter into discussions with the applicant on whether any section 106 planning obligations are required to secure significant onsite habitat enhancements and monitoring fees. This can be addressed in line with the Council's Pre-Application Service Schedule (see Section 2).

Model Informatives and Planning Conditions on BNG for LB Sutton

5.14 The BNG legislation imposes a new statutory 'general planning condition' on planning permissions granted under the TCPA 1990. This new general condition requires a pre-commencement Biodiversity Gain Plan to be submitted and approved.

5.15 Where the Council determines that the mandatory BNG target (10%) is capable of being successfully delivered and that the planning application should be granted, the standard biodiversity gain condition must be set as part of the decision. Unlike most planning conditions, the biodiversity gain condition has its own separate statutory basis under Schedule 7A of the Town and Country Planning Act 1990.

5.16 In line with advice set out in the updated Government PPG on BNG, the Council will not include the Biodiversity Gain Condition, or the reasons for applying this, in the main list of conditions set out in the decision notice. Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015³¹ requires that this information is kept separate and contains:

- information relating to the biodiversity gain condition including the exemptions to the condition, and transitional provisions in relation to that condition;
- information to note the effect that section 73(2D) of the Town and Country Planning Act 1990 applies (that an earlier biodiversity gain plan in relation to a previous planning permission is regarded as approved);
- the planning authority for the purposes of the Biodiversity Gain Plan; and
- requirements relating to irreplaceable habitats.

5.17 When granting planning permission, the Council will include the following BNG Informative and associated planning conditions on the decision notice³².

³¹ Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 is available here <https://www.legislation.gov.uk/uksi/2015/595/article/35/made>

³² this model General Condition for BNG condition to be included in decision notices is closely based on the Government's suggested Paragraphs, which are available at <https://www.gov.uk/guidance/biodiversity-net-gain#para25>

Model BNG Informative to be included on Decision Notices

Biodiversity Net Gain Condition

The development granted by this notice must not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan

Details about how to comply with this statutory condition and when development is exempt from it are set out below:

Biodiversity Net Gain Condition Notes

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the “biodiversity gain condition” which means development granted by this notice must not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, is the London Borough of Sutton.

Based on the information available, this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements³³ are considered to apply.

<<If this permission which has been granted, has the effect of requiring or permitting the development to proceed in phases, the modifications in respect of the biodiversity gain condition, which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024, would apply if the permission were subject to the biodiversity gain condition.

In summary: Biodiversity gain plans would be required to be submitted to, and approved by, the planning authority before development may be begun (the overall plan), and before each phase of development may be begun (phase plans).>>

Advice about how to prepare a Biodiversity Gain Plan and a template can be found at [Submit a biodiversity gain plan - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments).

The Biodiversity Gain Plan should be submitted as an ‘application for approval of details reserved by condition following grant of planning permission’, via the Planning Portal.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at: <https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>.”

5.18 Apart from the BNG Informative, the Council is likely to include one or more of the following model biodiversity conditions as part of the decision notice, in order to ensure that BNG is delivered, as well as other benefits to nature and wildlife. BNG is delivered and monitored (where applicable) over a period of **at least 30 years**.

³³ <https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>

Model Biodiversity Conditions

Model Condition 1 - Habitat Management and Monitoring Plan (HMMP)

The development shall not commence until at least a 30 year Habitat Monitoring and Management Plan (HMMP), prepared in accordance with an approved Biodiversity Gain Plan, has been submitted to and approved in writing by the local planning authority.

The approved HMMP shall be strictly adhered to and implemented in full for its duration and shall contain the following:

- (a) Description and evaluation of the features to be managed;
- (b) A soft landscaping masterplan will detail biodiversity enhancement through planting schemes that provide nectar, pollen and fruit resources throughout the seasons, a variety of structural diversity and larval food plants, through no less than 60% native and local species by number and diversity. Substrate, provenance and numbers of all bulbs, seeds and plugs / whips / trees will be detailed, as will aftercare and ongoing management.
Ornamental plants will not include any genera or species on Schedule 9 of the Wildlife and Countryside Act (1981) or the LISI list and should be on the "RHS Plants for Pollinators" lists (or of documented wildlife value), to provide increased resource availability;
- (c) Ecological trends and constraints on site that may influence management;
- (d) Aims, objectives and targets for management - link with local and national species and habitat action plans where relevant;
- (e) Descriptions and prescriptions of the management operations necessary to achieve the aims and objectives;
- (f) Preparation of a works schedule, including when habitat creation will take place, and an annual works schedule;
- (g) Details of the monitoring needed to measure the effectiveness of management;
- (h) Details of the timetable for each element of the monitoring programme;
- (i) Details of the persons responsible for the implementation of the management actions and monitoring;
- (j) Mechanisms of adaptive management to account for necessary changes in work schedule to achieve the required targets;
- (k) A timetable for review of the management actions and monitoring; and;
- (l) Reporting on year <<1, 2, 5, 10, 20 and 30 - to be determined on a case-by-case basis>>, with biodiversity reconciliation calculations (Statutory BNG Metric) at each stage, to be provided to the Local Planning Authority no later than 1st November of each reporting period.

Reason: To enhance biodiversity in accordance with Policy 26 of the Local Plan and to ensure the development delivers a biodiversity net gain in accordance with Schedule 7A of the Town and Country Planning Act 1990."

Model Condition 2 - Construction Environmental Management Plan (CEMP)

Prior to commencement of the development hereby permitted, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall be in accordance with BS42020:2013 and include the following <<(Delete as appropriate):

- (a) Risk assessment of potentially damaging construction activities
- (b) Identification of 'biodiversity protection zones'
- (c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements)
- (d) The location and timing of sensitive works
- (e) The times during construction when a specialist ecologist need to be present on site to oversee works
- (f) Responsible persons and lines of communication
- (g) The role and responsibilities of the on site ecological clerk of works (ECoW) or similarly competent person
- (h) Use of protective fences, exclusion barriers and warning signs.>>

All works carried out during the construction period shall be undertaken in accordance with the approved CEMP.

Reason: To enhance and protect the biodiversity value of the land in accordance with Policy 26 of the Sutton Local Plan 2018. This condition is required to be pre-commencement to ensure that protected species and the biodiversity value of the land are not harmed / mitigated for prior to the demolition / construction process.

