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SHORT GUIDE TO BNG POWERS FOR LPAS

The Lifescape Project has important news to share on the status of biodiversity net gain (BNG) within the planning system for eligible planning applications.

Following our engagement with the Ministry of Housing, Communities and Local Government (the Government) on the terms of Policies N1(2) and N2(3) of the National Planning Policy Framework, August 2026 (NPPF), the Government has made important clarifications over the limitations of the NPPF in its letter to Lifescape dated 14 October 2026. **The clear message from Government is that LPAs can continue to conclude local plans with BNG policies aiming for more than 10% BNG and make planning decisions on that basis, where local circumstances justify.**

The Government's letter is itself a **material consideration** for planning purposes, and will in due course be supported by an Opinion from Leading Counsel, commissioned by Lifescape. Both documents can be relied on by LPAs to justify and defend local policies and planning decisions. While the NPPF is an important material consideration in planning decision-making, it does not have greater weight than other material considerations and can be departed from.

In its letter to Lifescape, the Government has confirmed that:

- ✓ policies N1(2) and N2(3) of the NNPF do not and cannot as a matter of law frustrate or amend the statutory framework which permits greater than 10% BNG
- ✓ it is a matter for the decision-maker to decide how much weight to give to a development plan policy requiring BNG above 10%
- ✓ local plans which are contrary to the NPPF can be given more weight than the NPPF in planning decisions where the inspector has concluded that evidence and local circumstances justify such
- ✓ the NPPF does not alter local authorities' biodiversity duties or obligations under s. 40 of the Natural Environment and Rural Communities Act 2006 and the Environment (Local Nature Recovery Strategies) (Procedure) Regulations 2023
- ✓ Section 38(6) of the of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) applies in relation to all extant development plan policies which require BNG above 10%. The weight that LPAs give to such policies is a matter for them notwithstanding the directive language of Policy N2(3)
- ✓ Policy N1(2) of the NPPF cannot counter or frustrate the effective operation of sections 19 and 19(1A) of the PCPA 2004, which require LPAs to prepare development plan documents to include policies contributing to the mitigation and adaptation of climate change

The Lifescape Project has more information on these matters available on its website (https://lifescapeproject.org/). For additional information or discussion on a pro bono basis, please contact Annie Wills on annie.wills@lifescapeproject.org.