

# JUSTIFICATION FOR HIGHER BIODIVERSITY NET GAIN

## Joint Local Plan

Pre-submission Publication Version  
(Regulation 19)



This topic paper supports the Joint Local Plan 2041.

We have prepared topic papers to present a coordinated view of the evidence that has been considered in drafting the Joint Local Plan 2041. We hope this will make it easier to understand how we have reached our current position.

The topic papers may be revised and published at the submission stage, timetabled for December 2024.

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# **Section 1: Introduction**

- 1.1 This topic paper sets out the justification for requiring development in South Oxfordshire and Vale of White Horse to deliver at least a 20% biodiversity net gain (unless the development is not subject to the statutory framework for biodiversity net gain) as set out in Policy NH2 (nature recovery) of the Joint Local Plan.

## Section 2: Background

- 2.1 Biodiversity Net Gain (BNG) aims to leave the natural world in a better condition than it was beforehand, after first avoiding and minimising harm.
- 2.2 BNG involves numerically comparing the total ‘biodiversity value’ of existing habitats present on a site before development starts with the predicted total ‘biodiversity value’ after development is complete. Development can achieve a net gain in biodiversity value by creating more valuable habitats than those present beforehand, or by retaining and enhancing existing habitats. BNG can be delivered either on the same site as development or elsewhere.
- 2.3 BNG only refers to habitats, which are used to represent overall ‘biodiversity value’. BNG is a separate, additional consideration to requirements to protect designated sites, Priority and Irreplaceable Habitats, and Protected and Priority Species. Measures to provide enhancements for species, such as nest boxes or bat boxes, are also separate from BNG.
- 2.4 The Environment Act 2021 introduced a mandatory requirement for development to deliver at least a 10% BNG.<sup>1</sup> This came into force for major developments from 12 February 2024 and for smaller developments from 2 April 2024. There are a limited number of development types that are exempt from BNG requirements, including householder developments and small-scale self and custom build developments.
- 2.5 It is possible for local authorities to set higher BNG requirements through their local plans. Policy NH2 (Nature Recovery) of the emerging Joint Local Plan requires developments to deliver at least a 20% BNG.
- 2.6 National Planning Practice Guidance (PPG) states:
- “Plan-makers should not seek a higher percentage than the statutory objective of 10% biodiversity net gain, either on an area-wide basis or for specific allocations for development unless justified. To justify such policies they will need to be evidenced including as to local need for a higher percentage, local opportunities for a higher percentage and any impacts on viability for development. Consideration will also need to be given to how the policy will be implemented.”*
- 2.7 This topic paper sets out the councils’ justification for seeking a higher BNG percentage in South Oxfordshire and Vale of White Horse. The evidence we present covers local need and local opportunities for a higher percentage, as well as testing of viability and consideration of how 20% will be implemented locally.

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<sup>1</sup> Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021).

## Section 3: The need for a higher BNG requirement

- 3.1 The need for a higher BNG requirement as set out in Policy NH2 reflects the findings of evidence which supports the emerging Joint Local Plan.
- 3.2 A local need stems from past trends which have seen a faster than average expansion of built-up areas across the districts, and reductions in biodiversity. Future population and planned housing growth trends will bring further expansion of built-up areas. These findings have influenced the vision and objectives for the Joint Local Plan, which seek to enhance biodiversity by creating a place where nature is thriving, and nature reserves are no longer isolated pockets.
- 3.3 A summary of the justification for the proposed requirement is set out in the following paragraphs:
- a) **South Oxfordshire and Vale of White Horse have experienced a greater percentage increase in built up areas than other local authority areas.**
- 3.4 In 2023, Thames Valley Environmental Records Centre (TVERC) produced a report looking at habitat and species trends in the districts.<sup>2</sup> This found that both South Oxfordshire and Vale of White Horse have seen around a 30% increase in built-up area over the periods studied, which is greater than the averages for both Oxfordshire and England as a whole. These above average increases have had inevitable impacts on biodiversity across the districts.
- b) **The loss of biodiversity in South Oxfordshire and Vale of White Horse is greater than elsewhere. Nature declines/deficits in South Oxfordshire and Vale of White Horse are significant.**
- 3.5 Between 1990 and 2025, South Oxfordshire will have lost 8.5% of its grassland to development and woodland, whilst Vale of White Horse will have lost 6.5%. Losses in South Oxfordshire are greater than average losses for Oxfordshire and England as a whole, while losses in the Vale of White Horse are in line with national trends, but greater than the Oxfordshire average. This is particularly concerning as grassland provides an important habitat for many species in the districts and is an important tool to tackle climate change.
- 3.6 Notwithstanding the recent small increase in woodlands, there is a continued long-term downward trend in woodland cover across both districts. This reduction is significant and has knock on impacts on woodland species.