Model Condition 3 - Alternative CEMP

Prior to commencement of the development hereby permitted a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority, in line with recommendations within the submitted <<document>> (<<refs>>). The CEMP shall be in accordance with BS42020:2013 and include the following:

- (a) The qualifications, role and responsibilities of the appointed on site Ecological Clerk of Works (ECoW) or similarly competent person;
- (b) seasonal timing of works to avoid affecting birds and other fauna as necessary;
- (c) measures to prevent entrapment of mammals;
- (d) <<pre-demolition / felling>> bat survey<<s>> methodologies, timing and a timetable for reporting the survey findings to the Local Planning Authority
- (e) measures to eradicate invasive non-native species; and
- (f) construction lighting to ensure it is in accordance with Guidance Note 08/23 Bats and Artificial Lighting (Institute of Lighting Professionals and the Bat Conservation Trust).

All works carried out during the construction period shall be undertaken in accordance with the approved CEMP.

Reason: To enhance and protect the biodiversity value of the land in accordance with Policy 26 of the Sutton Local Plan 2018. This condition is required to be

pre-commencement to ensure that protected species <<and the biodiversity value of the site>> / <<adjacent / nearby SINC>> are not harmed or, are adequately mitigated for, prior to the demolition / construction process.

Model Condition 4 - Abide by submitted information

The development hereby approved shall be constructed in accordance with the details stipulated within the submitted <<Biodiversity Gain Plan <<and HMMP>> prepared by xxxx and dated xx/xx/xxxx>>. The development shall be carried out in accordance with the approved details and thereafter retained.

Reason: To enhance and protect the biodiversity value of the land in accordance with Policy 26 of the Sutton Local Plan 2018.

Model Condition 5 - Protected species licence

Prior to commencement of the development hereby permitted any works associated with the proposed <<demolition / felling>> of <<building(s) X>> and <<trees TX>> and associated <<destruction / removal>> of the <<type of>>bat roost (**survey ref**) the Local Planning Authority must be provided with:

- (a) a copy of the licence issued by Natural England pursuant to Regulation 55 of the Conservation of Habitats and Species Regulations 2017 and the The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, authorising the specified activity / development to proceed, and;
- (b) A copy of all proposed bat mitigation and enhancement required to secure the necessary licence

Reason: To protect and enhance the biodiversity value of the land in accordance with Policy 26 of the Sutton Local Plan 2018. This condition is required to be pre-commencement of the proposed phased demolition of the existing buildings, to ensure that protected species are not harmed and, if necessary, fully mitigated for, prior to the demolition / construction process through the granting of an appropriate licence.

Model Condition 6 - Features for Wildlife

Prior to rising above the damp proof course of the development hereby permitted, a scheme for wildlife and nesting features shall be submitted to and approved in writing by the Local Planning Authority. These will include:

- (a) <<Hedgehog holes to increase site connectivity (where suitable habitat is adjacent, including boundary and internal fencing)>>
- (b) <<Hibernacula and / or refugia for herpetofauna (where suitable habitat is available on site)>>
- (c) <<Deadwood / stag beetle loggeries (where suitable habitat is available on site, including biodiverse roofs)>>
- (d) <<Features on buildings, in accordance with the adopted Biodiversity Strategy³⁴, including at least
 - (i) Xno. integrated multi-chamber swift bricks (preferred) or boxes,

³⁴ Sutton's current Biodiversity Strategy 2020-25 is available at <https://www.sutton.gov.uk/documents/d/quest/biodiversity-strategy-2020-2025-1>

- (ii) Xno. multi-occupancy hirundine nests,
- (iii) Xno. starling boxes,
- (iv) Xno. house sparrow terraces,
- (v) Xno. integrated bat bricks / tiles (preferred) or boxes>>
- (e) <<other bird boxes or features, as appropriate to the site (including solitary bee bricks, insect boxes / hotels etc.)>>

The scheme will include full details on: numbers of each feature, type of feature / box / brick, location (plan and elevation views) of each feature, height above ground (if applicable) and nearest external lighting (if likely to have an impact).

Features shall be undertaken in accordance with the approved scheme and thereafter retained in perpetuity.

Reason: To enhance the biodiversity value of the land in accordance with Policy 26 of the Sutton Local Plan 2018.

Model Condition 7 - Statement of Conformity

Prior to occupation of the development hereby permitted, a Statement of Conformity shall be submitted to and approved in writing by the Local Planning Authority.

The Statement of Conformity will be signed by a suitably qualified ecologist and fully reference the HMMP and include evidence in the form of full details on:

- (a) <<starting and completion dates for each habitat creation / enhancement deemed to be a 'significant onsite gain'>>;
- (b) <<general weather conditions for each habitat creation / enhancement deemed to be a 'significant onsite gain'>>;
- (c) <<any limitations / impeding factors during each habitat creation / enhancement phase deemed to be a 'significant onsite gain'>>;
- (d) <<time stamped photographs of each habitat undergoing creation or enhancement, if deemed to be a 'significant onsite gain'>>;
- (e) <<post completion photographs of each habitat / enhancement deemed to be a 'significant onsite gain'>>;
- (f) <<Post installation photographs of each nesting / roosting feature under Condition <<7>> Features for Wildlife>>
- (g) <<proof will be provided that all natural environment data (e.g. habitats, species, green infrastructure features) from ecological surveys for the site (including pre- and post-development), will be shared with Greenspace Information for Greater London CIC (GiGL), London's environmental records centre, following GiGL's data standards³⁵>>.

This condition is to certify that the details for each habitat / feature, as approved under the Biodiversity Gain Plan, <<HMMP>> <<and>> <<Features for Wildlife>> are in accordance with the submitted information.

Reason: To enhance the biodiversity value of the land in accordance with Policy 26 of the Sutton Local Plan 2018.

³⁵GiGL's data standards are available at <https://www.gigl.org.uk/recording-surveying/links-and-resources/survey-data-standards-and-guidance/>

Model Condition 8 - Sensitive Lighting Scheme

Prior to occupation of the development hereby permitted, a pre- and post-development lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme will include:

- (a) <<Pre-development light levels, including ambient lighting from the surrounds, presented as 1m centre spot values down to 0.1lux, with isolux contour lines showing light degradation>>
- (b) <<Post-development light levels, presented as 1m centre spot values down to 0.1lux, with isolux contour lines showing light degradation and 3D luminance in-the-scene modelling.>>
- (c) <<Assessment of external lighting and light spill from any buildings through windows / security lighting etc.>>
- (d) <<The technical details of the luminaires and columns to be used, including their location, type, shape, dimensions and expected luminance output and specifically explaining what design attributes have been chosen to minimise light pollution>>
- (e) <<Demonstration of horizontal and vertical spill (shown in cross-sectional views) spill up to <<20m>> from the site boundary if adjacent to a SINC / designated green space.>>

Lighting will be designed to minimise impacts on biodiversity as outlined in Guidance Note 08/23 Bats and Artificial Lighting (Institute of Lighting Professionals and the Bat Conservation Trust).

