

BNG experience so far – A Minerals Planning Authority Perspective

MPA / RTPI Minerals Planning
Conference – 19 June 2024

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What we will cover....



Role of the
Minerals Planning
Authority and
BNG



How BNG has
landed in
development
management



Planning Policy
impacts



Links to Local
Nature Recovery
Strategies

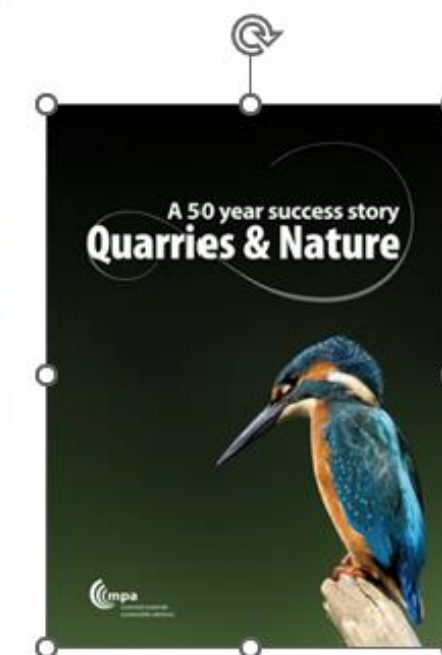


Resourcing



The start of a long & winding road?

Introductory points



- **Important to remember that:**
 - BNG is biggest shift to planning for decades.
 - Required through national planning policy (England and Wales) for a number of years.
 - Net gain is not new for minerals.
 - BNG is not just about planning - links to climate changes, ecology, landscape, arboriculture etc.
- **BNG as a ‘tool’** - recognises it may not be the best solution.

Role of the Mineral Planning Authority



- Councils should be meeting the new legal requirements for BNG.

Focus of Planning Authorities

- Will want to see how the *hierarchy* has been considered and applied.
- Will want to see the *best possible schemes* and not lose net gain potential – need to be focused on desired outcomes i.e. good restoration in keeping with the local habitats.
- How BNG can be *effectively monitored?*
- Minerals *policy development.*

BNG & Development Management

- Only mandatory for applications submitted after mandatory date.

Consider as early as possible in design

- Importance of *pre-application discussions* (Planning Authority, Natural England, Environment Agency etc).

Validation:

- *Increased time to validate* applications currently.
- Update to *Local Validation Guidance* is likely to be critical for Minerals Planning Authorities.
- *Quality of the information* being submitted e.g. errors in tables.



BNG & Development Management

Challenges with implementing the metric beginning to show e.g. phasing, heathland etc.

- Concerns that metric is *not resulting in best possible restoration outcomes* e.g. ponds, less valuable habitats in the long term.
- Importance of *long-term value* (snapshots) - approach provides a better net gain.

Decisions:

- Importance of *member training*.
- New *statutory planning condition* inserted into the T&CPA 1990 to apply to every planning permission (cannot be removed, modified or disapplied;
- Development cannot commence until LPA has approved the BNG Plan.



BNG & Development Management

Decisions (cont.):

- New wording on decision notices - paragraphs 025 and 026 of the Biodiversity Net Gain PPG

Other issues for consideration:

- Impacts on *timelines* for developments to meet above requirements.
- Some concerns from MPAs over *implications of trading*.
- Implications of *30-year management requirements* on applicants and EMMPs.
- Development of links to wider *Environmental Net Gain* still to evolve.
- Will *Section 73 permissions* be covered as the second part of the implementation?



We are still learning – not many mineral permissions issued post mandatory nationally.

BNG & Monitoring



- **How will monitoring be effective?** Still being worked out by many authorities.
- Importance of **effective and enforceable legal agreements** to secure 30-year period.
- Lack of **additional funding / support** for monitoring and enforcement requirements.
- Need for legal agreements to work in **monitoring and enforcement costing requirements**.

National & local policy evolution

- BNG guidance was **very late arriving...** and includes some interesting wording for minerals e.g. phasing
- **Local policy** may be key to BNG delivery.
 - Some Natural England offices '**requesting over 10%**' in local policy without any evidence.
 - Potential for **supplementary guidance** – once we know more about implementation?
- **Further guidance for minerals?**
 - MWPOS work with MPA on draft guidance;
 - Draft 'principles' produced by MPA & CBIMG - subject to further discussion with MWPOS;
 - Ideally would like more guidance for minerals implementation in PPG.

