



# **West Winch Housing Access Road**

## **Environmental Statement Chapter 8: Biodiversity Annex 8.17b: BNG Policy and Legislation**

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Document Reference: 3.08.21b

Version Number: 001

Date: November 2023



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# 1 Introduction

## 1.1 National Legislation

England

### **Environment Act 2021**

1.1.1 The Environment Act will mandate biodiversity net gain requiring a minimum of 10% net gain for biodiversity as a condition of planning permission.

1.1.2 Net gain is to be measured by the Statutory Biodiversity Metric published by the Secretary of State. The Act requires that habitat creation and enhancements that are for BNG to be maintained for a minimum of 30 years post completion of development.

## 1.2 Natural Environment and Rural Communities Act 2006 (as amended)

1.2.1 The Natural Environment and Rural Communities (NERC) Act (HMSO, 2006) requires public bodies, including local authorities, *‘to have regard to the conservation of biodiversity in England when carrying out their normal functions’*.

1.2.2 Under Section 40, as amended by the Environment Act 2021, “A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.” The biodiversity objective is, “...the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England”. This is referred to as the Biodiversity Duty.

1.2.3 Section 41 sets out that:

- Paragraph 1. “The Secretary of State must... publish a list of the living organisms and types of habitat ... of principal importance for the purpose of conserving or enhancing biodiversity” based on consultation with Natural England; and that.



- Paragraph 3a. Every planning authority must “a) take such steps... to further the conservation of the living organisms and types of habitat included in any list published under this section, or (b) promote the taking by others of such steps”.

### **1.3 Environment Improvement Plan 2023**

1.3.1 The Environment Improvement Plan represents the first review of the UK Government’s 25 Year Environment Plan (DEFRA, 2018). It reinforces the intent of the 25 Year Environment Plan and sets out 10 goals to include:

- Goal 1 - Thriving plants and wildlife
- Goal 2 - Clean air
- Goal 3 - Clean and plentiful water
- Goal 4 - Managing exposure to chemicals and pesticides
- Goal 5 - Maximise our resources, minimise our waste
- Goal 6 - Using resources from nature sustainability
- Goal 7 - Mitigating and adapting to climate change
- Goal 8 - Reduced risk of harm from environment waste
- Goal 9 – Enhancing biosecurity
- Goal 10 – Enhanced beauty, heritage and engagement with the natural environment

### **1.4 National Planning Policy Framework**

1.4.1 The revised National Planning Policy Framework (NPPF) (MHCLG, 2023) refers to conserving and enhancing the natural environment. This requires Local Authorities in England to take measures to:

- Conserve and enhance biodiversity;
- Protect the habitats of these species from further decline;



- Protect the species from the adverse effect of development; and
- Refuse planning permission for development, if significant harm resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for.

1.4.2 Although not currently a legal obligation, the revised NPPF refers to biodiversity and environmental net gains in the following paragraphs:

- Transport Infrastructure
  - Paragraph 104 “Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:  
  
*d) the environmental impacts of traffic and transport infrastructure can be identified assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for **net environmental gains.**”*
- Planning decisions
  - Paragraph 174. “Planning policies and decisions should contribute to and enhance the natural and local environment by: ... d) minimising impacts on and **providing net gains** for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.”
  - Paragraph 179. “To protect and enhance biodiversity and geodiversity plans should b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing **measurable net gains for biodiversity.**”
  - Paragraph 180. “When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) adequately mitigated, or, as a last resort, compensated



for, then planning permission should be refused; ... and d) ... opportunities to incorporate biodiversity improvements in and around developments, especially where this can secure **measurable net gains for biodiversity.**”

## 1.5 National Policy Statement for National Networks

1.5.1 The National Policy Statement for National Networks (NPSNN) (Department for Transport, 2014) paragraph 5.23 states that:

- “The applicant should show how the project has taken advantage of opportunities to **conserve and enhance biodiversity** and geological conservation interests.”

1.5.2 Maintaining no net loss of biodiversity as a result of the Proposed Development is consistent with the policy aims of Paragraph 5.25 of the NPSNN, which states:

- “As a general principle, and subject to the specific policies below, development should avoid significant harm to biodiversity and geological conservation interests, including through mitigation and consideration of reasonable alternatives. The applicant may also wish to make use of **biodiversity offsetting** in devising compensation proposals to counteract any impacts on biodiversity which cannot be avoided or mitigated. Where significant harm cannot be avoided or mitigated, as a last resort, appropriate compensation measures should be sought.”

1.5.3 This sets out that any loss should be compensated for to achieve no net loss or net gain by replacing habitats, exploring the potential for enhancing them, and managing retained features.



## 1.6 Local Policy and Guidance

King's Lynn & West Norfolk Borough Council Local Development Framework - Core Strategy

1.6.1 The following policies within the Core Strategy are relevant to ecology and biodiversity.

- CS12 Environmental Assets.

1.6.2 In addition, Norfolk County Council's Environmental Policy, approved by Full Council on 25 November 2019 contains additional relevant objectives regarding the protection and enhancement of biodiversity by ensuring a net improvement ('net gain') to biodiversity and habitat creation.

North Runcton & West Winch Neighbourhood Plan 2018

1.6.3 The following policies within the neighbourhood plan are relevant to ecology and biodiversity.

- Policy WA03: Protecting and replacing natural features.
- Policy GA02: Providing 'green infrastructure'.

1.6.4 The policies state that developments within the plan will be supported where green infrastructure is retained or compensated for, and where suitable levels of green infrastructure are provided.

West Winch Growth Area Framework Masterplan SPD

1.6.5 The growth area masterplan provides further relevant policy regarding biodiversity, including the following.

1.6.6 The development must make the most of opportunities to create or improve habitats. This includes the retention of hedgerows and mature trees, use of native species in landscaping, installation of bird and bat boxes and design of lighting schemes to encourage habitat creation and enhancement.

1.6.7 Development will also be expected to contribute towards enhanced biodiversity with parts of the Green Infrastructure being identified for uses/



activities; these will need to be maintained at an appropriate level to meet these objectives.