Reason: To protect the biodiversity value of the land and adjacent land, in accordance with Policy 26 of the Sutton Local Plan 2018.

5.19 For BNG planning applications granted subject to the general biodiversity condition, a Section 106 Agreement or Unilateral Undertaking (UU) will also be required to ensure that any agreed Net Gain values are protected in perpetuity. In cases where agreed Net Gain values will not be delivered, and provided that suitable biodiversity gain sites within the Borough boundaries have been established on the National Biodiversity Gain Sites Register (GSR)³⁶ through legal agreements between the Council and other appropriate organisations, the Section 106 Agreement or UU can also be used to impose any Biodiversity Tariff that may be adopted by the Council. This will also apply where the applicant's updated BNG assessment demonstrates a Net Loss.

5.20 A monitoring fee will also be levied through the Section 106 Agreement to deal with the additional burden on the local planning authority associated with reviewing BNG monitoring reports over the 30 year period (further details around the calculation of monitoring fees and enforcement are set out in Section 7). Until such time as Borough sites are established on the GSR, the Council will base the wording of Section 106 Agreements requiring payment of monitoring monies in relation to 'significant onsite habitat' on the Planning Advisory Service (PAS) template.³⁷

³⁶ details of the National GSR are available at <https://www.gov.uk/guidance/search-the-biodiversity-gain-sites-register>

³⁷ the PAS template for Section 106

https://www.local.gov.uk/sites/default/files/documents/PAS%20Template%20BNG%20S106%20Agreement%20-%20Onsite%20BNG_05%20July%202024%20v1.0.docx

Section Six: Determination of the Biodiversity Gain Plan

Prior Consultation on the draft Biodiversity Gain Plan

- 6.1** For BNG planning applications granted subject to the general biodiversity condition, the Council's Pre-Application Charging Schedule set out in Schedule 2 makes provision for a prior 'Discharge of Condition/ Biodiversity Gain Plan meeting' to take place with LBS Biodiversity Officers to discuss the Biodiversity Gain Plan, the discharge of the general biodiversity condition and planning obligations after which the Council would issue a letter of salient points. A further site visit is an option which can be offered within the scope of the Council's pre-application service.

What must Biodiversity Gain Plans Include?

- 6.2** The Biodiversity Gain Plan must demonstrate how the statutory BNG objective of achieving a 10% gain will be delivered. The plan must be submitted in writing, no earlier than the day after planning permission has been granted. Applicants may wish to make use of the Government's standard Biodiversity Gain Plan template³⁸. Special arrangements and templates³⁹ exist for phased development and these can be located on the Government's planning practice guidance (PPG) webpages.
- 6.3** The relevant legislation and updated Government PPG on BNG states that Biodiversity Gain Plans must include the following information:
- the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;
 - the pre-development biodiversity value of the onsite habitat;
 - the post-development biodiversity value of the onsite habitat;
 - any registered off-site biodiversity gain allocated to the development;
 - any biodiversity credits purchased for the development.
 - the relevant date, for the purposes of calculating the pre-development biodiversity value of onsite habitats;
 - the completed biodiversity metric calculation tool(s),
 - arrangements for maintenance and monitoring of habitat enhancement for at least 30 years after the development is completed);
 - (except for onsite irreplaceable habitats) a description of how the biodiversity gain hierarchy will be followed and where to the extent any actions (in order of priority) in that hierarchy are not followed and the reason for that;

³⁸the Government's standard Biodiversity Gain Plan template is available at <https://defraanduse.blog.gov.uk/wp-content/uploads/sites/276/2023/10/Biodiversity-gain-plan-template-draft-1.pdf>

³⁹ see <https://www.gov.uk/government/publications/biodiversity-gain-plan-phased-development-templates>

- pre-development and post-development plans showing the location of onsite habitat (including any irreplaceable habitat) on the relevant date, and drawn to an identified scale and showing the direction of North;
- a description of any irreplaceable habitat⁴⁰ on the land to which the plan relates which exist on the relevant date, and any part of the development for which planning permission is granted where the onsite habitat of that part is irreplaceable habitat arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat;
- if habitat degradation has taken place (i) a statement to this effect (ii) the date immediately before the degradation activity (iii) the completed biodiversity tool showing the calculation of the biodiversity value of the onsite habitat on that date, and (iv) any available supporting evidence for the value; and
- information on how the Biodiversity Gain Hierarchy has been followed (except in relation to irreplaceable habitats).

Publicity / consultation on the submitted Biodiversity Gain Plan

- 6.4** Government PPG confirms that, as with most applications to discharge conditions, there are no statutory requirements to consult any statutory bodies on Biodiversity Gain Plans or to publicise the submission of a Biodiversity Gain Plan prior to its determination.
- 6.5** In line with Article 40 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), the Council will publish the submitted Biodiversity Gain Plan on the planning register together with a notice of the determination whether to approve it.

⁴⁰ 'irreplaceable habitat' for the purpose of mandatory BNG is defined at <https://www.gov.uk/guidance/biodiversity-net-gain#para42>

Section Seven: Biodiversity Offsetting

The Biodiversity Gain Hierarchy and Offsetting

- 7.1** The Biodiversity Gain Hierarchy forms an important part key part of the statutory framework for BNG⁴¹. This hierarchy sets out the following list of priority actions which should be followed by developers in seeking to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the development site:

Biodiversity Gain Hierarchy

First, in relation to onsite habitats which have a medium, high and very high distinctiveness (a score of four or more according to the statutory biodiversity metric), the avoidance of adverse effects from the development and, if they cannot be avoided, the mitigation of those effects; and

Then, in relation to all onsite habitats which are adversely affected by the development, the adverse effect should be compensated by prioritising in order, where possible, the enhancement of existing onsite habitats, creation of new onsite habitats, allocation of registered offsite gains and finally the purchase of biodiversity credits.

- 7.2** Where the necessary increase in biodiversity value cannot be delivered on site, the next consideration in the hierarchy is to achieve the uplift in biodiversity value within the Borough by obliging other landowners to deliver the necessary biodiversity units offsite over the 30 year period, through either a Section 106 agreement or securing a legally binding Conservation Covenant.⁴²
- 7.3** All BNG sites, where any portion of the 10% objective is being delivered offsite, must be entered onto the national Biodiversity Gain Site Register (GSR).

