

Cheshire East Local Plan

# Ecology and Biodiversity Net Gain Supplementary Planning Document

July 2024





|  |           |
|--|-----------|
| <b>1 Introduction</b>  | <b>3</b>  |
| Purpose of the Supplementary Planning Document                   | 3         |
| Status of the SPD  | 4         |
| <b>2 Planning Policy Framework</b>                               | <b>5</b>  |
| Legislative Context  | 5         |
| National Policy Context  | 5         |
| Local planning policy  | 6         |
| Cheshire East Local Plan Strategy                                | 6         |
| Cheshire East Site Allocations and Development Policies Document | 7         |
| Made Neighbourhood Development Plans                             | 7         |
| Supplementary Planning Documents                                 | 7         |
| Emerging plans   | 8         |
| <b>3 Other Council Projects and Strategies</b>                   | <b>9</b>  |
| Corporate Plan   | 9         |
| Environmental Strategy   | 9         |
| Green Infrastructure Plan 2019                                   | 9         |
| Carbon Neutral Action Plan                                       | 9         |
| <b>4 Key Components of the Local Plan</b>                        | <b>11</b> |
| The Ecological Network   | 11        |
| Important Nature Conservation Sites and Ancient Woodlands        | 14        |
| <b>5 Validation and Other Requirements</b>                       | <b>15</b> |
| <b>6 Ecology Validation and Other Requirements</b>               | <b>16</b> |
| Habitats Regulations Assessment                                  | 17        |
| Ecological Appraisal Reports                                     | 17        |
| <b>7 BNG Validation and Other Requirements</b>                   | <b>19</b> |
| BNG Validation Requirements                                      | 19        |
| Biodiversity Net Gain Report                                     | 20        |
| <b>8 Where Should Biodiversity Net Gain be Delivered?</b>        | <b>23</b> |
| <b>9 Which Applications will BNG Requirements Apply to?</b>      | <b>26</b> |
| Major Development  | 26        |
| Minor Development  | 26        |



|   |           |
|---|-----------|
| BNG in Minor Development .....  | 27        |
| Permitted Development .....   | 27        |
| Prior Approval .....  | 28        |
| <b>10 Using the Metric .....</b>  | <b>29</b> |
| Step by step guide .....  | 29        |
| How to complete the Metric Calculation .....  | 30        |
| <b>11 Implementation of Net Gain .....</b>  | <b>31</b> |
| <b>12 Incorporation of Additional Biodiversity Features .....</b>                           | <b>32</b> |
| <b>13 Implementation of Net Gain for Development Excluded from Mandatory Net Gain .....</b> | <b>33</b> |
| <b>14 Monitoring and Facilitation Fee .....</b>   | <b>35</b> |
| Legal Fees .....  | 35        |
| Typical Conditions .....  | 35        |
| <b>15 Glossary .....</b>  | <b>37</b> |
| <b>16 Appendices .....</b>  | <b>40</b> |



# 1 Introduction

**1.1** Biodiversity is the term we use to describe web of species and habitats that form ecosystems across the world. It is the expression of millions of years of evolution of plants and animals adapting to their environment, establishing complex interdependent systems and it is under threat from multiple challenges. Biodiversity benefits humanity in numerous ways providing environmental services that are often overlooked such as keeping our air and water clean, controlling pests, pollinating crops, maintaining healthy soils, providing medicines and improving mental health. Biodiversity within ecosystems also makes our environment more resilient to climate change as natural habitats help moderate temperatures, absorb CO2 from the atmosphere and regulate water supplies.

**1.2** Biodiversity has been significantly impacted, and harmed, by human activity. Supporting human population growth requires the conversion of substantial areas of land for food production and development, which causes a diminishment of natural environments, including habitat stability and function. In Cheshire, only around 5% of our land is managed positively for nature which has led to a local loss of biodiversity. Across the UK, 41% of species are recorded to be in a population decline, with 13% of species in England being threatened with extinction. Our current declining state of nature, if left unaddressed, threatens all the benefits we enjoy from biodiversity, with potential catastrophic impacts on natural pollination, organic nutrient cycling and biological control.

**1.3** We have a collective responsibility to support the improvement of biodiversity from the position it is at now and the planning system has a role to play. Through policies in the Cheshire East Development Plan, the Council has an ambition to secure improvements to biodiversity when development takes place. With the introduction of Biodiversity Net Gain via the Environment Act, the guidance in this document helps to explain how the Council will apply its policies and how developers can support improvements to biodiversity and ecology by ensuring a net gain is achieved.

## Purpose of the Supplementary Planning Document

**1.4** Supplementary Planning Documents (“SPDs”) add further detail to policies contained within the development plan and are used to provide guidance on specific sites or particular issues. SPDs do not form part of the adopted development plan but they are a material planning consideration in decision taking.

**1.5** The Ecology and Biodiversity Net Gain SPD deals with compulsory, statutory Biodiversity Net Gain (BNG) requirements addressing how this will work in Cheshire East. The SPD provides guidance related to existing development plan policies found in the Cheshire East Local Plan Strategy (adopted July 2017) and the Site Allocations and Development Policies Document (adopted December 2022), particularly those policies that address the Council’s approach to protecting the natural environment, securing ecological enhancements and achieving BNG.

**1.6** The SPD:

**1.7** Explains terminology and practice associated with biodiversity conservation.



**1.8** Explains the level of biodiversity net gain the Council expects development to achieve in Cheshire East, and where it should be secured.

**1.9** Sets out what written information is required to submit with a planning application regarding protection of the natural environment and the securing Biodiversity Net Gain;

**1.10** and

**1.11** Provides guidance on what measures will be required if the minimum levels of Biodiversity Net Gain level cannot be achieved on site.

### **Status of the SPD**

**1.12** The SPD has been prepared in accordance with the Planning Act 2004 and the associated Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

**1.13** This document replaces the Macclesfield Borough Council Nature Conservation SPD and is a material consideration in the determination of planning applications within Cheshire East.



## 2 Planning Policy Framework

**2.1** Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise<sup>(1)</sup>. Material planning considerations include national planning policy and adopted supplementary planning guidance, where relevant.

### Legislative Context

**2.2** The Environment Act 2021 underpins Schedule 7a of the Town and Country Planning Act 1990. Under the Environment Act 2021 all planning permissions granted in England, with a few exceptions are required to deliver at least 10% net gain for biodiversity. Net Gain will be measured using the Defra Biodiversity Metric and habitats will need to be secured, managed and monitored for 30 years via a legal agreement.

### National Policy Context

**2.3** The National Planning Policy Framework ('the Framework') includes references to biodiversity net gain which are relevant to decision taking and the guidance provided in this SPD. Relevant extracts from the Framework include paragraph 180:

**2.4** *Planning policies and decisions should contribute to and enhance the natural and local environment by:*

**2.5** *protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*

**2.6** *and*

**2.7** *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures*

**2.8** Paragraph 185:

**2.9** To protect and enhance biodiversity and geodiversity, plans should:

**2.10** *a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping-stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation;*

**2.11** *and*

**2.12** *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.*

<sup>1</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.



## 2.13 Paragraph 186:

**2.14** (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;*

**2.15** *And*

**2.16** (d) *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.*

**2.17** Additional guidance on Biodiversity Net Gain is also available via the National Planning Practice Guidance: <sup>(2)</sup>

### Local planning policy

**2.18** Relevant local planning policies are set out in the development plan for the area. The development plan for Cheshire East currently comprises of the Cheshire East Local Plan Strategy, adopted July 2017 and the Site Allocations and Development Policies Document (“SADPD”), adopted December 2022, saved policies from the Cheshire Waste Local Plan and saved policies from the Cheshire Minerals Local Plan. Neighbourhood Development Plans that have been successful at referendum and have subsequently been ‘made’ also form part of the statutory development plan.

**2.19** Development plan policies of relevance to Biodiversity Net Gain are summarised below. Consideration will also be given to other relevant planning policies within each plan, where appropriate to the planning application proposals.

### Cheshire East Local Plan Strategy

**2.20** The Cheshire East Local Plan Strategy (“LPS”) was adopted on the 21 July 2017, and this is the strategic plan for the borough. Relevant policies include but are not limited to the following:

1. Policy IN 2: Developer Contributions
2. Policy SE 6: Green Infrastructure
3. Policy SC 3: Health and Well-Being
4. Policy SE 3: Biodiversity and Geodiversity
5. Policy SE 5: Trees, Hedgerows and Woodland

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<sup>2</sup> <https://www.gov.uk/guidance/understanding-biodiversity-net-gain>



## Cheshire East Site Allocations and Development Policies Document

**2.21** The Cheshire East Site Allocations and Development Policies Document (SADPD) was adopted on the 12th December 2022 and provides more detailed development management policies and smaller scale site allocations than the LPS. Relevant policies include but are not limited to the following:

**2.22** ENV 1: Ecological Network. This policy states that new development should seek proportionate opportunities to protect, conserve, restore and enhance the ecological network for the borough. Development in sustainable land use areas should enhance the wider environment by actively contributing to the integration and creation of appropriate green infrastructure and habitats.

**2.23** ENV 2: Ecological Implementation. This policy states development proposals must deliver an overall net gain for biodiversity. Major developments and developments affecting semi-natural habitats must be supported by a biodiversity metric calculation to ensure the delivery of a measurable biodiversity net gain.