Guidance

Biodiversity net gain: what local planning authorities should do

How local planning authorities can ensure that developers and land managers meet the requirements for biodiversity net gain (BNG).

From: [Department for Environment, Food & Rural Affairs](#)

Published 29 November 2023

Last updated 8 May 2024 — [See all updates](#)

 [Get emails about this page](#)

Applies to England

Contents

- Planning applications and biodiversity gain plans: guidance for LPAs
- 1. Before granting planning permission
- 2. Reviewing the biodiversity gain plan
- 3. Approving the biodiversity gain plan
- Monitoring BNG
- Actions LPAs should take on mandatory biodiversity net gain

Related content

Detailed guidance

[Enter a legal agreement for biodiversity net gain](#)

[Understanding biodiversity net gain](#)

[Calculate biodiversity value with the statutory biodiversity metric](#)

[Search the biodiversity gain sites register](#)

[Submit a biodiversity gain plan](#)

BNG & Local Nature Recovery Strategies

- Introduced by **Environment Act 2021** to support efforts to recover nature (England), help planning authorities to incorporate nature recovery objectives and support the delivery of BNG:
 - A 'strategic arm for BNG'.
 - LNRs and BNG both aim to reverse the decline of biodiversity in England.
- Are being produced at the **county, unitary or combined authority level**.
- Will agree **priorities for nature recovery** and propose actions where it would make a particular contribution to achieving those priorities.
- Can support a **strategic approach to off-site BNG delivery** and can **support local and joined up BNG**.

Local Nature Recovery Strategy for Hampshire

Introduced by the Environment Act 2021, Local Nature Recovery Strategies (LNRS) are a new system of plans for nature recovery covering the whole of England. They are a key mechanism for planning and delivering the [National Nature Recovery Network](#) and will consist of:

- a map of the most valuable areas for wildlife
- opportunities to improve nature in the future
- local priorities

What the Strategy will be used for

The Strategy will be used to:

- guide investment into local priorities for protection and enhancement
- help shape how future funding for farming and land management such as the Environment Land Management schemes will be used
- map areas of opportunity for the use of 'nature-based solutions' to wider environmental problems like flooding, climate change mitigation and adaptation or poor water quality