Developing a Local Market for Biodiversity Enhancement Sites / Habitat Banks

- 7.4** LB Sutton does not, currently, have the ability to register offset sites on the National GSR, due to requiring a legal agreement with another organisation.
- 7.5** The Council is also not aware that any other landowners within the Borough are seeking to set up their own habitat banks / offsetting provision. Therefore, currently, there is no local market for offsetting, and developments setting out that they will not

⁴¹ as set out in Articles 37A and 37D of the Town and Country Planning (Development Management Procedure) (England) Order 2015

⁴² details of the role of Conservation Covenants are available at <https://www.gov.uk/guidance/getting-and-using-a-conservation-covenant-agreement>

achieve the mandated Net Gain on site will need to seek units from the national market.

- 7.6** When buying units from the national market, the Statutory Biodiversity Metric utilises a 'Spatial Risk Multiplier' (SRM) to effectively penalise offsetting that does not occur within the local planning authority (LPA) / National Character Area (NCA) boundaries. Therefore, not only is LB Sutton currently losing biodiversity and compensation monies by not being an offset provider but, because developers have to buy from the national market, the units required are multiplied, which leads to increased costs (this also applies to Statutory Credits). That is, an offset requiring 4 units, if delivered within LB Sutton, would be required to buy 4 units. If outside the LPA / NCA, 8 units could be required.
- 7.7** Losing biodiversity from the Borough is not a desirable outcome for the Council in the context of delivering long-term Climate and Ecological Emergency Plan actions and objectives, and the Council is working to address this.
- 7.8** The Council's 'BNG offset sites' have been submitted to the Greater London Authority (GLA) as part of its consultation on the London Local Nature Recovery Strategy (LNRS). A LBS owned offset contained within the LNRS would be deemed of 'High Strategic Significance' within the Statutory Metric and would receive a post-development 'uplift' of 15%. It is, therefore, not just in the interests of the Council but also developers (particularly SME developers, as minor schemes are more likely to require offsetting) that the Council rapidly undertakes work to be able to establish sites on the GSR. This work is outside the scope of this document and the Council will publish further information on this as soon as it is able to.

Statutory Credits

- 7.9** The option of purchasing offsite Statutory Credits must be seen as a 'last resort' and should only be considered acceptable where the developer has demonstrated (in the Biodiversity Gain Plan) to the satisfaction of the local planning authority that it is not possible to achieve the BNG objective through the national offsetting market, or, if less than 0.25 units (area or linear) are required⁴³.

⁴³ Government guidance on how to prove that statutory credits are needed is available at <https://www.gov.uk/guidance/statutory-biodiversity-credits#How-to-prove-statutory-credits-are-needed>

Section Eight: Monitoring and Enforcement

The Role of Section 106 Planning Obligations

- 8.1** Alongside the discharge of the Biodiversity Gain Condition, the Council will secure Section 106 planning obligations as appropriate to ensure that the development in question is acceptable in planning terms and that the statutory BNG target (10%) is delivered for all applicable developments. These may include obligations relating to the delivery of significant onsite biodiversity enhancements and registered off-site biodiversity gains.
- 8.2** Matters that could be covered in planning obligations include onsite management and monitoring arrangements and offsite gains (including when dealing with excess net gains to be used for other developments). Where offsite gains are already registered and subject to a planning obligation or conservation covenant, it is not necessary to tie them to the development with another planning obligation. The Council will therefore ensure that planning obligations are appropriately worded to ensure effective compliance and enforcement of BNG.
- 8.3** Under the BNG legislation, ‘significant’ onsite BNG must be managed and monitored for a minimum of 30 years (this may also involve longer bespoke agreements for certain habitats). The developer (or site owner) will therefore be required to provide the local planning authority with a copy of its site monitoring reports at agreed intervals throughout this period, for example in years 1, 3, 5, 7, 10, 15, 20, 25 and 30 after the habitats are created. Given that certain habitats (e.g. creating an area of modified grassland for school and public amenity use) will require less monitoring overall or habitats that require less monitoring in the early years after implementation (e.g. creation of new woodland), the agreed intervals for the submission of site monitoring reports will be considered by the Council on a case-by case-basis.
- 8.4** With the need to secure and maintain BNG over the long term, the Council will charge a monitoring fee via Section 106 agreement for each planning application that delivers ‘significant’ on-site habitat. The monitoring fee is required to cover the costs incurred by the Council associated with monitoring and reporting on the delivery of the Biodiversity Gain Plan and other relevant planning obligations for at least 30 years.

BNG Monitoring Fee for LB Sutton

- 8.5** For all qualifying BNG developments for which the Biodiversity Gain Plan has been approved in accordance with the general biodiversity condition, the Council will secure a single upfront payment (global sum) covering at least 30 years of monitoring via the Section 106 agreement. This will provide certainty for developers about the cost, and

reduce the administrative process both for developers and the Council in securing sums for monitoring, especially when landowners change over time. For a given development subject to the BNG condition, monitoring work funded through the Section 106 fee will generally involve an LBS Biodiversity Officer to review each report submitted for each monitoring year; checking it is accurate; recording and updating the relevant data for each site using the Council's data management systems; responding to the landowner/agent to confirm whether the monitoring report is acceptable, or not; undertaking site visits where necessary and notifying LBS Planning Enforcement if there is a compliance issue requiring further action. The monitoring fee would also cover the charges associated with maintaining the reporting system over time and for enforcement work (officer time).

