

Kent and Medway BNG Guidance Note

Defining significant on-site habitat for Biodiversity Net Gain in Kent and Medway.



Biodiversity Net Gain for Kent and Medway

Version 1.0 - March 2025

Prepared by Kent County Council, in consultation with Kent and Medway's Local Planning Authorities.

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Status	Version	Author	Date of consultation/issue	Actions
Final Draft	V0.1	Nicky Britton-Williams	14.02.2025	Issued to Kent LPAs for review and sign off.
Version 1.0 - March 2025	V1.0	Nicky Britton-Williams	12.03.2025	Amendments made following LPA feedback and testing of criteria by KCC. Published by KCC with a review advised for 6 months time.

Purpose of this guidance note

This Biodiversity Net Gain (BNG) Guidance is designed to provide Local Planning Authorities (LPAs) and planning applicants in Kent and Medway with a consistent approach for defining “significant on-site habitat.”

It also sets out guidance on how significant on-site habitat, and habitats considered to not be significant, could be secured via an appropriate planning condition and/or legal agreements.

This guidance note should be reviewed regularly and be amended based on feedback from its implementation. It is initially recommended that a review be undertaken 6 months after the publication of this guidance note.

Legislation and national guidance

The need to secure “significant on-site gains” is set out within legislation and national guidance for BNG.

[Paragraph 9 of Schedule 7A of the Town and Country Planning Act 1990](#) requires that where an applicant relies upon a significant increase in on-site habitat biodiversity value, the “significant habitat enhancement” must be subject to a planning condition, section 106 agreement, or conservation covenant requiring that habitat enhancement to be maintained for at least 30 years after the development is completed.

DEFRA have published [guidance](#) which includes examples of what could be considered as “significant on-site biodiversity gains”:

“Significant enhancements are areas of habitat enhancement which contribute significantly to the proposed development’s BNG, relative to the biodiversity value before development.

Retention of existing habitat does not count as an on-site enhancement.

What counts as a significant enhancement will vary depending on the scale of development and existing habitat, but these would normally be:

- *habitats of medium or higher distinctiveness in the biodiversity metric*
- *habitats of low distinctiveness which create a large number of biodiversity units relative to the biodiversity value of the site before development*
- *habitat creation or enhancement where distinctiveness is increased relative to the distinctiveness of the habitat before development*
- *areas of habitat creation or enhancement which are significant in area relative to the size of the development*
- *enhancements to habitat condition, for example from poor or moderate to good”*

Criteria used to define significant on-site habitat

This guidance recommends criteria for defining what is considered to be “significant on-site habitat” in Kent and Medway, outlining when the relevant planning authority is likely to expect such habitats to be maintained and monitored (with monitoring reports submitted periodically to the LPA) for a period of at least 30 years.

Alternative, simplified criteria are suggested for use for sites which qualify for use of the Small Sites Metric (SSM). These criteria for use with sites qualifying for use of the SSM can be applied even when the statutory version of the metric is used. To avoid confusion, it is recommended that applicants submit supporting text to demonstrate why the scheme qualifies for using the SSM.

These criteria are provided as guidance for Local Planning Authorities (LPAs) and planning applicants, recognising that site specific circumstances and the local context may on occasion require a different approach.

Criteria for schemes required to use the Statutory Metric

Note: Applies to all schemes classified as major development under the [Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#) and minor developments which do not meet the criteria to use the SSM, as per [The Small Sites Metric User Guide](#).

Criterion 1: Creation or enhancement of medium or higher distinctiveness habitats

On-site creation or enhancement in condition of habitats assigned medium distinctiveness or higher in the Statutory Biodiversity Metric may be considered significant, unless an exemption listed in Table 1 applies.

Rationale: Medium or higher distinctiveness habitats, by their nature, are higher value and are likely to contribute a larger number of biodiversity units towards the delivery of the biodiversity net gain target. Therefore, it is suggested that their management and monitoring be secured as part of a 30-year Habitat Management and Monitoring Plan to ensure the biodiversity gain objective is met.