**2.24** ENV 6: Trees, hedgerows and woodland implementation. This policy states replacement trees, woodlands and/or hedgerows must be integrated in development schemes as part of a comprehensive landscape scheme. Where it can be demonstrated that this is not practicable, contributions to off-site provision should be made, priorities in the locality of the development.

### Made Neighbourhood Development Plans

**2.25** Neighbourhood plans may include local evidence or requirements relevant to improving habitats and the delivery of BNG, and should be consulted when preparing a planning application. As at the 31 March 2024, 38 Neighbourhood Development Plans (“NDP’s”) have been ‘made’ and now form part of the adopted development plan. Further details of these plans can be found on the council’s website <sup>(3)</sup>

### Supplementary Planning Documents

**2.26** The Council has adopted a number of Supplementary Planning Documents (SPD) and full details of these can be found on the council’s website. <sup>(4)</sup>

**2.27** SPD relevant to habitats and ecology include:

**2.28** Sustainable Urban Drainage SPD

**2.29** Developer Contributions SPD

**2.30** Congleton Borough Council Trees and Development SPD (October 2006)

<sup>3</sup> <https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/neighbourhood-planning.aspx>

<sup>4</sup> [https://www.cheshireeast.gov.uk/planning/spatial\\_planning/cheshire\\_east\\_local\\_plan/supplementary\\_plan\\_documents/supplementary\\_plan\\_documents.aspx](https://www.cheshireeast.gov.uk/planning/spatial_planning/cheshire_east_local_plan/supplementary_plan_documents/supplementary_plan_documents.aspx)





## Emerging plans

**2.31** The Minerals and Waste Development Plan Document is currently in preparation. A first draft was consulted on during November and December 2022. The plan will set out the council's planning policies on minerals and waste and can be accessed via the council's website <sup>(5)</sup>.

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5 [https://www.cheshireeast.gov.uk/planning/spatial-planning/cheshire\\_east\\_local\\_plan/minerals-and-waste-plan.aspx](https://www.cheshireeast.gov.uk/planning/spatial-planning/cheshire_east_local_plan/minerals-and-waste-plan.aspx)



## 3 Other Council Projects and Strategies

### Corporate Plan

**3.1** The Council's Corporate Plan 2021-2025 sets out three main aims to be open, fair and green. The Council has an ambition to 'lead our communities to protect and enhance our environment, tackle the climate emergency and drive sustainable development' and within this ambition is a key objective to improve biodiversity and natural habitats in the borough through a number of measures including embedding biodiversity off-setting across the Cheshire East Council Estate, delivering a programme of tree planting and increasing rewilding.

**3.2** The Corporate Plan also includes objectives to ensure that new development is appropriately controlled to protect and support the borough through a number of actions, including through the preparation and implementation of supplementary planning documents <sup>(6)</sup>.

### Environmental Strategy

**3.3** In May 2019 the Council committed to become a carbon neutral organisation by 2025 and in January 2022 a further commitment was made to make Cheshire East a carbon neutral borough by 2045.

**3.4** The Councils Environment Strategy 2020-2024 sets out the key strategies and plans that will be employed to achieve this ambition including the strategic approach to enhancing and protecting the environment as set out in the Council's Development Plan. The Strategy also includes reference to the Councils' Green Infrastructure Plan 2019 and the Council's Carbon Neutral Action Plan (which is currently at draft stage) <sup>(7)</sup>.

### Green Infrastructure Plan 2019

**3.5** The Green Infrastructure Plan <sup>(8)</sup> is a road map for a comprehensive and connected Green Infrastructure (GI) to meet the needs of people and nature in the 21st century and to pass on a better environment to the next generation.

**3.6** The plan is intended to help develop projects that deliver a net gain in Green Infrastructure and provides an evidence base and framework to support project delivery.

**3.7** The plan highlights some strategic areas for consideration and suggests some approaches to partnership working and the involvement of communities or landowners.

### Carbon Neutral Action Plan

**3.8** To support the ambition of the Council to become carbon neutral, the Environmental Strategy committed the Council to produce a Carbon Neutral Action Plan <sup>(9)</sup>. The plan sets out the actions and pathways the Council should take to achieve carbon neutrality and

6 <https://www.cheshireeast.gov.uk/pdf/council-and-democracy/corporate-plans/cec-corporate-plan-2021-to-2025.pdf>

7 <https://www.cheshireeast.gov.uk/pdf/environment/environment-strategy-2020-24-final.pdf>

8 [https://www.cheshireeast.gov.uk/planning/spatial-planning/research\\_and\\_evidence/green\\_infrastructure\\_framework.aspx](https://www.cheshireeast.gov.uk/planning/spatial-planning/research_and_evidence/green_infrastructure_framework.aspx)

9 <http://moderngov.cheshireeast.gov.uk/ecminutes/documents/s76206/Carbon%20Neutral%20Action%20Plan%20-%20appendix.pdf>



includes the employment of nature-based solutions and an ‘insetting’ approach whereby carbon savings are made within the local authority area through supply chain improvement or activity such as tree planting.

**3.9** By working with the Mersey Forest and Cheshire Wildlife Trust, the Council aims to plant 100 hectares of trees by 2025, including a 7-hectare site at Leighton Grange in Crewe.



## 4 Key Components of the Local Plan

### The Ecological Network

**4.1** The Ecological Network is the extent of known ecological assets and incorporates existing protected sites and priority habitats. The network identifies areas to restore and areas that could provide buffers to the network. The ecological network will assist in the provision of nature conservation and ecosystem services that are essential for sustainable development.

**4.2** SADPD Policy ENV 1 requires any development proposals in Core Areas or Corridors and Stepping Stone sites as identified by the Cheshire East Ecological Network map to:

**4.3** Increase the size of core areas

**4.4** Increase the quality and quantity of priority habitat

**4.5** Create new priority habitat that can act as stepping stones or corridors.

**4.6** Increase the structural connectivity between stepping stones in restoration zones

**4.7** All development proposals are required to deliver a net gain for biodiversity in accordance with SE 3 (5) of the LPS, and ENV 2 of the SADPD. Within Core Areas, Corridors, Stepping Stone and Restoration sites, compliance with SE 3 (5) and ENV 2 (as specified in this SPD), would also make a significant contribution towards compliance with SADPD policy ENV 1 and vice versa.

**4.8** The purpose of SADPD Policy ENV 1 is to ensure that where development occurs in any area that is strategically important for biodiversity then the habitat creation delivered by these developments is similarly delivered in a strategic manner to maximise the benefits to enhancing a resilient ecological network within the Borough.

**4.9** A detailed and interactive GIS based map, which sets out the extent of the Ecological Network, can be accessed via the Council's Local Plan Adopted Policies Map 2022 <sup>(10)</sup>.

**4.10** The map includes all policy layers, and the Ecological Network is held under the heading 'Ecology and Nature'. Selecting this option will demonstrate the extent of the ecological network in Cheshire East and the component sites that compromise the network.

**4.11** Until the adoption of the Local Nature Recovery Strategy, the Ecological Network Map associated with ENV 1 should be used to inform input to the 'strategic significance' entry on the Biodiversity Metric Calculation spreadsheet.

**4.12** The Council will expect most developments to deliver the required net gain for biodiversity through habitat creation undertaken within the red line of a planning application. However, where this is not possible the Council will expect any development proposals to identify appropriate off-site opportunities for habitat creation. Developers must use the

<sup>10</sup> <https://maps.cheshireeast.gov.uk/ce/localplan/adoptedpoliciesmap2022>



Council's ecological network map in accordance with the requirements of policy ENV1 when formulating their proposals for biodiversity net gain. An illustration of how this could be achieved is provided in Table 2 below.

**4.13** Table 2: Illustration of how developments within the zones identified in ENV 1 can meet the relevant policy obligations.

Table 4.1

| <b>Ecological Network Map Zone</b>        | <b>Policy requirements under ENV1</b>  | <b>Example of how the policy requirements of ENV 1 may be fulfilled</b>   |
|---|--|---|
| Core areas, Corridors and Stepping Sites. | Increase the size of core areas, increase the quality and quantity of priority habitat create new priority habitat that can act as stepping stones or corridors.   | <p>Habitat creation such as new ponds, woodland or hedgerow planting or species rich grassland creation to extend the area of any existing priority habitat or designated site present.</p> <p>Habitat Management to increase the value of existing habitats, including measures such as removal of non-native species or the introduction of suitable cutting regime.</p> <p>Creation of new habitats that complement existing habitats in the broader area to allow wildlife to use these as stepping stones to move between existing habitats in the vicinity.</p> |
| Restoration Areas                         | Increase the size of core areas, increase the quality and quantity of priority habitat create new priority habitat that can act as stepping stones or corridors. Increase structural connectivity between stepping stones. | <p>Habitat creation such as new ponds, woodland or hedgerow planting or species rich grassland creation to extend the area of any existing priority habitat or designated site present.</p> <p>Habitat Management to increase the value of existing habitats, including</p>   |



**Ecological Network  
Map Zone**

**Policy requirements under  
ENV1**

**Example of how the policy  
requirements of ENV 1  
may be fulfilled**

measures such as removal of non-native species or the introduction of suitable cutting regime.

