

Biodiversity Net Gain: what the 10% requirement actually means

Xlinks' recent letter to residents states that its plans for the Devon data campus “would be required to deliver at least a 10% biodiversity net gain.” This is accurate: it is the legal minimum for almost every major development in England. What the letter does not explain is where that 10% can be delivered, and that it does not have to be on this land, or even nearby. This sheet sets out the facts.

1. What is Biodiversity Net Gain (BNG)?

- Introduced by the Environment Act 2021 and mandatory for major developments under Schedule 7A of the Town and Country Planning Act 1990 since February 2024.
- Requires a development to increase the biodiversity value of the site by at least 10%, measured using the statutory biodiversity metric, compared with its value before development.
- A Biodiversity Gain Plan must be approved by the council before work can start, and the gain must be maintained for a minimum of 30 years.

2. Where can the 10% actually be delivered?

The law sets out a hierarchy of preference for where habitat gains are created. It is not a requirement that any of it happens on the application site itself.

- On-site: habitat created or improved within the development's own boundary.
- Off-site: if a developer cannot, or chooses not to, provide enough on-site, it can buy biodiversity units from habitat created elsewhere, including from commercial habitat banks that may be many miles away, in a different part of Devon, or in a different county altogether.
- Statutory credits: as a last resort, a developer can pay the government directly instead of providing any habitat at all.

Key point: a statement that a scheme “would be required to deliver at least a 10% biodiversity net gain” describes a national minimum legal standard. It does not confirm that the gain will be visible on, or near, the application site.

3. Does it matter how far away the habitat is?

- The statutory metric applies a ‘spatial risk multiplier’: habitat delivered further away counts for less, so a developer must buy more units to make up the shortfall. This makes distant delivery less attractive, but it remains lawful.
- Off-site habitat does not have to benefit the wildlife, communities or habitats affected by the original development. A gain recorded on paper for this development could, in practice, be delivered somewhere entirely separate from Huntshaw, the River Torridge catchment, or the local hedgerow network.

4. Some habitats cannot be ‘offset’ at all

Irreplaceable habitats, such as ancient semi-natural woodland, cannot be included in the BNG calculation and cannot be compensated for through the standard 10% metric at all. Huntshaw Wood, immediately adjacent to both application sites, is recorded ancient semi-natural woodland. Loss of this kind of habitat can only be permitted in ‘wholly exceptional’ circumstances with a bespoke compensation strategy, under NPPF paragraph 193(c), not through the general biodiversity net gain requirement.

5. What residents can ask for

Anyone wanting to understand the real impact on local wildlife should look for the developer's published Biodiversity Gain Plan and Ecological Impact Assessment, and check:

- How much of the 10% gain is proposed on-site, and how much off-site.
- Where any off-site habitat is located, and how far it is from Huntshaw, Great Torrington and Weare Giffard.
- Whether Huntshaw Wood has been correctly excluded from the biodiversity metric as irreplaceable habitat, rather than treated as something that can be offset.

Sources: Environment Act 2021; Schedule 7A, Town and Country Planning Act 1990; National Planning Policy Framework (December 2024), paragraphs 187, 192 and 193(c); Natural England statutory biodiversity metric guidance.

Produced by the Devon Data Centre & BESS Action Group.