- 8.6** As well as habitat monitoring, LBS Biodiversity Officers will also assess management plans at the assessment stage and then updates to this plan at intervals across the 30 years.
- 8.7** The Council's general approach is to 'front-load' monitoring where necessary, in order to ensure that establishment, enhancement and management of habitats is being undertaken well and that the mandatory biodiversity uplift is being delivered on each site. Due to the variability between planning applications, the Council's **initial** approach to monitoring fees is that a 'sliding scale' of fees will be charged:

Small Scale - £500 per review
<ul style="list-style-type: none"> • 1 to 9 units: Non-residential applications or change or use (site area or floorspace of 0 sq.m - 999 sq.m).
Medium Scale - £1,000 per review
<ul style="list-style-type: none"> • 10 to 49 new residential units: Non-residential applications or change or use (site area or floorspace of 1,000 sq.m - 4,999 sq.m). Reserved matters pursuant to outline permissions within this category.
Large Scale - £1,500 per review
<ul style="list-style-type: none"> • 50 to 149 units: Non-residential applications or change or use (site area or floorspace of 5,000 sq.m - 15,000 sq.m). Development with a site area of between 0.5 and 1 ha. Reserved matters pursuant to outline permissions within this category.
Large Strategic Scale - £2,000 per review
<ul style="list-style-type: none"> • Over 149 units: Non-residential applications or change or use (site area or floor space over 15,000 sq.m). Development with a site area over 1 ha. Reserved matters pursuant to outline permissions within this category

- 8.8** Therefore, a development that delivers 'significant onsite habitats' but these are deemed by the Council to be easily achievable, low risk and require little management will, in general, have fewer monitoring reviews. Large and / or complex / risky habitat provision will, in general, require more monitoring effort.

Enforcement

- 8.9** Government PPG notes that failure to comply with the general biodiversity gain condition by, for example, commencing development without approval of the Biodiversity Gain Plan, or failure to monitor and/or report on habitat delivery, will be a breach of planning control. All relevant planning conditions and planning obligations are worded in such a way as to help achieve effective monitoring and enforcement of BNG, particularly in relation to the maintenance and monitoring of significant onsite habitat enhancements and registered offsite biodiversity gains.
- 8.10** The Council's approach to enforcement is as follows. Assuming voluntary compliance or satisfactory negotiation is not achieved after initial planning enforcement officer involvement, further formal planning enforcement action may be required. Depending on the type and severity of breach this formal action may take the form of either one, or a combination of, the following: Breach of condition notice, Enforcement Notice, Temporary Stop Notice, Stop Notice or Injunction (in relation to S106 matters)
- 8.11** For example, should a material breach of planning control be identified, the initial steps required would be to seek voluntary compliance within a reasonable amount of time from the 'responsible party'. Should such action not achieve the intended compliance required then the Council will have the option of utilising legal powers available via the relevant court system and prosecuting the responsible party for the failure to carry out the required steps required by any of the above enforcement notices. Or, in the case of an injunction, instigating contempt of court proceedings.
- 8.12** Depending on the type of action taken, the local planning authority would also have the option of undertaking the required works themselves (direct action) and seeking reimbursement from the responsible party via a registered charge on the land.

Section Nine: Looking Ahead - Local Plan issues

Scope of the Interim Guidance Note on BNG

- 9.1** This Interim Guidance Note has been prepared to clarify the Council's interpretation of the Government's statutory framework for BNG as set out in the relevant legislation, the updated national planning policy framework (NPPF) and updated Government PPG. It is intended to be used (in conjunction with the statutory provisions) as a point of reference for prospective developers and their ecological consultants, the Council and a range of local stakeholders.
- 9.2** However, in the period prior to the scheduled adoption of Sutton's new Local Plan in 2026-27 and the scrutiny of the relevant Local Plan policies on BNG by an Planning Inspector at the Examination in Public stage, this guidance note cannot introduce new or updated planning policies which depart from or go beyond the current statutory arrangements. In due course, the Council intends to prepare an updated and revised version of this guidance note to account for the relevant planning policies in the new Local Plan, once it has been adopted.

APPENDIX 1

Biodiversity Net Gain Form - LB Sutton Template

When to use this form

The following Biodiversity Gain Form must be completed and submitted in support of all planning applications together with the Biodiversity Statement in order to demonstrate how your development is either (i) exempt from biodiversity net gain (BNG) or (ii) will meet the mandatory biodiversity net gain (BNG) target of at least 10%, as appropriate.

1. Submission Details

1.1 Date

For example, 3/11/2024

1.2 Local planning authority (LPA)

1.3 Development site address

If the site does not have an address, enter the OS grid reference.

1.4 Describe the development

Tell us about the proposed development and any changes of use (250 words).

2. Developer Details

2.1 Applicant name

2.2 Company name

2.3 Address

2.4 Email address**2.5 Telephone number****2.6 Declaration**

By signing this declaration, you confirm that the information you give is complete and correct. Any opinions are your genuine opinions.

2.7 Signature**2.8 Date****3. Responsible Person Details**

Tell us about who is responsible for completing the biodiversity gain statement. For example, a consultancy ecologist or planning agent.

3.1 Name**3.2 Company name****3.3 Address****3.4 Email address****3.5 Telephone number**

4. Declaration

4.1. Declaration

By signing this declaration, you confirm that the information you give is complete and correct. Any opinions are your genuine opinions.

4.2 Signature

4.3 Date

5. BNG Exemption

5.1 Do you believe this application is exempt from statutory biodiversity net gain?

- ☐ Yes – [Proceed to 5.2](#)
- ☐ No - [Proceed to Section 6](#)

5.2 Which exemption best applies to your planning application?

- ☐ Householder applications – [Statement Form Complete](#)
- ☐ Developments below the threshold – [Proceed to Section 5.3](#)
- ☐ Self-build and custom build applications - [Proceed to 5.3](#)
- ☐ Biodiversity gain site – [Proceed to Section 5.3](#)

5.3 Have you provided supporting evidence to justify or demonstrate why your planning application should be exempt from statutory biodiversity net gain?

- ☐ Yes – [Proceed to Section 5.4](#)

Evidence - please insert file name(s) of all supporting submitted evidence for the claimed exemption

- ☐ No – [Planning application does not meet the Council's Validation Requirements for BNG](#)

5.4 Have all habitats (including urban) with a distinctiveness score above 0 been assessed/considered when making this judgement?

This includes, but is not limited to, ivy covered walls, planters, and vacant/derelict land.

- ☐ Yes – [Proceed to Section 5.5](#)
- ☐ No - [Planning application does not meet the Council's Validation Requirements for BNG](#)

5.5 Has habitat degradation since January 2020 been considered when making this judgement?

- ☐ Yes – [Proceed to Section 5.6](#)

☐ No – Planning application does not meet the Council’s Validation Requirements for BNG

5.6 Is your application likely to have a negative impact on habitat outside of the red line boundary, either directly, or indirectly (i.e. light, noise pollution etc.)?