Creation of new habitats that complement existing habitats in the broader area to allow wildlife to use these as stepping stones to move between existing habitats in the vicinity.

Create linear habitats, such as along water courses or new hedgerows to increase connectivity between existing habitats r designated sites.

**Sustainable Land Use  
Areas**

Actively contribute to the integration and creation of appropriate green infrastructure.

Increase the biodiversity value of green infrastructure delivered as part of a development.

This can be done by incorporating native species planting in formal open spaces, designing SUDS schemes to maximise their biodiversity value and providing open space with a designing large open space areas with a more naturalistic Country Park type approach.

**Mere and Mosses  
Catchments**

Avoid any contamination and hydrological impacts on associated catchments.

Identify the extent of the catchments of any Meres and Mosses sites relevant to a development sites and avoiding any direct impacts on the catchments and ensuring development



## Ecological Network Map Zone

## Policy requirements under ENV1

## Example of how the policy requirements of ENV 1 may be fulfilled

proposals avoid any discharge of contaminated surface water into the relevant catchment.

**4.14** SADPD Policy ENV1 Requires any developments within the catchment of the Cheshire Meres and Mosses to avoid any contamination and hydrological impacts on the catchment. The catchments for several meres and mosses are shown on the Council's ecological network map. Developers and applicants should however be aware that there are numerous meres and mosses in Cheshire, the catchments for which have not been mapped. Identification of meres and mosses and their associated catchments should therefore be carried out as part of ecological assessment undertaken in support of any future planning applications.

### Important Nature Conservation Sites and Ancient Woodlands

**4.15** Ancient woodlands receive protection through Local Plan policy SE3 and paragraph 186(c) of the NPPF.

**4.16** Ancient woodlands, including plantations on ancient woodland sites, are highly valuable and sensitive to a number of indirect impacts associated with development. To minimise these effects development proposals located adjacent to all ancient woodland must provide undeveloped buffers in accordance with current best practice and Natural England's Standing Advice. The location and size of the buffer required must be informed by an assessment of the potential direct/indirect impacts of the proposed development that includes consideration of the proposed layout, the hydrology and topography of the proposed development site and woodland, and any other relevant factors, and be of a minimum of 15m wide.

**4.17** Priority Habitats and Species and Local Wildlife Sites also receive protection through Local Plan Policy SE 3. Where development is proposed adjacent to these the provision of undeveloped buffer zones is a suitable means of limiting indirect impacts upon them. Development proposals must therefore include suitable buffers as a means of avoiding these indirect impacts, and, as part of the submission, must also be supported by evidence to justify the extent of the proposed undeveloped buffer.

**4.18** Proposals for the provision of buffers must take account of any policy requirements for the extent and location of buffers detailed in the any relevant Neighbourhood Plans that are in place.



## 5 Validation and Other Requirements

**5.1** Cheshire East Council are seeking a minimum 10% net gain in biodiversity from new development. The gain should be demonstrated using the latest statutory DEFRA biodiversity metric. In accordance with the Biodiversity Net Gain hierarchy (as set out in part 7A of The Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024). This gain should be delivered on-site, and where this is not possible, the gain may involve off-site compensation, or if off-site units are not available, the purchase of statutory credits may be acceptable as a last resort.

**5.2** To achieve consistency of information on which to carry out decision-making, the LPA will expect all applications to conform to the guidance in this SPD.

**5.3** To calculate how the minimum 10% increase in biodiversity is to be achieved, biodiversity losses and gains associated with development and land management practices need to be measured in a consistent, robust, and transparent way. To achieve this, DEFRA has created a Biodiversity Metric to measure biodiversity losses and gains, which is mandated in Schedule 14 of the Environment Act 2021. DEFRA has also produced a simplified version of the Biodiversity Metric called the Small Sites Metric which can be used for minor developments, subject to certain criteria being met <sup>(11)</sup>.

**5.4** Where compensation is targeted at a specific priority or protected species as a means of compensating for unavoidable impacts on the species, off-site compensation must be delivered in an area where this species is known to occur. Desk and field-based assessments may be required to establish this.

**5.5** Habitat creation proposals, both on and off-site, must avoid 'down trading' of habitat value (i.e., seeking to create habitat of lower distinctiveness than those lost). Habitat creation proposals must be additional to any existing obligations and not deliver something that would occur anyway (for example through an existing planning permission, Forestry Commission grant or Environmental Stewardship scheme).

**5.6** All proposals to deliver biodiversity net gain through on-site and off-site habitat creation should be:

1. In compliance with forthcoming British Standard BS 8683 (Process for designing and implementing Biodiversity Net Gain)
2. Evaluated through the use of the Biodiversity Metric
3. Secured by an appropriate mechanism such as a legal agreement, conservation covenant or planning condition as appropriate to ensure long term management
4. Supported by a monitoring and management plan (using the Natural England template: Habitat Management and Monitoring Plan Template - JP058 ([naturalengland.co.uk](https://naturalengland.co.uk)))
5. Monitored and reviewed at regular intervals in accordance with the terms of the relevant legal agreement in place

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





## 6 Ecology Validation and Other Requirements

**6.1** When determining planning applications, the Council seeks to protect and enhance the natural environment wherever possible, and the Council's Development Plan includes policies that support this aim.

**6.2** Policy SE3 Biodiversity and Geodiversity of the LPS requires that all development (including conversions, on both brownfield and greenfield sites) must aim to positively contribute to the conservation and enhancement of biodiversity and geodiversity and should not negatively affect these interests. Policy ENV2 of the SADPD requires that development proposals should provide for a net gain in biodiversity in line with the expectations of national policy and that major applications or applications affecting semi-natural habitat be supported by a biodiversity metric. These requirements apply to all forms and scale of development that require planning permission in Cheshire East.

**6.3** To this end, when submitting a planning application, applicants are required to include various reports and assessments related to the site and type of development. A full list of local validation requirements can be accessed on the Council's website <sup>(12)</sup>.

**6.4** Guidance on local requirements for Ecological and Geodiversity assessments is also available via the Council's website and sets out the criteria which may trigger the need to submit an assessment. Local Requirements are set out on the Council's website <sup>(13)</sup>.

**6.5** To support determination of planning applications, the Council expects adequate ecological information to be provided. Where no ecological report has been submitted and there is a likelihood of biodiversity being present and affected by a proposal, applicants will be requested to provide reasonable information in order to assess the impacts of the proposal on biodiversity.

**6.6** Where it is required, and no ecological report is submitted, or it is not submitted with sufficient information, delays may be caused through, for example, waiting for surveys to be carried out in the appropriate season. If, despite a request from the Council, this information is not provided at a proportionate level of detail that can give certainty of likely impacts and details of effective and deliverable mitigation measures, the Council may refuse an application. Precautionary mitigation will not be acceptable (for example proposals to install bat boxes to compensate for potential loss of roosts, without undertaking a survey).

**6.7** Where ecology reports include recommendations for further surveys, these will be needed prior to determination. The Council encourages applicants to ensure that recommendations for mitigation and compensation measures have been embedded into the design of schemes and that they confirm delivery at the appropriate stage to support determination of a planning application. This approach is relevant to outline planning applications too, when broad mitigation and compensation strategies will be required in sufficient detail to demonstrate that they can be realistically incorporated into a detailed design at the reserved matters stage.

<sup>12</sup> <https://www.cheshireeast.gov.uk/planning/planning-validation-checklists.aspx>

<sup>13</sup> <https://www.cheshireeast.gov.uk/pdf/planning/planning-constraints/2018-biodiversity-and-geodiversity-ce-local-requirements.pdf>



**6.8** Where impacts on biodiversity will be minimised such that the proposal is acceptable, all ecological mitigation, compensation, and enhancements to deliver measurable net gain for biodiversity will either be a condition of the consent (if all habitat works are on site) or included in a legal agreement. For protected species, habitats and designated sites, submission of relevant surveys will be required prior to determination. For further information on BNG legal agreements and S106, please see the relevant section of the Council's website <sup>(14)</sup>.

**6.9** To support determination of outline or phased applications, updated protected species surveys and mitigation strategies will need to be submitted at reserved matters stage for any measures not fully detailed in the information provided with the original application.

## Habitats Regulations Assessment

**6.10** Where development has the potential to have a significant effect on a Habitats Site, proposals need to be accompanied by information to support the preparation of the Habitats Regulations Assessment (HRA) by the Local Planning Authority. Habitats sites in Cheshire East are available to view via the Council's interactive Local Plan Adopted Policies Map 2022. Site design should ensure that adverse effects on the integrity of the site(s) are avoided and submitted information should include the results of any necessary surveys and details of any proposed mitigation measures <sup>(15)</sup>.

## Impact Risk Zones

**6.11** The Impact Risk Zones (IRZs) define zones around each Natura 2000 or RAMSAR site which reflect the sensitivities of the features for which it is notified and indicate the types of development proposal which could potentially have adverse impacts. The zones are a tool, developed by Natural England, mapped onto GIS and used to make a rapid initial assessment of the potential risks posed by development proposals to Sites of Special Scientific Interest (SSSIs), Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Ramsar sites. Where development falls within an impact risk zone, Natural England will be consulted, and further assessments and surveys may be required. Applicants should be aware that the Council will consult with Natural England in these circumstances which may result in a requirement for applicants to submit further information.