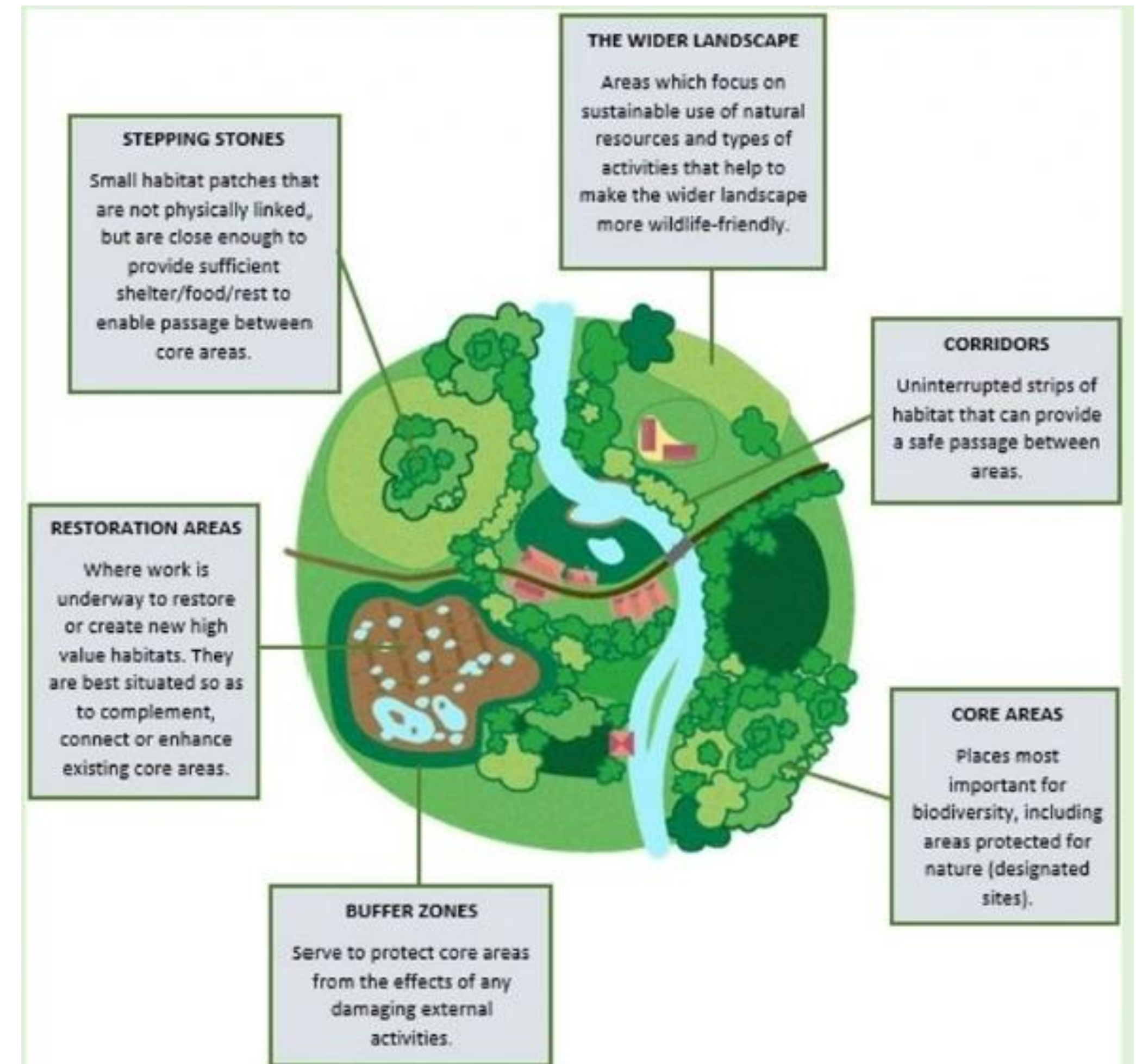


Learn more

- [Our timeline](#)
- [Decision Day Report - July 2023](#)

BNG & Local Nature Recovery Strategies

- Pending more guidance...
- **Timing of LNRS delivery impacting current implementation, but:**
 - Opportunity for planners to 'steer' development within target areas e.g. shape restoration.
 - There is an incentive for developers to align with the LNRS due to the 'strategic significance' multiplier;
 - Can help inform current and future restoration schemes and potential future extraction e.g. flood alleviation benefits.
 - Local Plans will have to take into account LNRS when adopted – guiding BNG;
 - Opportunities for landowners – allocation of sites, help meet BNG requirements.
- Can support a **strategic approach to off-site BNG delivery** and local and joined up BNG.



Resourcing and support for BNG

- Resourcing is a **challenge** – planners, legal, ecologists.
- Need for planners to ‘**upskill**’ when budgets for training are limited.
- Concerns about getting advice from **Natural England** – stretched resources.
- How will ‘**monitoring**’ of **BNG** be resourced – legal agreements?
- Importance of **sharing best practice, challenges, pitfalls.**
- Support from **PAS.**



Final thoughts from me...

- At the start of the **long and winding road**....
- Need to understand more about the **quirks** of the metric.
- Importance of sharing **best practice** and **consistency**
- **New guidance**....?
- **Implications of resourcing** to effectively deliver the new system a concern.
- Importance of **effective monitoring and enforcement** by local authorities and responsible bodies.
- **Case law, case law, case law!**



We are all still learning.....



Principles for BNG & Mineral Extraction

- *Engage early and negotiate/agree BNG % to be delivered as planning requirement and surplus that may be traded*
- *Recognise large (>10%) gains can be achieved over the lifetime of the development & restoration so don't need up-front offsetting for early losses*
- *Recognise delivery may be long term and phased - 'snapshot' assessments over time against pre-development baseline*
- *Use professional judgement alongside the Metric, recognising operational changes in the development and delivery of BNG may occur over its lifetime*
- *Focus on desired outcomes i.e. good restoration vs maximising numbers*
- *Caution over 'delay' function as the same area of land is subject to development and restoration and so delays inevitable and do not detract from overall BNG delivery*
- *Be proportionate and reasonable e.g. for extensions only apply to area of new broken ground and development - not whole red line*

‘Ask the audience’ - a few questions for you....

Do the ‘principles’ identified by the MPA look sensible and helpful?

Are they appropriate within the requirements of legislation & regulations?

Are there any other key points experienced to date by the audience?

Thank you

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