☐ Yes - please provide the document name providing the proposed avoidance and mitigation measures - **Statement Form Complete**

☐ No - please provide the document name providing this evidence - **Statement Form Complete**

6. BNG Baseline

6.1 Is the relevant date for the pre-development biodiversity value the same date as the planning application?

☐ Yes - Proceed to Section 6.3

☐ No - Proceed to Section 6.2

6.2 What date have you put?

6.3 Is there any evidence of habitat degradation that has taken place on site since January 2020?

☐ Yes - Proceed to Section 6.4

☐ No – Proceed to Section 6.5

6.4 Describe the nature of the degradation and how this has been factored into your application.

6.5 How will you avoid or minimise impacts to habitats?

Tell us about the steps you plan to take on-site, including to avoid or minimise the impact on irreplaceable habitats.

6.6 Does the development impact any irreplaceable habitats?

☐ Yes - Proceed to 6.7

☐ No – Proceed to 6.8

6.7 Irreplaceable Habitat compensation plan?

Send your draft Irreplaceable Habitat compensation plan to the LPA and enter the file name.

6.8 Does your site fall within an Area of Particular Importance for Biodiversity (APIB) or Area for Potential Measures (APM) identified within London's Local Nature Recovery Strategy?

For planning applications submitted prior to the introduction of London's Local Nature Recovery Strategy, please refer to the SINC locations within the Council's Local Plan ([Appendix 6](#)) and / or online [policy map](#)

☐ Yes

☐ No

6.9 Confirm you have used the Statutory Biodiversity Metric tool and submitted it as an xlsx (macro disabled) file?

Failure to do so will result in the validation requirements not being met.

☐ Yes - [Proceed to 6.10](#)

☐ No – [Planning application does not meet the Council's Validation Requirements for BNG](#)

6.10 Biodiversity metric calculation

Send your biodiversity metric calculation to the LPA and enter the file name.

6.11 Condition assessments (and Methodology)

Send your condition assessments to the LPA and enter the file name(s).

6.12 Pre-development habitat survey report (UKHab) and map

Send your baseline habitat survey report and map to the LPA. Enter the file name.

6.13 Ecological Assessment - Preliminary Ecological Appraisal (PEA) or Ecological Impact Assessment (EclA)

Send your Ecological Assessment report to the LPA. Enter the file name.

7. BNG Post-Development

7.1 Confirm you have added post-development details to the metric tool submitted with this application.

Failure to do so will result in the validation requirement not being met if this Form is being submitted to fulfil the Biodiversity Gain Plan.

- ☐ Yes
- ☐ No – Planning application does not meet the Council's Validation Requirements for BNG

7.2 Ecological Assessment - Preliminary Ecological Appraisal (PEA) or Ecological Impact Assessment (EclA)

Send your Ecological Assessment report to the LPA, **if there are differences to the pre-development information (i.e. changes to habitats over time)**. Enter the file name.

7.3 Post-development habitat map / landscape plan and Condition Assessment Sheets

Send your post-development habitat map(s) to the LPA (in GIS format i.e. shp file). Enter the file name. Send your DEFRA Condition Assessment sheets to the LPA. Enter the filename(s).

7.4 How do you foresee achieving the required (10%) net gain percentage?

- ☐ On-site – Proceed to Section 7.5
- ☐ Off-site – Proceed to Section 8
- ☐ Both – Proceed to both Section 7.5 and Section 8

7.5 Does your application include any on-site habitat enhancements/creations that could be considered 'significant'?

For more information as to what is considered 'significant', please see Paras 4.9-4.11 of this Guidance Note and <https://www.gov.uk/guidance/make-on-site-biodiversity-gains-as-a-developer>

- ☐ Yes – Proceed to Section 7.6
- ☐ No – Proceed to Section 8 (if required)

7.6 Tell us about the significant on-site enhancements/creations.

Which parcels does significance apply to, what total units and % gain is made up by these parcels. Do any of these have a high/very high difficulty level in being achieved? If so, how will you ensure success?

7.7 Habitat monitoring and management plan (HMMP) for significant on-site enhancement/creations (where possible use Natural England Template <https://publications.naturalengland.org.uk/publication/5813530037846016>).

Send your draft or full HMMP to the LPA, depending on application stage. Enter the file name.

7.8 Does your application include an excess of significant on-site units?

- ☐ Yes – [Proceed to Section 7.9](#)
☐ No – [Proceed to Section 8 \(If required\)](#)

7.9 Are you looking to secure these excess units to be placed on the Natural England Off-site Register?

- ☐ Yes – [Proceed to Section 7.10](#)
☐ No – [Proceed to section 8 \(If required\)](#)

7.10 Give details

Tell us about the units and which specific parcels you would like to secure. Provide details as to how trading rules remain met (250 words).

8. BNG Post Development - Off-site

Answer this section if your development includes off-site habitat enhancements.

8.1 Explain why you're using off-site biodiversity units.

Ensure you make reference to the Biodiversity Gain Hierarchy and the NPPF Mitigation Hierarchy

8.2 Confirm you have added proposed off-site gains to the metric tool submitted with this application, for both baseline and post-development habitats.

Failure to do so will result in the Council's Validation requirement not being met.

- ☐ Yes
☐ No – [Planning application does not meet the Council's Validation Requirements for BNG](#)

8.3 Provide the exact location of the off-site provision.

If the site does not have an address, enter the OS grid reference

8.4 Provide details of the off-site provider.

Name

Email address

Telephone number

Website information / URL

9. Sharing data

9.1 Unless there are overriding ecological justifications, you must share your ecological survey data with Greenspace Information for Greater London (GiGL), in accordance with their data standards.

The Council also reserves the right to share survey data from applications with GiGL, as necessary, to ensure the data is collected.

The sharing of ecological data is in line with the Chartered Institute of Ecology and Environmental Management (CIEEM) Code of Practice - see also template Condition 8g.

Your ecological survey data will be used to better inform Local Policies and inform action taken by local organisations to further enhance/protect the natural environment. This data may also be made available for academic research via GiGL.

Have you shared your data with GiGL?

☐ Yes

☐ No - Please provide the justification why some or all of the information cannot be shared with GiGL:

APPENDIX 2

LB Sutton: Developers' Checklist for BNG

The following checklist should be used by developers or their agents in order to check and confirm that they have met the Council's minimum Validation requirements for major and minor developments, respectively. Any planning application which does not meet these information requirements may not be validated.

It should also be noted that the detailed content of the submission and any other submitted BNG related documents will be evaluated in further detail by LBS Planning Officers in liaison with LBS Biodiversity Officers as part of the process of determining the planning application, which may also lead to invalidation.