## Ecological Appraisal Reports

**6.12** To assess the potential impact of proposed development, it is necessary to submit protected species surveys, ecological assessments, and geodiversity assessments with many types of planning applications. The guidance in this section details when surveys and assessments are required in support of planning applications.

**6.13** Whilst this guidance has been designed to cover the most likely scenarios, protected species and other important natural features are often encountered in the most unexpected circumstances. Where necessary, the Council may therefore request further information relating to biodiversity or geodiversity conservation after the registration of an application but prior to determination. Therefore, the Council advises that pre-application advice is sought at an early stage, which may rule out the need to provide some surveys.

<sup>14</sup> [Section 106 Agreements Planning \(cheshireeast.gov.uk\)](https://www.cheshireeast.gov.uk/section-106-agreements-planning)

<sup>15</sup> <https://maps.cheshireeast.gov.uk/ce/localplan/adoptedpoliciesmap2022>



**6.14** If a planning application involves any of the development proposals shown in the table at Appendix 1, the relevant protected species survey and impact assessment must be submitted in support of a planning application.

**6.15** Exceptions for when a full Species Survey and Assessment may not be required:

**6.16** Following consultation by the applicant at the pre-application stage, the LPA has stated in writing that no protected species surveys and assessments are required.

**6.17** If it is clear that no protected species are present, despite the guidance in the table at Appendix 1 indicating that they are likely, the applicant should provide evidence with the planning application to demonstrate that such species are absent (e.g. this might be in the form of a letter or brief report from a suitably qualified and experienced person, or a relevant local nature conservation organisation).

**6.18** If it is clear that the development proposal will not affect any protected species present, then only limited information needs to be submitted. This information should, however:

**6.19** demonstrate that there will be no significant effect on any protected species present and

**6.20** include a statement acknowledging that the applicant is aware that it is a criminal offence to disturb or harm protected species should they subsequently be found or disturbed.

**6.21** In some situations, it may be appropriate for an applicant to provide a protected species survey and report for only one or a few of the species shown in the Table in Appendix 1 e.g., those that are likely to be affected by a particular activity. Applicants should make clear which species are included in the report and which are not (because exceptions apply).

**6.22** If the application is likely to affect any site designated for its nature conservation value (Special Protection Area, Special Area of Conservation, SSSI, Ramsar, Local Wildlife Site etc.) or any semi-natural habitats, such as woodlands, wetlands, ponds, rough or species rich grassland etc. an ecological survey and assessment for the relevant feature must be submitted as part of the planning application.

**6.23** The evaluation of habitats recorded on site should be undertaken with reference to the Cheshire Region Local Wildlife Site Selection Criteria. Habitats that meet the selection criteria thresholds should be considered to be of 'County' importance.



## 7 BNG Validation and Other Requirements

### BNG Validation Requirements

#### 7.1 Biodiversity Gain Condition

**7.2** Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met (“the biodiversity gain condition”). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered off-site biodiversity gains or statutory biodiversity credits.

**7.3** Under the Environment Act the delivery of Biodiversity Net Gain is secured through a deemed planning condition introduced by paragraph 13 of Schedule 7A of the Town and Country Planning Act. The deemed planning condition requires the submission of a Biodiversity Gain Plan to be submitted and approved by the LPA prior to the commencement of development. The Biodiversity Gain plan sets out how the mandatory target of achieving at least 10% net gain will be achieved and secured. Applicants seeking to discharge the deemed planning condition must use the BNG Plan template available online <sup>(16)</sup>.

**7.4** The biodiversity gain condition is a pre-commencement condition: once planning permission has been granted, a Biodiversity Gain Plan must be submitted and approved by the planning authority before commencement of the development.

#### 7.5 BNG Validation Requirements

**7.6** The Council has produced a Local Validation requirement for the submission on a ‘A Statement of Intent in respect of Biodiversity Net Gain (BNG)’ alongside relevant planning applications. The statement will be required to outline how a proposed development will achieve BNG including an indication of whether BNG will be achieved on or off site or whether the purchase of Statutory Credits is thought necessary. If off-site provision is proposed, an indication of where or how the provision will be delivered, and how it will be secured, should be provided together with a commentary on how the proposals comply with the Biodiversity Net Gain Hierarchy.

**7.7** Applications which are not exempt, must be supported by the following information which are now national validation requirements:

**7.8** 1. confirmation that the applicant believes that planning permission, if granted, the development would be subject to the biodiversity net gain

**7.9** 2. the pre-development biodiversity value(s), [either on the date of application or earlier proposed date \(as appropriate\)](#);

**7.10** 3. where the applicant proposes to use an earlier date, this proposed earlier date and the reasons for proposing that date;

<sup>16</sup> [Submit a biodiversity gain plan - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/submit-a-biodiversity-gain-plan)



**7.11** 4. [the completed metric calculation tool](#) showing the calculations of the pre-development biodiversity value of the onsite habitat on the date of application (or proposed earlier date) including the publication date of the biodiversity metric used to calculate that value;

**7.12** 5. a statement whether activities have been carried out prior to the date of application (or earlier proposed date), that result in loss of onsite biodiversity value ('[degradation](#)'), and where they have:

- a. a statement to the effect that these activities have been carried out;
- b. the date immediately before these activities were carried out;
- c. the pre-development biodiversity value of the onsite habitat on this date;
- d. the completed metric calculation tool showing the calculations, and
- e. any available supporting evidence of this;

**7.13** 6. a description of any [irreplaceable habitat](#) (as set out in [column 1 of the Schedule to the Biodiversity Gain Requirements \(Irreplaceable Habitat\) Regulations 2024](#)) on the land to which the application relates, that exists on the date of application, (or an earlier date); and

**7.14** 7. plan(s), drawn to an identified scale and showing the direction of North, showing onsite habitat existing on the date of application (or earlier proposed date), including any irreplaceable habitat (if applicable).

**7.15** **An application that does not include all of the above information will not be validated by the Council.**

**7.16** It is already a requirement that an Ecological Impact Assessment (EclA) is submitted with most types of planning applications (the exceptions are when dealing with householder applications or sites with very low value ecological features – in which case a written statement or Preliminary Ecological Appraisal may still be acceptable).

## **Biodiversity Net Gain Report**

**7.17** Except for exempt sites, alongside an Ecological Impact Assessment, a Biodiversity Net Gain report will now be required to clearly show how the site has been assessed using the Defra Statutory Biodiversity Metric. The report should be prepared in accordance with the CIEEM good practice guidance <sup>(17)</sup>. This will demonstrate the baseline value of the site (before development).

**7.18** Clear scaled habitat maps will be required showing precisely where the Biodiversity Unit scores occur on site. There should also be a section in the report demonstrating why the condition score has been chosen – with reference to all scoring criteria from the associated Defra Technical Guidance habitat tables.

**7.19** In any relevant development the objective should always be to deliver at least 10% net gain for biodiversity on-site and therefore it will be essential to appoint an Ecological Consultant at the earliest stage to be involved in the iterative design stage of the layout. The Ecological Consultant should work closely with the Landscape Architect and Urban Designers

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17 [Biodiversity Net Gain: Good Practice Principles for Development, A Practical Guide. | CIEEM](#)



to consider which options of the layout lead to the best possible outcome for achieving net gain for biodiversity on-site. This type of information should be included in the Design & Access Statement (if appropriate) whereby different options of layout are shown with their corresponding different Biodiversity Unit impacts – together with an explanation of why one option has been chosen over another where the layout resulting in the lowest impact on biodiversity has not been taken forward to the proposed layout stage.

**7.20** Evidence is required in the Biodiversity Net Gain Report to demonstrate the Ecological Consultant has been involved in the initial design of the layout in a meaningful way to help achieve a net gain for biodiversity. This should include reference to the Mitigation Hierarchy <sup>(18)</sup> of avoiding damage to sensitive ecological features, minimising impacts on ecological features, and where these first two steps cannot be achieved (with an explanation to justify why not). Finally, an explanation should be provided that demonstrates consideration of what level of compensation will be required either on-site or off-site (or both).

**7.21** It is already a requirement that an Ecological Impact Assessment (EclA) is submitted with most types of planning applications (the exceptions are when dealing with householder applications or sites with very low value ecological features – in which case a written statement or Preliminary Ecological Appraisal may still be acceptable).

**7.22** A Biodiversity Net Gain report will now be required to clearly show how the site has been assessed using the DEFRA Statutory Biodiversity Metric. The report should be prepared in accordance with CIEEM guidance<sup>1</sup>. This will demonstrate the baseline value of the site (before development).

**7.23** Clear scaled habitat maps will be required showing precisely where the Biodiversity Unit scores occur on-site. There should also be a section in the report demonstrating why the condition score has been chosen – with reference to all scoring criteria from the associated Defra Technical Guidance habitat tables.

**7.24** The objective should always be to deliver at least a 10% net gain for biodiversity on-site and therefore it will be essential to appoint an Ecological Consultant at the earliest stage to be involved in the iterative design stage of the site layout. The Ecological Consultant should work closely with the Landscape Architect and Urban Designers to consider which options of the layout lead to the best possible outcome for achieving net gain for biodiversity on-site. This type of information should be included in the Design & Access Statement (if appropriate) whereby different options of layout are shown with their corresponding different biodiversity unit impacts – together with an explanation why one option has been chosen over another where the layout resulting in the lowest impact on biodiversity has not been taken forward to the proposed layout stage.