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<sup>2</sup> Thames Valley Environmental Records Centre (June 2023) South Oxfordshire & Vale of White Horse Joint Local Plan 2041 Habitats & Species Trends

3.7 Overall, analysis by the University of Oxford<sup>3</sup> shows that Oxfordshire is very nature-deprived compared to the national average. In addition, Oxfordshire's semi-natural habitats face intense pressure from development. In combination, these factors provide a strong indication that the national minimum requirement for 10% BNG will not be sufficient to reverse the historic losses caused by development in Oxfordshire.

**c) South Oxfordshire and Vale of White Horse have experienced, and will continue for a number of years to experience, significant development pressure.**

3.8 Population growth and development pressures across Oxfordshire and within the districts themselves have been high for a number of years. Oxfordshire's population grew by 10.9% in the 10 years between the 2011 and 2021 censuses. This is significantly higher than the national level of population growth over the same period (6.6%). This trend is expected to continue, as the 2021 Census identified 149,085 usual residents in South Oxfordshire and 138,913 in Vale of White Horse. Over the Joint Local Plan period, the total population of both districts is expected to increase by 20,568 persons<sup>4</sup>.

3.9 Our current, adopted Local Plans contain ambitious housing targets for the districts under the Oxfordshire Housing and Growth Deal, as well commitments to accommodate a proportion of unmet housing need from Oxford City. Much of this development is still to be built out.

3.10 Whilst the councils have sought to maximise the delivery of new homes on brownfield sites, the predominantly rural nature of the districts means that these are in short supply, especially sites of a strategic scale. It has therefore been necessary to release greenfield sites to meet housing needs which has implications for habitat loss.

**d) We need to ensure BNG delivers meaningful gains in the districts to address past declines.**

3.11 The DEFRA (2018) BNG Impact Assessment<sup>5</sup> states that there cannot be full certainty that genuine BNG will be achieved, rather than simply no net loss, if the minimum BNG is set at 10%.

3.12 The Oxfordshire Local Nature Partnership's BNG Guiding Principles support the need for a higher target:

*“Local planning authorities should aim to adopt a minimum requirement for BNG of 20% or greater in the next iteration of their*

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<sup>3</sup> University of Oxford Environmental Change Institute (12 April 2023) [Evidence to inform selection of Oxfordshire's Biodiversity Net Gain target](#)

<sup>4</sup> South Oxfordshire and Vale of White Horse District Councils: Joint Housing Needs Assessment 2024

<sup>5</sup> [https://consult.defra.gov.uk/land-use/net-gain/supporting\\_documents/181121 Biodiversity Net Gain Consultation IA FINAL for publication.pdf](https://consult.defra.gov.uk/land-use/net-gain/supporting_documents/181121_Biodiversity_Net_Gain_Consultation_IA_FINAL_for_publication.pdf)

*Local Plans. Evidence is unclear whether a 10% target will actually result in a biodiversity gain so a higher target should be set. Setting a higher target means that BNG is much more likely to be delivering meaningful gains and help meet the wider aspirations in local plans. Measuring biodiversity using an excel spreadsheet will never be an exact science, setting a higher target would help mitigate the risk that is inherent within the measurement process. When speaking of a higher target, terminology should be clear; if 20% was to be the target this is not doubling the BNG delivered, it would be raising the requirement from 110% to 120%. Research to date has shown a target of 20% to have little impact on viability.”*

**e) Results of the Joint Local Plan Sustainability Appraisal.**

- 3.13 Policy NH2, with its 20% BNG requirement, performs well against the Sustainability Appraisal objectives<sup>6</sup>. The Sustainability Appraisal report notes that:

*“Proposals would have strong positive effects in terms of the protection, enhancement and restoration of biodiversity (obj 4). Biodiversity provides a number of other ecosystem services resulting in predicted positive effects for pollution reduction (obj 1), health and wellbeing (obj 2), carbon reduction (obj 5) and water resource management (obj 11). Habitat creation / enhancement proposals are also likely to contribute positively to obj 7 landscape.”*