LB Sutton: Developers Checklist for BNG	Yes/No
(1) Confirmation that the applicant believes that planning permission, if granted, the development would be subject to the biodiversity gain condition?	
(2) The Application Form containing the pre-development biodiversity value(s) of the site, based on the Statutory Metric ⁴⁴ value, on the date of application or earlier proposed date (as appropriate)?	
(3) All necessary supporting evidence for the Metric, including ecological assessments, site and habitat photographs and DEFRA Condition Assessment sheets?	
(4) The completed Statutory Metric calculation tool (in xlsx format) showing the calculations of the pre-development biodiversity value of the onsite habitat?	
(5) Plan(s) , drawn to an identified scale and showing the direction of North, showing onsite habitat existing on the date of application? Plans should be supplied as Geographical Information System (GIS) files (shp. etc.) and contain all necessary habitat metadata, allowing easy import into our monitoring systems, and sharing with Greenspace Information for Greater London (GiGL).	
(6) A statement on whether activities have been carried out after 30 January 2020 and prior to the date of application that have resulted in loss of onsite biodiversity value or 'degradation' ⁴⁵ ?	
(7) A description of any 'irreplaceable habitat' on the pre-development application site?	
(8) A description of how the development intends to deliver the objective of at least a 10% gain in biodiversity value through the Biodiversity Gain Hierarchy ?	
(9) A draft Biodiversity Gain Plan ?	
(10) A draft Biodiversity Gain Form (see Appendix 2)?	
(11) A draft Habitat Management and Monitoring Plan setting out the proposals for long term maintenance of habitats to be secured through planning condition or planning obligation?	

⁴⁴ details of how the Statutory Metric is calculated is available at <https://www.gov.uk/guidance/biodiversity-metric-calculate-the-biodiversity-net-gain-of-a-project-or-development>

⁴⁵ Habitat 'degradation' is defined here <https://www.gov.uk/guidance/biodiversity-net-gain#para36>

APPENDIX 3

Planning Advisory Service (PAS) Section 106 Template for BNG (on-site biodiversity gains)

The Planning Advisory Service (PAS) commissioned Dentons to create a suite of sample agreement templates to facilitate securing biodiversity gains in the various ways allowed for by the Environment Act.

This template is provided for council legal teams to modify according to their council's standards and the specific requirements of individual developments. This template is aimed at providing a streamlined approach, enhancing the efficiency in drafting agreements, and benefitting all stakeholders involved.

Important Notes:

- This document is a template and serves as an initial guide or heads of terms.
- This template requires judgement and does not constitute legal advice. It is essential to consult with your legal teams to review and modify the content.
- Local Planning Authorities (LPAs) and other parties to the agreement should collaborate with their legal teams to modify the template as needed for each specific development.

This template includes drafting notes to explain options of drafting and usage.

Version 1.0 published:	5th July 2024
Last updated:	5 th July 2024
Check for updates to this template on the PAS website https://www.local.gov.uk/pas/environment/biodiversity-net-gain-bng-local-planning-authorities/pas-biodiversity-net-gain-bng	

Agreement pursuant to Section 106 Town and Country Planning Act 1990 and Other Powers

relating to the land known as [**]

[**Purpose:** securing financial contribution for on-site BNG monitoring, where BNG is secured by condition]

Dated

[**]

(the Council)

[**]

(the Owner)

[[**]

(the Mortgagee)]

[**]

(the Council)

[**]

(the Owner)

[[**]

(the Mortgagee)]]

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DRAFTING NOTES

This template is provided for council legal teams to modify according to their council's standards and the specific requirements of individual developments. This template is aimed at providing a streamlined approach, enhancing the efficiency in drafting agreements, and benefitting all stakeholders involved.

Scope: This template is a Section 106 agreement to secure a monitoring contribution in respect of biodiversity net gain monitoring. It is intended to be used where a development will deliver some biodiversity net gain on-site and the maintenance and monitoring of any biodiversity is secured by a condition imposed on development.

Mortgagee: Reflecting general practice for S106 obligations, this template provides for acknowledgement that any mortgagee acknowledgement will be bound by the obligations should (and only if) it takes possession of the Site.

Between

- (1) [**] of [**] (the Council); and
- (2) [**] (company registration number [**]) whose registered office is situated at [**] (the Owner); [and
- (3) [**] (company registration number [**]) whose registered office is situated at [**] (the Mortgagee)].

Mortgagee Drafting Note: If including a Mortgagee, include this text.

Recitals

- A The Council is the Local Planning Authority for the purposes of the 1990 Act for the area in which the Development is situated;
- B The Owner is registered as the freehold owner of the Site at the Land Registry under Title Number [**]; and
- C [The Mortgagee is the beneficiary of a charge dated [**] in respect of the [freehold/ leasehold] title registered at the Land Registry under title number [**];]

Mortgagee Drafting Note: If including a Mortgagee, include recital C

1. Definitions and Interpretation

- 1.1 For the purposes of this Deed the following expressions shall have the following meanings unless the context requires otherwise:

1990 Act means the Town and Country Planning Act 1990 (as amended).

Biodiversity Gain Plan means the plan submitted to, and approved by the Council, to satisfy the development's biodiversity net gain requirements pursuant to Schedule 7A of the 1990 Act

Biodiversity Gain Land Monitoring Contribution means the sum of £[**] ([*number to be written out*]) Index Linked to be paid by the Owner to the Council under 4 of this Deed to be applied by the Council as a financial contribution towards the Council's costs of monitoring compliance with [as required by condition [**] of the Planning Permission] and approved by the Council.

Drafting Note: Review the proposed conditions and amend this definition as needed so it reflects what the monitoring contribution will fund.

Commencement Date means the date upon which the Habitat Creation and Enhancement Works have commenced.

Deed: this deed.

[Default Interest Rate: [^{**}]% per annum above the basic lending rate of the Council's bank.]

Drafting Note: This definition should reflect the Council's general approach to default interest

Development: the development of the Site authorised by the Planning Permission to [^{**}].

Habitat Creation and Enhancement Works means the habitat creation and enhancement works set out in the Habitat Management and Monitoring Plan (excluding any management or monitoring activities specified in the Habitat Management and Monitoring Plan).

[Habitat Management and Monitoring Plan or HMMP means the document titled 'Habitat Management and Monitoring Plan' as required by condition [^{**}] of the Planning Permission and approved by the Council.

Drafting Note: The condition may specify another plan instead of the HMMP. Review the draft conditions to ensure they are consistent. A Habitat Management and Monitoring Plan, or its equivalent may not be

Plan 1 means the site location plan with drawing number [^{**}] appended to this Deed at Schedule 1.