**7.25** Evidence is required in the Biodiversity Net Gain Report to demonstrate the Ecological Consultant has been involved in the initial design of the layout in a meaningful way to help achieve a net gain for biodiversity. This should include reference to the Mitigation Hierarchy of avoiding damage to sensitive ecological features, minimising impacts on ecological features, and where these first two steps cannot be achieved (with an explanation to justify why not), finally an explanation that demonstrates consideration of what level of compensation will be required either on-site or off-site (or both).

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18 see para.186(a) of the NPPF



**7.26** Under the Environment Act the delivery of Biodiversity net gain is to be secured through a deemed planning condition introduced by paragraph 13 of Schedule 7A of the Town and Country Planning Act. The deemed planning condition requires the submission of a Biodiversity Gain Plan to be submitted and approved by the LPA prior to the commencement of development. The Biodiversity Gain plan sets out how the mandatory target of achieving at least 10% net gain will be achieved and secured. Applicants seeking to discharge the deemed planning condition must use the BNG Plan template available via gov.uk <sup>(19)</sup>.

### **Applications not subject to mandatory Biodiversity Net Gain**

**7.27** If an applicant believes their development is not subject to Biodiversity Net Gain, the applicant must provide a statement as part of their application [KR1] setting out the reasons for this. It is anticipated that the planning application forms will be revised to include a section for the inclusion of this statement.

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19 [Submit a biodiversity gain plan - GOV.UK \(www.gov.uk\)](https://www.gov.uk/submit-a-biodiversity-gain-plan)



## 8 Where Should Biodiversity Net Gain be Delivered?

**8.1** Delivery of Biodiversity Net Gain (BNG) will always be sought on site wherever possible and the mitigation hierarchy should be used to inform an acceptable approach<sup>(20)</sup>. To achieve this, applicants should engage an ecological consultant at the earliest stages of their project to ensure the design process is used to integrate biodiversity net gain on site and to demonstrate how policy and statutory requirements related to Biodiversity Net Gain, particularly how policies SE3 of the LPS, ENV1 and ENV2 of the SADPD, have been addressed.

**8.2** Policy SE3 of the Local Plan Strategy identifies areas of high biodiversity or geodiversity value; Policy ENV1 of the SADPD sets out the extent of the Ecological Network in Cheshire East; and Policy ENV2 establishes how net gain should be achieved.

**8.3** The Biodiversity Gain Hierarchy is different to the mitigation hierarchy, and its effect for the purpose of the statutory framework for biodiversity net gain is to set out a list of priority actions (which does not apply to irreplaceable habitats):

1. 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
2. then, in relation to all on-site 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 off-site gains and finally, the purchase of biodiversity credits.

**8.4** Where Biodiversity Net Gain on site is not possible, applicants should set out the options they have considered, and the reasons why on site BNG is not achievable. Applicants should also set out how they will compensate for any loss or impact on biodiversity through on and off-site improvements. There is no requirement for compensatory habitats to be subject to public access. However public access is encouraged where this can occur without being detrimental to the value of the habitats created.

**8.5** Off-site habitat provision should be prioritised firstly towards those areas identified by the Ecological Network Map as delivering the most benefit for biodiversity (Core Areas, Corridors and Stepping Stones, Restoration areas) any designated Wildlife Corridors shown in neighbourhood plans or the CEC Core Strategy and SADPD and any areas identified in Local Nature Recovery Strategies. Habitat creation in these strategically important sites will deliver a greater benefit for biodiversity and so potentially less habitat creation will be required in order to achieve the same biodiversity benefits.

**8.6** Existing habitats or habitat creation/enhancement proposals within the Cheshire East Ecological Network or the Local Nature Recovery Strategy should be entered into the Biodiversity Metric Calculation as being “Formally identified in a Local Strategy”.

20 (see para.186(1) of the NPPF [National Planning Policy Framework \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/432464/nppf-2019-07.pdf))





**8.7** Habitat creation and enhancement will be prioritised to locations where they deliver the maximum benefits for biodiversity, but delivery is only ever possible where suitable opportunities arise 'on the ground'. Consequently, off-site habitat creation and enhancement may be delivered at any suitable location within Cheshire East (with preference given to those locations listed in the previous paragraph) where a suitable opportunity exists.

**8.8** In most cases this is likely to be some distance from the site of the related development proposals. The DEFRA metric considers the 'spatial risk' associated with off-site BNG delivery. Spatial risk is the relationship between the development site and the off-site provision. The metric penalises proposals where off-site habitat is located at a distance from the development site. Under the metric, off-site delivery within the same Local Authority area is not assigned a penalty and therefore where opportunities exist which are in the same LPA area, these should be explored first. This approach would ensure compliance with the Biodiversity Net Gain Hierarchy.

**8.9** Where a proposed development affects a designated site, or other ecological or geological feature listed in Local Plan Strategy SE.3 compensation measures will only be considered where the proposed development is held to comply with the policy tests detailed in policy SE3 and the mitigation hierarchy described above

**8.10** Compensation, which should only be provided as a last resort where impacts cannot be avoided or mitigated, involves strategies such as the creation of new habitat or the enhancement of existing habitats, which is provided in lieu of habitat lost as a result of development.

**8.11** The translocation of existing habitats, unavoidably lost as part of development proposals, to an alternative location on or off site may be required where the benefits of this are proportionate to the impacts associated with the development. Translocated habitats are anticipated to lose a significant proportion of their biodiversity value through translocation, consequently additional habitat creation must be included within a development scheme to adequately compensate for this loss of biodiversity value when translocation takes place.

## **Aerodrome Safeguarding**

**8.12** It should be noted that an aerodrome safeguarding zone exists around Manchester Airport within which development that would impact on the safety of the airport's operation will be referred to the airport for consultation. BNG delivery in this location should not increase the risk of bird strike hazard within 13km of the airport. The safeguarding zones are mapped on the Council's interactive GIS mapping and available to view online.

**8.13** Similarly, in the south of the borough the civil parishes of Dodcutt cum Wilkesley, Audlem, Buerton and Newhall have areas within a Birdstrike Safeguarding Zone surrounding RAF Tern Hill, some 8.4km south of the boundary of Cheshire East Council. Within these parishes the creation of BNG should not be designed in a way that attracts large and flocking bird species.

**8.14** Where schemes trigger the need to consider aerodrome safeguarding, applicants are encouraged to enter into a dialogue with the airport authorities early in the project planning stage.



## Canals and Rivers

**8.15** The Canals and Rivers Trust manage over 2000 miles of waterways in England and Wales. Where applicants undertake development within the Trust's statutory consultee notified area (especially when it is within 10m of a waterway) the developer is encouraged to undertake pre-application discussions with the Trust to ensure that appropriate BNG requirements and opportunities are discussed. Details on pre-application advice can be found on the Canal and Rivers Trust website.



## 9 Which Applications will BNG Requirements Apply to?

**9.1** The mandatory requirement for developments to achieve minimum 10% net gain under the Environment Act came fully into effect for all relevant planning applications on the 2<sup>nd</sup> April 2024. At the time of writing, the following application types are excluded for the BNG requirement under the legislation:

1. Variations of conditions applications where the original consent was not subject to a BNG requirement
2. Developments that do impact a priority habitat and impact less than 25 square meters of habitat (5m x 5m) or 5 meters of linear habitat
3. Self Build and Custom Build applications as defined in section 1(A1) of the Self-Build and Custom Housebuilding Act 2015 of no more than 9 dwellings, on a site no larger than 0.5 hectares
4. Development undertaken mainly for the purpose of providing the BNG requirement for another development
5. Retrospective applications

**9.2** It should be noted that the requirements of the development plan in Cheshire East remain and therefore, where possible, the Council will seek a positive contribution to the natural environment for developments excluded from the statutory requirements but which are covered by Local Plan Policy.

### **9.3** Irreplaceable Habitats

**9.4** Where irreplaceable habitats are affected by development, the irreplaceable habitats must be entered into the metric but the 10% net gain requirement is not applied to these habitats. Irreplaceable habitats receive strong protection through the NPPF, which is not weakened through the application of BNG and any impacts will be captured and highlighted by the metric as being unacceptable with bespoke compensation being required in agreement with the LPA.

### **Major Development**

**9.5** Major Development is development for housing where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development, major development is that which includes additional floorspace of 1,000m<sup>2</sup> or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

**9.6** All major development is required to provide Biodiversity Net Gain under local plan policy ENV2 'Ecological Implementation' and a 10% net gain under the mandatory scheme unless exempt.