**f) Joint Local Plan Regulation 18 consultation responses.**

- 3.14 The comments received on the proposed higher BNG policy requirement are set out in the Joint Local Plan 2041: Preferred Options Consultation Statement.<sup>7</sup>
- 3.15 A significant number of respondents (particularly local residents and statutory bodies) welcomed setting a higher BNG requirement for the districts. However, others (particularly the development industry) questioned the justification for and viability of such an approach. A wide range of evidence has informed the Joint Local Plan’s BNG requirement and has been published at the Regulation 19 stage. This includes evidence on habitats and species trends, BNG site assessments, and viability testing, as summarised in this topic paper.

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<sup>6</sup> Sustainability Appraisal and Strategic Environmental Assessment for the South Oxfordshire and Vale of White Horse Joint Local Plan Sustainability Report for the Pre-Submission Local Plan – September 2024

<sup>7</sup> Joint Local Plan 2041: Preferred Options Consultation Statement. Please note: What is now Policy NH2 was referred to as Policy NH1 at the preferred options stage.



**g) The Joint Local Plan vision and objectives reflect the importance of biodiversity across the districts.**

- 3.16 The vision for the Joint Local Plan reflects the priorities of the councils' corporate plans.
- 3.17 Objective 1 of South Oxfordshire District Council's Corporate Plan 2020 - 2024<sup>8</sup> is to protect and restore our natural world. It states:

*"We will champion the opportunity to restore our natural world in both biodiverse and bio-depleted areas through nature recovery networks and other means. We will connect urban communities to their local green spaces and restore nature to urban environments."*

- 3.18 The Vale of White Horse District Council's Corporate Plan 2020 - 2024<sup>9</sup> includes targets such as:

*"Develop a Biodiversity Net Gain Targeting Strategy and contribute to a Nature Recovery Network for Oxfordshire."*

- 3.19 South Oxfordshire District Council also declared an ecological emergency in February 2022, reflecting the council's commitment to protect and restore the natural world.<sup>10</sup>

- 3.20 The principles of protecting nature and enhancing biodiversity are at the heart of the Joint Local Plan vision and objectives. Paragraph 3.2 of the vision states the desire *"for this to be a place where nature is thriving, and nature reserves are no longer isolated pockets."*

- 3.21 The principles of the vision are carried forward into the Joint Local Plan's strategic objectives, which provide direction for the policies. Objective 4 seeks to:

*"Help nature recover by protecting wildlife and expanding natural habitats, requiring developments to achieve the highest viable net gain in biodiversity so that it leaves the natural environment better than it was before the development."*

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<sup>8</sup> South Oxfordshire District Council Corporate Plan 2020-2024, available at:

<https://www.southoxon.gov.uk/south-oxfordshire-district-council/about-the-council/corporate-plan/>

<sup>9</sup> Vale of White Horse District Council Corporate Plan 2020-2024, available at:

<https://www.whitehorsedc.gov.uk/wp-content/uploads/sites/3/2020/11/VOWH-Corporate-Plan-2020-2024.pdf>

<sup>10</sup> <https://www.southoxon.gov.uk/climate-emergency/ecological-emergency-declared-by-south-oxfordshire-district-council/>

## Section 4: Local opportunities for a higher BNG requirement

4.1 Local opportunities to achieve a higher BNG requirement as set out in Policy NH2 are considered in detail in the evidence supporting the emerging Joint Local Plan.

4.2 A summary of opportunities to deliver a higher BNG requirement (both on-site and off-site) are set out below:

### **Opportunities for delivering higher BNG on-site in South Oxfordshire and Vale of White Horse**

4.3 The councils commissioned Thames Valley Environmental Records Centre (TVERC) to undertake an Assessment of Sites' BNG Potential.<sup>11</sup> The aim of this assessment was to understand how much Biodiversity Net Gain might feasibly be provided on sites in the districts and, subsequently, how many (if any) off-site biodiversity units might need to be purchased under different BNG requirements. The assessment considered the three different types of habitat accounted for in the BNG metric - area habitat, hedgerows and watercourses.