Criterion 2: Retention of medium distinctiveness or higher habitats

Where medium distinctiveness or higher habitats are to be retained, then it is recommended that these be considered in the same way as significant on-site enhancements unless an exemption listed in Table 1 applies.

Rationale: Whilst retained habitats cannot be considered as significant on-site *enhancements* they may contribute significantly to delivering the biodiversity gain target. Retained habitats are likely to still require ongoing intervention to maintain their baseline condition. These management requirements should be included within a management and monitoring plan. Failure to maintain the baseline condition of retained habitats would result in them being recorded as lost or a reduction in condition in the metric, having significant impacts on the delivery of the biodiversity gain target.

Exceptions to the above criteria for medium and higher distinctiveness habitats

There may be instances where exemptions may be made to the criteria for defining significant on-site gains. Such exemptions should be considered on a case-by-case basis and provide scope for planning authorities to take a proportionate approach to BNG monitoring in instances where, for example, the only medium distinctiveness habitat is a small number of urban trees (refer to table 1). Non-significant habitats should still be secured via a suitable planning condition, but a S106 agreement to collect the BNG monitoring fee may not be required.

Table 1. Suggested exemptions for select medium distinctiveness habitats under criteria 1 and 2.

Broad Habitat	Habitat type	Suggested exemption to criteria 1 and 2
Grassland	Other lowland acid grassland	Where these are the <u>only</u> medium (or higher) distinctiveness habitats on site, an exemption should be considered where the total number of units from these habitats equates to less than 0.5 units.
	Other neutral grassland	
	Upland acid grassland	
Heathland and shrub	Blackthorn scrub	Where less than 0.5 units of these habitats are proposed <u>alongside</u> other habitats considered to be significant on-site habitats, it is recommended that these be included as significant on-site habitats. <i>Note: where it is considered that the creation or enhancement of these habitats contributes significantly to achieving the net gain target then they may be included as significant on-site BNG.</i>
	Bramble scrub	
	Gorse scrub	
	Hawthorn scrub	
	Hazel scrub	
	Mixed scrub	
	Willow scrub	
Lakes	Ponds (non-priority habitat)	
	Reservoirs	
Urban	Cemeteries and churchyards	Suggested that creation and/or enhancement of less than 0.5 units of cemeteries and churchyards habitat be exempt. Exemption considered for retained cemeteries and churchyard habitat.
Individual trees	Urban tree	Where individual trees are the <u>only</u> medium (or higher) distinctiveness habitat proposed on-site and: <ul style="list-style-type: none"> - Equate to less than 0.5 units of individual trees to be created or enhanced¹ - Equate to less than 1 unit of individual trees to be retained².
	Rural tree	

Note: no exemption suggested for medium distinctiveness hedgerows and watercourses. Local Planning Authorities may suggest exemptions for these habitats in recognition of site specific circumstances and the local context.

¹ Equivalent to 40 small trees in moderate condition, assigned low strategic significance.

² Variation in recommended units between created/enhanced and retained habitats is due to the impact of high time to target condition multipliers. 1 unit of retained individual trees would equate to approximately 30 small trees in moderate condition assigned low strategic significance, or, 5 medium trees in good condition assigned low strategic significance. Local context should be considered when considering these habitats as significant on-site gains.

Criterion 3: Low distinctiveness habitats

On-site creation or enhancement in condition of **low distinctiveness** habitats are considered significant, unless an exemption in table 2 applies, where:

- a. the combined number of low distinctiveness units is equivalent to 10% or more of the baseline biodiversity unit value of the site, and
- b. the combined number of units delivered is equal to or greater than 0.5.

Table 2. Suggested exemptions for select low distinctiveness habitats under criterion 3.