### **Minor Development**

**9.7** Minor development is development at a scale less than the definition for major development. For residential developments, minor development is where:



**9.8** the number of dwellings to be provided is between 1 and 9 (inclusive) with a site area of less than 1 ha.

**9.9** Where the number of dwellings is not known and the site area is less than 0.5 ha.

**9.10** For all other development types, minor development is where the site area is less than 0.5 ha.

## BNG in Minor Development

**9.11** In order to make the 10% minimum BNG requirement easier to implement for minor development, a simplified version of the Biodiversity Metric, called the Small Sites Metric <sup>(21)</sup>, can be used where the following criteria are met:

**9.12** For residential development:

1. there are fewer than 10 residential units on a site area (no more than 9 units) less than 1 hectare; or
2. if the number of residential units is not known, the site area is less than 0.5 hectare

**9.13** For non-residential development:

1. where the floor space to be created is less than 1,000 square; or
2. where the site area is less than 1 hectare

**9.14** However, the SSM cannot be used on such sites where:

1. the application is for the winning and working of minerals or the use of land for mineral working deposits or for waste development
2. habitats not available in the SSM are present
3. priority habitats are within the development site (excluding some hedgerows and arable field margins)
4. European protected species are present on the development site
5. any off-site interventions are required to be input into the metric

**9.15** Development that qualifies as minor development and meets the tests above will be able to utilise and submit the DEFRA Small Sites Metric with their proposals. However, as this metric is unsuitable to calculate off-site losses and gains, where calculation of off-site losses and gains is required, the latest version of the full statutory DEFRA Biodiversity Metric should be used.

## Permitted Development

**9.16** Certain development is granted planning permission by national legislation without the need to submit a planning application and is considered 'permitted development'. To be eligible for such permitted development rights, each 'class' of development specified in the legislation has associated limitations and conditions that must be adhered to.

21 <https://publications.naturalengland.org.uk/publication/6047259574927360>



**9.17** However, legal protection for wildlife still applies regardless of the existence of permitted development rights and so any legally protected animals, plants or habitats that may be affected will need proper consideration for the development to be lawful and there remains a need for the Council to consider the effects that any development relying on permitted development rights might have on biodiversity.

**9.18** Where applicants propose to undertake development under Permitted Development Rights, it is the responsibility of the applicant to satisfy themselves that:

**9.19** Permitted Development Rights are in place

**9.20** The proposal complies with Permitted Development Rights; and

**9.21** No harmful impact on legally protected species and sites arise from the proposal

**9.22** To ensure such issues are dealt with appropriately, applicants are advised to consult the Councils interactive map <sup>(22)</sup> in the first instance to identify if designated natural habitats are present. Applicants are also advised to secure a Lawful Development Certificate from the Council. More information on Lawful Development Certificates, and how to apply can be found on the Councils website <sup>(23)</sup>.

## Prior Approval

**9.23** Prior approval is a condition of permitted development which requires an application to the Local Planning Authority (LPA) for its 'prior approval' to determine that the circumstances of the application are such that permitted development rights are in place and do apply to the site concerned. This allows the LPA to consider the proposals, their likely impacts regarding certain factors (such as transport and highways) and how these may be mitigated.

**9.24** Where natural habitats and wildlife are likely to be present, adequate information must be provided to the Council to support the assessment of the ecological implications of the development, the need for mitigation, and if necessary, the need for a licence from Natural England. Work must not commence on such proposed development until the LPA has issued its determination.

**9.25** Class Q applications are applications for Prior Approval for a change of use or conversion of a building, and any land within its curtilage, from a use as an agricultural building to that of a dwelling. Where the buildings are likely to support bats or other legally protected species, there is a risk that they may be affected by the proposals, and it is therefore essential that the LPA has certainty of impacts prior to determination of any application. Sufficient information, including appropriate survey results, will be needed to support such an application.

<sup>22</sup> <https://maps.cheshireeast.gov.uk/ce/localplan/adoptedpoliciesmap2022>

<sup>23</sup> [https://www.cheshireeast.gov.uk/planning/view\\_a\\_planning\\_application/making\\_a\\_planning\\_application/lawful\\_development/lawful\\_development.aspx](https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/lawful_development/lawful_development.aspx)



## 10 Using the Metric

### Step by step guide

**10.1** Step 1: Map the habitat type(s) within the red-line of the application.

**10.2** Step 2: Assess the baseline condition of each habitat in accordance with the Metric condition assessment criteria.

**10.3** Step 3: Apply the 'avoid, mitigate, compensate' hierarchy to the development proposals to ensure impacts on biodiversity are minimised. This may include redesign and/or relocation of proposals according to survey findings.

**10.4** Step 4: Enter baseline habitat details and anticipated habitat creation and enhancement delivered as part of the development into the biodiversity metric.

**10.5** Step 5: Use the metric calculation results to determine if any further habitat works are required to achieve net gain and whether there are particular requirements for the type of offset needed.

**10.6** Step 6: Decide how you want to provide any additional compensation required to achieve BNG.

**10.7** Under SADPD Policy ENV2, the supporting information at paragraph 4.14 sets out that a net gain in biodiversity must be demonstrated using a biodiversity net gain calculation for all major developments, and developments affecting semi-natural habitats. The Environment Act requires that BNG calculations are to be undertaken for all developments except application types listed in paragraph 6.3. The statutory DEFRA metric must be used for all relevant applications within Cheshire East.

**10.8** An iterative approach to site design should be employed, which considers biodiversity impacts from an early stage and throughout the design process. To ensure the best possible outcomes for biodiversity an ecological consultant should be appointed and where alternative design options are put forward once an application has been submitted, they should be accompanied by a proportionate biodiversity metric calculation.

**10.9** The net gain calculation and proposals for achieving Biodiversity Net Gain must be undertaken in accordance with the following documents and/or any subsequent publications:

1. The Statutory Biodiversity Metric User guide and technical appendices (DEFRA, February 2024) (Natural England).
2. Biodiversity Net Gain, Good Practice Principles for development – A practical guide (2019) CIEEM, IEMA, CIRIA.
3. Field work undertaken to inform the metric calculation must be undertaken at the appropriate time of year.
4. The field survey and metric calculation must include all habitats within the application red-line boundary, regardless of whether these habitats are affected by the proposed development.



**10.10** If a development site has been cleared , after 30th January 2020, with the resulting loss of habitats in advance of a biodiversity metric calculation having been undertaken baseline should be taken as being the habitats present prior to clearance. The biodiversity value of the habitats lost is to be estimated based upon a desk-based assessment and professional judgement. The precautionary principal to be applied when the condition or distinctiveness of the habitats lost is unknown.

## How to complete the Metric Calculation

**10.11** Applicants are advised to seek assistance an ecological consultant when completing the calculation. Only a competent person should use the Statutory Biodiversity Metric, as defined in the User Guide. Competency is aligned with the British Standard 'Process for designing and implementing biodiversity net gain (BS 8683:202)'. Similarly, only a qualified assessor can undertake a river condition assessment.

**10.12** On site habitat is any habitat occurring within the redline of the application.

**10.13** The following survey information and assessment is required to complete the calculation:

1. Area of each habitat and length of each linear feature and water course present within the red line of the application.
2. Habitat type in UK Habs, or translated into UK Habs from another survey type, Habitat condition of each habitat must be assessed in accordance with the metric criteria.
3. Calculate losses of existing habitat to development based upon current planning layout.
4. Enter area anticipated habitat type and target condition for any habitat creation/enhancement or landscaping proposed on site as part of the development. This should be based upon a landscape plan submitted in support of the application.

**10.14** Condition targets should be informed by the metric condition assessment criteria and must be realistic being in mind the location and likely usage of the application plan.

**10.15** The Biodiversity Metric includes a separate section for area based habitats, linear habitats (such as hedgerows and rows of trees) and watercourses. Each of these categories of habitats are assessed separately and a net gain must be achieved separately for each of the habitat categories present on the application site. Where water courses are considered as part of the metric calculations for a Modular River Physical (MoRPh) survey will be required to inform the metric calculation for any development with a watercourse within the application site or within 10 metres of the red line boundary.



## 11 Implementation of Net Gain

**11.1** Major development and those schemes affecting natural/semi natural habitats require a BNG Assessment under Local Plan Policy. All developments, except those covered by the exclusions listed in paragraph 6.3 are now required to deliver BNG under the Environment Act.

**11.2** If the biodiversity metric calculation shows that a proposed development would result in a failure to deliver the required net gain for biodiversity the applicant should:

1. Firstly, review design solutions and re-apply the Mitigation Hierarchy, seeking to avoid any impacts particularly on higher value habitats in accordance with the Biodiversity Gain Hierarchy,
2. Secondly, review habitat creation proposals to ensure the maximum biodiversity value can be delivered on site, but still ensuring that habitat creation proposals are realistic and achievable.

**11.3** Where the above process is followed and concludes that off-site provision is necessary to achieve a net gain, off-site habitat creation for the purposes of delivering Biodiversity net gain and will be secured by either:

1. Option 1 Developers providing their own off-set
2. Option 2 Purchase of off-sets from an independent provider
3. Option 3 A mixture of the above
4. Option 4 Purchasing statutory credits from the government (as a last resort)

### **11.4 Option 1: Developers providing their own Biodiversity Units on land within their control**

**11.5** This option may be used if there is land suitable for habitat creation within Cheshire East which is owned or in the control of the applicant. Habitat creation measures, management and monitoring would be secured by a legal agreement or planning condition to ensure they are delivered in accordance with good practice principles for a period of at least 30 years.