4.4 The assessment considered two types of site:

- Joint Local Plan proposed site allocations (proposed allocations with planning permission or identified purely for employment uses were excluded for the reasons set out in that report); and
- a sample of smaller/non-allocated sites that are typical of the type of smaller/non-allocated residential development that might be expected to come forward in the districts over the plan period. This included samples of both brownfield and greenfield sites of various scales.

4.5 Even with the precautionary approach applied, four of the eight proposed site allocations tested showed potential to comfortably deliver at least 25% net gain in area habitat units on-site. A fifth site came close to a gain figure of 20%, suggesting that this level of gain could be achieved with minor adjustments and that 25% gain could also be achievable there. One site delivered gain below the statutory minimum of 10% on-site, but this level of gain might be possible on-site with suitable changes to development plans. Of the remaining two sites, there were significant losses in area habitat units due to high baseline biodiversity scores. Delivery of 10% net gain on these sites appears to be difficult to achieve without major changes and delivery of area habitat units off-site is likely to be necessary.

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<sup>11</sup> Thames Valley Environmental Records Centre (August 2024) Assessment of Sites' Biodiversity Net Gain Potential, available at: [www.southandvale.gov.uk/JLPEvidence](http://www.southandvale.gov.uk/JLPEvidence)

- 4.6 The assessment also shows that in many cases the proposed site allocations may also be able to deliver up to 25% net gains in hedgerow and watercourse units on-site.
- 4.7 Of the six sample sites tested using the precautionary approach, three showed a net gain in area habitat units of over 10%, two sites showed a gain of less than 10% and one site a net loss of habitat units. Hedgerow and watercourse units were more difficult to assess.
- 4.8 The precautionary approach applied means that the assessment is likely to have underestimated the amount of BNG that may be delivered on the sites tested (both the proposed site allocations and the sample of smaller/non-allocated sites). However, even using this model, many of the proposed site allocations show potential for significant on-site net gains, with potential for developers to sell surplus units on to developers of other JLP site allocations sites. Where developments cannot meet BNG requirements on-site, this does not mean that higher net gains are not possible, rather that designs may need to be revised and/or off-site units may need to be purchased. The number of off-site biodiversity units that would need to be purchased for each site to meet different Joint Local Plan BNG requirements was factored into the Joint Local Plan Viability Report, using local prices for habitat units in the districts.

#### **Opportunities for delivering higher BNG off-site in South Oxfordshire and Vale of White Horse**

- 4.9 It will not always be feasible or appropriate for development to meet BNG requirements fully on site. There are also some notable benefits associated with off-site BNG delivery:
- Land identified specifically for habitat creation/enhancement is likely to be more suitable for this purpose and better connected to ecological networks. (Compared to development sites which are selected based on a wide range of sustainability criteria and which are likely to avoid areas of high ecological value.) Moving forward, it is also more likely that land identified specifically for habitat creation/enhancement will relate to the strategic priorities for nature recovery that will be set out in the Oxfordshire Local Nature Recovery Strategy.
  - BNG provided separately to development may be less likely to suffer harm (e.g. habitats created and/or enhanced within a development site may be disturbed or damaged by occupants' recreational activities, pets, etc).
  - There tends to be more effective management, monitoring and enforcement where BNG is delivered via formal habitat bank arrangements.
- 4.10 It is important that there is sufficient land available within South Oxfordshire and Vale of White Horse to accommodate the delivery of off-site BNG to

support nature recovery in the districts, for the reasons on local need set out in Section 3.

- 4.11 The BNG metric incentivises delivering off-site BNG locally. Policy NH2 of the Joint Local Plan also sets out a sequential approach that must be used to direct the creation and enhancement of habitats off-site. This prioritises the delivery of off-site BNG within ecological networks in the districts, where it can provide the greatest benefits for ecological connectivity and nature recovery.
- 4.12 Unlike more constrained urban authority areas, South Oxfordshire and Vale of White Horse are predominantly rural districts, with plentiful opportunities for land to be brought forward for habitat creation or enhancement, if landowners are willing to do so.
- 4.13 Whilst habitat banks are not a new concept, the market will have changed significantly with the introduction of mandatory BNG. Demand for off-site biodiversity units will have undoubtedly increased and the financial rewards associated with bringing land forward for habitat creation and enhancement will have also become more attractive. Given the relatively recent introduction of mandatory BNG, it will take some time for the market to evolve and become established. However, there are already examples of established habitat banks operating in the districts (Duxford Habitat Bank<sup>12</sup> in Vale of White Horse and Towersey Solar Farm<sup>13</sup> in South Oxfordshire), as well as others about to come on to the market. Engagement with habitat bank operators indicates that there is a pipeline of schemes ready to be brought forward in the districts in the future. The councils are also seeking to work proactively with landowners to deliver habitat banks and have published habitat bank guidance<sup>14</sup> for landowners. The local opportunity is there to deliver 20% BNG.