Low distinctiveness habitats where exemptions may apply	Rationale for exemption
Cropland - Cereal crops	It is not possible to enhance these low distinctiveness cropland habitats, only create them. It is not considered proportionate to require 30 years management and monitoring of cropland which is likely to be forming part of the normal working of a farm / part of a field rotation plan.
Cropland - Winter stubble	
Cropland - Horticulture	
Cropland - Intensive orchards	
Cropland - Non-cereal crops	
Cropland - Temporary grass and clover leys	
Heathland and shrub - Rhododendron scrub	Invasive species requiring invasive species control.
Urban - Ground level planters	Ornamental planting
Urban - Introduced shrub	
Urban - Vegetated garden	Management cannot be secured in residential gardens
Watercourse - culvert	It is likely that the creation and maintenance of culverts will be covered by other permits and conditions.

Note: No exemption suggested for low distinctiveness hedgerows habitats. Local Planning Authorities may suggest exemptions for these habitats in recognition of site specific circumstances and the local context.

Rationale: The goal of Biodiversity Net Gain is to deliver measurable gains in biodiversity as a result of development. Low distinctiveness habitats can represent a large proportion of a development's Biodiversity Net Gain Plan.

If creation or enhancement of low distinctiveness habitats account for 10% or more of the baseline value of the site, then they are considered to be a significant proportion of the Biodiversity Net Gain Plan. Without the delivery of these units, **the development would not secure a measurable net gain**. In addition, large areas of low distinctiveness habitats can also be considered as significant, simply due to their scale.

For example, 0.5 units of moderate condition modified grassland covers just over 1250m² (0.125ha). This is considered a significant area of habitat so would also need to be secured as part of a 30-year Habitat Management and Monitoring Plan to ensure that the biodiversity net gain objective is achieved.

Criteria for schemes that qualify to use the Small Sites Metric

Criterion 1: Creation or enhancement of medium distinctiveness habitats

On-site creation or enhancement in condition of habitats assigned medium distinctiveness will be considered as significant, unless exemptions listed in table 1 apply.

Rationale: Medium distinctiveness is the highest distinctiveness available within the SSM and will therefore provide a large proportion of biodiversity units for sites which qualify for the SSM. Therefore, it is key that their management and monitoring is secured as part of a 30 year Habitat Management and Monitoring Plan to ensure the biodiversity gain objective is met.

It is not considered proportionate to consider retained medium distinctiveness habitats, or creation/enhancement of low distinctiveness habitats, to be considered as significant on-site gains for small sites.

Guidance on securing significant on-site BNG

In addition to the deemed BNG condition, it is recommended that all habitats that are considered to be significant on-site BNG should be subject to planning conditions and/or legal agreement that secure the following:

- The submission of a Biodiversity Gain Plan submitted in accordance with biodiversity or ecological information submitted with the planning application.
- The approval and implementation of a Habitat Management and Monitoring Plan (HMMP) which is prepared in accordance with the Biodiversity Gain Plan.
- A requirement for the council to be notified when the habitat creation and enhancement works set out in the HMMP have been completed and conditions specifying when development can proceed in relation to the HMMP.
- The submission of BNG monitoring reports, at intervals agreed through the HMMP.

Note: The list of conditions above is not written to be exhaustive or definitive. They have been written to closely resemble/summarise those recommended in the PAS templates. Conditions may vary between LPAs.

In addition to the conditions above, LPAs should monitor the delivery of significant on-site BNG. In order for the LPA to resource this ongoing monitoring of BNG delivery, it is recommended a BNG monitoring fee be secured from applicants via a S106 obligation. Condition and S106 templates have been produced by the Planning Advisory Service (PAS), however, it is anticipated that LPAs will adapt these for their own use. It is also expected that each LPA will set their own monitoring fees.

Guidance on securing non-significant on-site BNG

It should be noted that habitats that are not considered to be significant BNG are not exempt from being delivered. These habitats are those considered not to make a significant contribution to achieving the BNG target and are likely to be those habitats which are easier to achieve and manage without specialist expertise. These habitats should be secured via a condition and/or legal agreement requiring using Landscape and Ecological Management Plan (or similar) habitats and do not require monitoring for 30 years.