### **11.6 Option 2: Purchase of Biodiversity Units from an independent provider and delivery body/habitat bank**

**11.7** Under this option a contribution from the developer will be paid directly into the independent provider/habitat bank. The provider/habitat bank would then be required to provide suitable assurances of habitat delivery and 30 years monitoring/management to the satisfaction of the LPA. This would again usually be secured by the provider being a signatory to the section 106 agreement or conservation covenant with a responsible body. Biodiversity units provided by a third party provider must be registered and allocated on the national registry maintained by Natural England.





## 12 Incorporation of Additional Biodiversity Features

**12.1** In addition to proposals for habitat creation and enhancement as assessed by the biodiversity metric calculation all development proposals must also include proposals for the incorporation of features to enhance the biodiversity of the resulting development. Such features can include:

1. Features for nesting birds associated with the built environment such as swifts and house sparrows
2. Features for roosting bats
3. Log piles and compost heaps
4. Provision of gaps in boundary fences to allow access by hedgehogs and provision of hedgehog domes. Hedgehog Highways should be marked out on site to ensure they are not blocked up by future landowners.



## 13 Implementation of Net Gain for Development Excluded from Mandatory Net Gain

**13.1** Developments that are excluded from mandatory net gain (under the Environment Act) must be supported by proposals for the incorporation of features for biodiversity enhancement. As listed above, these would be in addition to any features that may be required to address any adverse impacts resulting from the development.

**13.2** Under the Act all BNG works will need to be secured legally for at least 30 years. The legal mechanism could be:

1. A 'standalone' section 106 specific to the application signed by the LPA and both the developer and whoever delivers the habitat works.
2. A 'Habitat Bank' section 106 between the LPA and the habitat delivery body, that secures the 'bulk' provision of BNG under one single s106 agreement, independent of any individual planning application. This would mean that a separate section 106 would not be required for any applications where the developer is purchasing units from the provider.
3. Conservation Covenant with a Responsible Body.
4. A planning condition if BNG is delivered on site. However, a section 106 will also be required to secure on site delivery when appropriate.

### 13.3 Securing BNG

**13.4** As the full details of off-site delivery are not required until discharge of the deemed Biodiversity Gain condition, it may be that section 106 negotiations take place post grant of planning consent but prior to the discharge of the Biodiversity Gain Condition.

**13.5** The Council will only consider entering a 'Habitat Bank' section 106 agreement directly with a Habitat Provider when the Council is satisfied the is able to deliver and maintain the required habitats to an acceptable standard. Further guidance is likely to be forthcoming, but it is likely that Habitat Providers would be need to demonstrate that he following requirements are met:

1. The Habitat Provider must have legal control over the land proposed as a habitat bank for a minimum of 30 years following the completion of any BNG Habitat Creation Works.
2. In order to contribute to Biodiversity Net Gain (BNG) any habitat creation and enhancement works must demonstrate additionality. Therefore, any habitat works required under an existing agreement or requirement are not acceptable as contributing to BNG.
3. There must not be any extant legal obligation, planning permissions, funding agreements, environmental stewardship/ELMS/Landscape recovery/Countryside Stewardship/sustainable farming Incentive agreements, consents, licenses or permissions or other form of obligation that requires the delivery of the habitat creation or management to be undertaken on the land proposed as a habitat bank.
4. The land proposed as a habitat bank must not be designated as a SSSI.
5. The land proposed as a Habitat Bank must not be in Mineral Safeguarding Area or an area of Archaeological Interest.
6. The Habitat Provider must be willing to enter into a section 106 legal agreement requiring the implementation of habitat creation and 30 years monitoring and management in



accordance with a habitat creation method statement and management & monitoring strategy agreed with the Council.

7. Habitat creation works undertaken for BNG must not be sold as Carbon Credits or nutrient neutrality credits, from the land proposed for use as a Habitat Bank.
8. A plan clearly showing the location of the proposed habitat bank must be provided. The plan should indicate north and either road names or place names sufficient to allow the area of land to be readily identified
9. A baseline ecological assessment of the area proposed as a habitat bank been undertaken.
10. The assessment must include a UKHABs survey and condition assessment undertaken in accordance with the statutory Metric guidance. The assessment must be undertaken by a suitable experienced and qualified person and undertaken at the correct time of year.
11. Soil tests will be required for the creation of many habitat types.
12. The assessment must be agreed with the LPA.
13. Habitat Creation and enhancement proposals and a 30 year habitat management and monitoring plan must be prepared and agreed with the LPA.
14. The Habitat Creation proposals must be realistically achievable and informed by the result of the ecological assessment and soil tests.
15. It is recommended that the 30 year management and monitoring this be in the format of the Natural England Habitat Management and Monitoring Plan Template: <sup>(24)</sup>
16. Monitoring must include a condition assessment of the proposed habitat creation/enhancement and a report must be submitted to the LPA in years: 1,2,3,5,10,20,30.
17. The 30 year habitat management plan must to adaptive to the results of the monitoring reports and the habitat provider must commit to the implementation of remedial measures to address any short fallings in the habitat works.
18. The habitat provider must be agreeable to allowing an officer of the Council to inspect habitat creation and enhancement measures once complete. The 30 year management period will only commence when the Council is satisfied that the initial habitat works have been completed satisfactorily.
19. The habitat provider must commit to pay a reasonable monitoring fee to the Council to meets its expenses of monitoring the implementation of the agreed habitat management plan.
20. No irreplaceable habitats must be adversely affected by the proposed BNG works.
21. The habitat provider must be willing to grant access permission to officers of Cheshire East Council to visit the land to undertaker monitoring and compliance checks.

**13.6** The Habitat Provider must commit to entering the BNG works onto the national registry and informing the registry when units are allocated to a development.

**13.7** The habitat provider must demonstrate that the proposed habitat creation measures achieve the best outcome for biodiversity in accordance with the "Biodiversity Net Gain – Good practice principals for development" (CIEEM, Ciria, IEMA).

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24 [Habitat Management and Monitoring Plan Template - JP055 \(naturalengland.org.uk\)](https://www.naturalengland.org.uk)



## 14 Monitoring and Facilitation Fee

**14.1** The Council will apply a monitoring fee in relation to all applications that require a biodiversity net gain, secured through a legal agreement. A monitoring fee must cover costs the LPA incurs related to: staff costs to assess management plans, visit and assess the sites where BNG are to be delivered (staff, time, travel, associated expenses); administration and correspondence; the set-up cost of software systems necessary to record monitoring information, the ongoing costs of software maintenance; and administrative staff costs to maintain and update records.

**14.2** A fee will be charged for each habitat monitoring report submitted, as required under the section 106 agreement associated with the consented development. The purpose of the fees will be to recoup the Council's expenditure in associated with BNG including monitoring the BNG delivery. Fees will be established via the Council's 'Fees and Charges Schedule', and published on the Council's website.

**14.3** Currently, the LPA is not taking on responsibility for delivery of off-site net gain. This may change in the future and if so, a monitoring and delivery fee will be applied based on the costs to the authority of implementing, delivering and monitoring net gain.

**14.4** The Cheshire Nature Recovery Strategy (LNRS) is in the early stages of development, eventually the Council expect to adopt the LNRS and work to the guidance this document sets out. The purpose of the strategy is to ensure that biodiversity net gain can be secured in a strategic way across the region. At this point, Cheshire East Council are not introducing a fee for the production and on-going delivery of the strategy, however, if fees are introduced via the LNRS Cheshire East Council will apply these too.

### Legal Fees

**14.5** Applicants will be required to pay the Council's legal costs as well as their own for drafting and checking legal agreements and will need to provide a solicitor's undertaking to do so. Applicants should also be aware that a solicitor's undertaking and proof of title will be required by Cheshire East Council where applicable.

### Typical Conditions

#### **14.6 Condition for securing on site delivery of BNG:**

**14.7** Prior to the commencement of development, a habitat creation method statement and a 30-year habitat management plan for the retained and newly created habitats on site shall be submitted to and approved in writing by the Local Planning Authority. The habitat creation method statement to detail habitat creation and enhancement measures to ensure the delivery of those habitats specified in the biodiversity metric calculations submitted with the applications.

**14.8** The 30-year habitat management plan shall detail how the newly created, enhanced, and retained habitats will be managed achieve the target condition specified in the Biodiversity Metric Calculations submitted with the application. The habitat management plan to include



a schedule of ecological monitoring and reporting and a mechanism to secure the agreement and implementation of contingency measures if monitoring reveals that habitats on site are failing to achieve their target distinctiveness and/or condition.

**14.9** The development shall be carried out in accordance with the approved details.

**14.10** Reason: To safeguard biodiversity in accordance with ENV2.

**14.11 Condition for submission of features to enhance biodiversity of a consented development:**

**14.12** Prior to the commencement of development, a strategy for the incorporation of features to enhance the biodiversity value of the proposed development is to be submitted to the LPA. The submitted strategy should include proposals for the provision of features for nesting birds including house sparrow and roosting bats, gaps in garden fences to facilitate the movement of hedgehogs, native species planting, brash piles and a wildlife pond. The proposals shall be permanently installed in accordance with approved details.