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<sup>12</sup> Berkshire, Buckinghamshire & Oxfordshire Wildlife Trust (BBOWT) Duxford Habitat Bank. Information available at: <https://www.bbowt.org.uk/what-we-do/future-nature-wtc/biodiversity-net-gain/duxford-habitat-bank>

<sup>13</sup> Trust for Oxfordshire's Environment (TOE) Towersey Solar Farm. Information available at: <https://www.trustforoxfordshire.org.uk/unit-availability>

<sup>14</sup> South Oxfordshire District Council and Vale of White Horse District Council (May 2024) BNG Guidance: Habitat Banks within South Oxfordshire and Vale of White Horse, available at: [https://www.southoxon.gov.uk/wp-content/uploads/sites/2/2024/05/2024\\_May\\_Habitat-Banks\\_Guidance-Note.pdf](https://www.southoxon.gov.uk/wp-content/uploads/sites/2/2024/05/2024_May_Habitat-Banks_Guidance-Note.pdf)

## Section 5: Impacts on viability

- 5.1 It is important to demonstrate that policy requirements in the Joint Local Plan would not adversely affect development viability or housing supply.
- 5.2 The Viability Report<sup>15</sup> tested the impact of all relevant Joint Local Plan policies on the viability of a range of different development typologies across different sub-market areas in the districts. This included testing Policy NH2 (Nature Recovery) and the impact of the proposed 20% BNG requirement.
- 5.3 The Viability Report took into account the findings of the Assessment of Sites' BNG Potential,<sup>16</sup> particularly in terms of assumptions for the number of off-site biodiversity units that would need to be purchased for different sites to meet different Joint Local Plan BNG requirements (if any). The Viability Report also used current local prices for off-site biodiversity units in the districts, provided by local habitat bank operators.
- 5.4 In some cases, it was found that proposed strategic site allocations would provide surplus biodiversity units, beyond those required to meet the 20% BNG requirement. In this case, there is potential for developers to sell surplus units on to other developers to generate additional income. This was also factored into the Viability Report.
- 5.5 The Viability Report notes that BNG will represent a direct cost to the developer, either through the direct provision of on-site habitat creation/enhancement and/or through purchasing off-site biodiversity units. It is also recognised that the amount of habitat required to be provided and/or enhanced will vary based on a number of factors, including the baseline biodiversity value of the site, the scale of development and whether a site is brownfield or greenfield.
- 5.6 Overall, the Joint Local Plan Viability Report demonstrates that the costs associated with the proposed 20% BNG requirement will not adversely impact on the viability of development in the districts or the plan as a whole.

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<sup>15</sup> Aspinall Verdi (September 2024) South Oxfordshire & Vale of White Horse District Council Joint Local Plan Viability, available at: [www.southandvale.gov.uk/JLPEvidence](http://www.southandvale.gov.uk/JLPEvidence).

<sup>16</sup> Thames Valley Environmental Records Centre (August 2024) Assessment of Sites' Biodiversity Net Gain Potential, available at: [www.southandvale.gov.uk/JLPEvidence](http://www.southandvale.gov.uk/JLPEvidence).

## **Section 6: Policy implementation**

- 6.1 The higher BNG requirement set out in Policy NH2 (nature recovery) of the Joint Local Plan would be implemented via the established statutory process.
- 6.2 South and Vale district councils have in-house ecologists experienced in assessing BNG metrics and providing pre-application advice on BNG implementation.

## **Section 7: Conclusion**

- 7.1 The requirement in Policy NH2 (Nature Recovery) of the Joint Local Plan for development to deliver at least a 20% BNG is justified and can be implemented in South and Vale on the basis of the local need for a higher percentage, local opportunities for a higher percentage and the financial viability of a higher percentage, as summarised in this topic paper.





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