Planning Permission: the planning permission granted in respect of a planning application submitted with reference [^{**}].

Site means the land edged [red] on Plan 1.

- 1.2 Clause headings shall not affect the interpretation of this Deed.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to any party shall include that party's personal representatives, successors and permitted assigns and in the case of the Council the successors to its respective statutory functions.

- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing or written** excludes faxes and e-mail.
- 1.11 A reference to **this Deed** or to any other deed or document referred to in this Deed is a reference to this Deed or such other deed or document as varied or novated (in each case, other than in breach of the provisions of this deed) from time to time.
- 1.12 References to Clauses and Schedules are to the Clauses and Schedules of this Deed.
- 1.13 An obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.14 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.15 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.
- 1.16 This deed shall not be enforceable against statutory undertakers or tenants of individual commercial units.

2. Legal Basis

- 2.1 This Deed is made under Section 106 of the Act, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 with intent that it creates planning obligations binding the Owner's interest in the Site.
- 2.2 No person shall be liable for any breach of any provisions of this Deed after it shall have parted with its entire interest in the Site or the part of the Site in relation to which the breach relates but without prejudice to its liability for any subsisting breach arising prior to parting with such interest and for the purposes of this clause a person parts with an interest in the Site notwithstanding the retention of easements or the benefit of covenants, restrictions or reservations which shall not constitute an interest for the purposes of this clause.

3. Conditionality

- 3.1 Subject to Clauses 3.2 and 3.3, this Deed is effective on the date hereof.

- 3.2 Clause 4 is effective from the date on which the Planning Permission is granted.
- 3.3 This Deed shall cease to have effect (insofar only as it has not already been complied with) or if the Planning Permission it is modified by any statutory procedure or expires before the Development is Commenced or is at any time revoked this Deed shall forthwith determine and cease to have effect but the Council will not be required to repay any monies to the Owner (to the extent that any such sums have been paid by them) which have been received and expended (or committed to be expended).

4. The Owner's Covenants

- 4.1 The Owner covenant with the Council to pay the Biodiversity Gain Land Monitoring Contribution to the Council:
- (a) within 10 Working Days of the [Commencement Date]; and
 - (b) thereafter annually on each anniversary of the Commencement Date.

Drafting Note: Local authorities should consider whether a monitoring contribution is justified/ appropriate, what payment arrangements, and Index Linking it will seek from the Owner.

5. Council's Covenants

- 5.1 The Council covenants to use the Biodiversity Gain Land Monitoring Contribution for no other purpose than the purpose of monitoring implementation and ongoing compliance of the Biodiversity Gain Plan

6. Indexation

- 6.1 All financial contributions payable to the Council shall be Index Linked.
- 6.2 Where reference is made to an index and that index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this Deed) or in the event the index is not replaced, to an alternative reasonably comparable basis or index as the Council shall advise the Owner in writing.

7. Interest on late payment

- 7.1 If any sum or amount has not been paid to the Council by the date it is due, the Owner shall pay the Council interest on that amount at the Default Interest Rate. Such interest shall accrue on a daily basis for the period from the due date to and including the date of payment.

8. Ownership

- 8.1 The Owner agree with the Council to give the Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan.

9. Miscellaneous

- 9.1 The Owner shall pay to the Council the Council's reasonable and proper legal costs incurred in the preparation, negotiation and completion of this Deed prior to the date of this Deed.
- 9.2 Where the agreement, approval, consent or expression of satisfaction is to be given by any Party or any person on behalf of any Party hereto under this Deed such agreement, approval or consent or expression of satisfaction:
- (a) shall not be unreasonably withheld or delayed;
 - (b) shall be given in writing; and
 - (c) may be validly obtained only before the act or event to which it applies.
- 9.3 Where any payment of costs or other payments are to be made by the Owner to the Council such costs and other payments shall be deemed to be reasonable and proper.
- 9.4 This Deed shall be deemed a Local Land Charge and will be registered as such by the Council.
- 9.5 The Parties do not intend any person to have the benefit of the Contract (Rights of Third Parties) Act 1999.
- 9.6 If any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provision of this Deed.
- 9.7 Nothing contained or implied in this Deed shall prejudice or affect the rights, powers, duties and obligations of the Council in the exercise of its functions in any capacity (including in particular its capacities as highway authority and local planning authority) and the rights, powers, duties and obligations of the Council under private, public or subordinate legislation may be effectively exercised as if it were not a Party to this Deed.

10. Waiver

- 10.1 No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants, terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

11. Agreements and declarations

- 11.1 The parties agree that:
- (a) nothing in this Deed constitutes a planning permission or an obligation to grant planning permission; and
 - (b) nothing in this Deed grants planning permission or any other approval, consent or permission required from the Council in the exercise of any other statutory function.

12. Mortgagee

- 12.1 The Mortgagee consents to the Owner entering into this Deed.
- 12.2 Subject to Clause 12.3, the Mortgagee acknowledges that the [part of the] Site over which the Mortgagee has a charge shall be bound by the planning obligations in this Deed.
- 12.3 The Mortgagee (and any other future mortgagee or chargee of any part of the Site) shall have no liability under this Deed unless it takes possession of the Site in which case it shall be bound by the obligations in Clause 4 as a person deriving title through the Owner.]

Drafting Note: If there is no Mortgagee as a party, this clause can be deleted.

13. Value added tax

- 13.1 Each amount stated to be payable by the Council or the Owner to the other under or pursuant to this Deed is exclusive of VAT (if any).
- 13.2 If any VAT is at any time chargeable on any supply made by the Council or the Owner under or pursuant to this Deed, the party making the payment shall pay the other an amount equal to that VAT as additional consideration on receipt of a valid VAT invoice.

14. Governing law

- 14.1 This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

Drafting Note: Insert the attestation clauses for the parties

<p>Executed as a deed by affixing the seal of</p> <p>[**] in the presence of:</p> <p>Authorised Signatory</p>	
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<p>Executed as a deed by [**] acting by a Director and its Secretary or by two Directors</p>	
Director Name: (Capitals)	
Director Signature:	
Director/Secretary Name (Capitals)	
Director/Secretary Signature:	

Schedule 1 - Plan 1



Spencer Palmer Strategic Director
Environment, Housing and Neighbourhoods

London Borough of Sutton
Environment, Housing and Neighbourhoods
London Borough of Sutton
Civic Offices, St Nicholas Way
Sutton, SM1 1EA

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