**14.13** Reason: to safeguard biodiversity in accordance with the NPPF and Local Plan Policy SE3.



## 15 Glossary

Table 15.1

|   |   |
|---|---|
| Ancient Woodland  | Areas of woodland that have persisted since 1600 in England, Wales and Northern Ireland, and 1750 in Scotland.  |
| Biodiversity Net Gain                                       | An approach to development which makes sure that habitats for wildlife are left in a measurably better state than they were before the development  |
| CIEEM   | Chartered Institute of Ecology and Environmental Management   |
| Core Areas, Corridors, Stepping Stone and Restoration Sites | Components of the Ecological Network within Cheshire East   |
| Deemed condition  | A deemed condition will prevent commencement of the planning permission until a BNG plan has been approved by the local planning authority  |
| Development   | Defined by the Town and Country Planning Act 1990 as “the carrying out of building, engineering, mining or other operation in, on, over or under land, or the making of any material change of use of any building or other land.” Most forms of development require planning permission, unless expressly granted planning permission via a development order. |
| Development Plan  | This includes adopted Local Plans and Neighbourhood Plans and is defined in Section 38 of the Planning and Compulsory Planning Act 2004   |
| Ecological Network  | Areas of land of significant value to nature  |
| Geographic Information Systems                              | Electronic mapping software   |
| Green Infrastructure  | A network of multi-functional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities.  |
| Habitats Regulations Assessment                             | The process that competent authorities must undertake to consider whether a proposed development plan or programme is likely to have significant effects on a European site designated for its nature conservation interest.  |
| Habitat Bank  | A parcel of land that can be used to create a significant uplift in biodiversity  |
| Habitat Provider  | A third party land owner managing land for the purposes of selling BNG units  |
| Habitat Site  | An area of land specially designated for its value to nature  |
| Local Nature Recovery Strategy                              | Local Nature Recovery Strategies map nature recovery actions. They target actions in locations where they are most needed and where they provide the best environmental outcomes. The strategies will help to join up national efforts to reverse the decline of biodiversity.  |
| Local Plan  | The plan for the development of the local area, drawn up by the local planning authority in consultation with the community.  |



|   |  |
|---|--|
|   | <p>In law this is described as the Development Plan Documents adopted under the Planning and Compulsory Purchase Act 2004.</p> <p>Current core strategies or other planning policies, which under the regulations would be considered to be Development Plan Documents, form part of the Local Plan. This term includes old policies which have been saved under the 2004 Act.</p> |
| Local Plan Strategy                         | Development Plan Document setting out the spatial vision and strategic objectives of the planning framework for an area, having regard to the Community Strategy.  |
| Local Planning Authority                    | The local authority or council that is empowered by law to exercise planning functions. In the case of this SPD, the Local Planning Authority is Cheshire East Council.  |
| Local Wildlife Site                         | An exceptional area of land valuable to wildlife and identified in the local plan  |
| Major Application                           | Larger scale development – housing of more than 10 units/0.5 hectares; retail, community, recreation or cultural development of more that 1000 square metres   |
|   | Business, storage or distribution of 5000 square metres or above/1 hectare   |
|   | Mineral extraction   |
|   | Waste development  |
| Material consideration                      | Matters that are relevant to a decision  |
| Minor Application                           | Development of less that 1000 square metres/less than one hectare.   |
|   | Change of use less than 1000 square metres   |
|   | Gypsy and traveller sites of less than 9 pitches   |
| National Described Space Standards          | The nationally described space standard is not a building regulation and remains solely within the planning system as a new form of technical planning standard if supported by a local plan policy. It deals with internal space standards within new dwellings and is suitable for application across all tenures  |
| Natural / semi natural habitat              | Ecological assemblages that have been substantially modified in their composition, balance or function by human activities   |
| Neighbourhood Plan                          | A plan prepared by a parish council or neighbourhood forum for a particular neighbourhood area (made under the Planning & Compulsory Purchase Act 2004).   |
| Priority Species and Habitats Planning area | List of habitats and species of principal importance in England School(s) designated to an area for the purposes of pupil place planning.  |
| Red-Line Boundary                           | The total area of land to which a planning permission will apply   |



|  |   |
|--|---|
| Site Allocations and Development Policies Document | Part of the Local Plan which will contain land allocations and detailed policies and proposals to deliver and guide the future use of that land.  |
| Reserved Matters                                   | Outstanding issues to be determined when an outline application is considered   |
| Supplementary Planning Document                    | A Local Development Document that may cover a range of issues, thematic or site specific, and provides further detail of policies and proposals in a 'parent' Development Plan Documents.   |
| Sustainability Appraisal                           | An appraisal of the economic, environmental, and social effects of a plan from the outset of the preparation process to allow decisions to be made that accord with sustainable development.  |
| Strategic Environmental Appraisal                  | SEA is a process and a tool for evaluating the effects of proposed policies, plans and programmes on natural resources, social, cultural and economic conditions and the institutional environment in which decisions are made.   |
| Validation   | The process to ensure planning applications are submitted with the correct supporting information and in the correct format   |
| Viability Study                                    | A report, including a financial appraisal, to establish the profit or loss arising from a proposed development. It will usually provide an analysis of both the figures inputted and output results together with other matters of relevance. An assessment will normally provide a judgement as to the profitability, or loss, of a development. |





## 16 Appendices

**16.1** The appendices listed below are submitted for consultation alongside the SPD and are viewable within the PDF version of the SPD and individually on our consultation portal: <https://cheshireeast-consult.objective.co.uk/kse/folder/29414>

**16.2** Appendix 1: Table of Local Requirements for Protected Species

Table 16.1

| Local Requirements for Protected Species. If a planning application involves any of the development proposals shown in the Table below, the relevant protected species survey and impact assessment must be submitted in support of a planning application. | Bats | Barn Owls | Breeding Birds | Great Crested Newt | Otters | Domouse | Kingfisher | Water Vole | Badgers | Reptiles | White Clawed Crayfish | Lesser Silver Water Beetle |
|---|------|-----------|----------------|--------------------|--------|---------|------------|------------|---------|----------|-----------------------|----------------------------|
| Proposed development which includes the modification conversion, demolition or removal of buildings and structures (especially roof voids) involving the following:   | x    |           |                |                    |        |         |            |            |         |          |                       |                            |
| all agricultural buildings (e.g. farmhouses and barns) particularly of traditional brick or stone construction and/or with exposed wooden beams greater than 20cm thick;  | x    | x         |                |                    |        |         |            |            |         |          |                       |                            |
| all buildings with features suitable for bats (i.e. accessible soffit boxes, weather boarding and/or hanging tiles) that are within 200m of woodland and/or water;  | x    |           |                |                    |        |         |            |            |         |          |                       |                            |
| pre-1960 detached buildings and structures within 200m of woodland and/or water;  | x    |           |                |                    |        |         |            |            |         |          |                       |                            |
| pre-1914 buildings within 400m of woodland and/or water;  | x    |           |                |                    |        |         |            |            |         |          |                       |                            |
| pre-1914 buildings with gable ends or slate roofs, regardless of location;  | x    |           |                |                    |        |         |            |            |         |          |                       |                            |





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| all tunnels, mines, kilns, ice-houses, adits, military fortifications, air raid shelters, cellars and similar underground ducts and structures;  | x |   |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| all bridge structures, aqueducts and viaducts (especially over water and wet ground).  | x |   |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Proposals involving lighting of churches and listed buildings or flood lighting of green space within 50m of woodland, water, field hedgerows or lines of trees with obvious connectivity to woodland or water | x | x |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Proposals affecting woodland, or field hedgerows and/or lines of trees with obvious connectivity to woodland or water bodies.  | x | x |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Proposed tree work (felling or lopping) and/or development affecting:  |   |   |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| old and veteran trees that are older than 100 years;   |   | x |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| trees with obvious holes, cracks or cavities,  | x | x |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| trees with a girth greater than 1m at chest height;  |   | x |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Proposals affecting gravel pits or quarries and natural cliff faces and rock outcrops with crevices, caves or swallets.  | x | x |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Major proposals within 500m of a pond (or similar water body)* (Note: A major proposal is one that is more than 10 dwellings or more than 0.5 hectares or  |   |   |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

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| for non-residential development is more than 1000m <sup>2</sup> floor area or more than 1 hectare)                                 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Minor proposals within 100m of a pond (or similar water body) *  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Proposals directly affecting or within 10m of a pond (or similar water body) *   |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Proposals affecting the floodplain of a river or within 10m of rivers, ditches, streams, canals, lakes, or other aquatic habitats. |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Proposals affecting 'derelict' land (brownfield sites), allotments and railway land.   |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Proposed development affecting any buildings, structures, feature or locations where protected species are known to be present **. |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

\* The Impact of development on great crested newts is highly variable and site specific, hence these distances are for guidance only. For large developments it may sometimes only be necessary to survey ponds 250m away. Conversely, minor developments may sometimes need to consider ponds further than 100m. An impact assessment in the absence of a full survey may be appropriate in some circumstances.

\*\* Confirmed as present by either a data search (for instance via the local environmental records centre) or as notified to the developer by the local planning authority, and/or by Natural England, the Environment Agency or other nature conservation organisation. Note: a data search not recording any protected species will not in itself be sufficient evidence that such species are not present.





**Cheshire East Council**

Email: [planningpolicy@cheshireeast.gov.uk](mailto:planningpolicy@cheshireeast.gov.uk)

[www.cheshireeast.gov.uk/localplan](http://www.cheshireeast.gov.uk/localplan)

Tel: 01270 685893