

MEDIA RELEASE

The Lifescape Project challenges Government over new biodiversity net gain restrictions.

Environmental charity issues pre-action letter over changes to the National Planning Policy Framework that will harm achievement of locally set nature restoration targets and cause inequality in access to green spaces

21 September 2026

The Lifescape Project has issued a formal pre-action protocol letter to the Secretary of State for Housing, Communities and Local Government concerning new provisions in the National Planning Policy Framework (“NPPF”) which seek to restrict the circumstances in which local planning authorities can require Biodiversity Net Gain (“BNG”) above the statutory 10% minimum. The letter has also been sent to the 29 local planning authorities who have already set (or have plans to set) their targets higher than the minimum and the 47 other Responsible Bodies on the Defra register, any of whom may intervene in the legal case as it develops.

The 2021 Environment Act, which is a popular policy with cross party support, brought in a statutory BNG regime establishing a requirement for qualifying developments to deliver at least 10% biodiversity net gain. It does not establish 10% as a maximum. BNG is one of the Westminster government’s flagship policies for achievement of its 30 by 30 and wider nature recovery targets.

The revised NPPF, published on 17 August 2026, introduced new policies N1 and N2 which, on their face, restrict the ability of local planning authorities (LPAs) to adopt and give effect to such BNG requirements in excess of the 10% statutory minimum as they may decide are appropriate for their area.

The effects of this are wide-ranging.

The policies, particularly when read alongside other recent BNG exemptions, will have a significant negative impact on the market for BNG credits, the stability of which rests on its statutory underpinning, as repeatedly acknowledged by the Government. Further, as recently opined by the Office of Environmental Protection, which holds the Government to account for its environmental commitments, BNG has not had sufficient time to embed itself before such extensive changes are made, and the changes have not been properly impact assessed in the round.

A significant number of local authorities have already adopted, or are developing, policies requiring BNG above 10% where local evidence and environmental priorities justify a more ambitious approach. These reflect their powers to conclude local plans tailored to their local circumstances and needs as assessed by them. The change is likely to have a material

impact on local authorities' ability to meet their own locally determined targets through Local Nature Recovery Strategies, which are often supported through BNG. This means less nature recovery in areas that need and want it. More broadly, this will impact the likelihood of achieving national nature recovery objectives set out in the Government's recently revised Environmental Improvement Plan, which the Office for Environmental Protection has already indicated the Government is largely off track to meet.

Beyond nature targets, the equalities impact of this move is significant, with the Government's own equalities impact assessment acknowledging the changes have the potential to reduce opportunities to target enhanced provision in areas with the greatest need, including communities with protected characteristics which already experience poorer access to nature.

Lifescape's concern is that the revised NPPF risks turning the statutory minimum into a practical ceiling and undermining the ability of locally prepared development plans to respond to local community biodiversity needs.

The challenge also raises a wider constitutional and public law issue: whether national planning policy can be used to materially alter the practical operation of local statutory planning powers without Parliament changing the underlying legislation.

Lifescape's CEO, Adam Eagle, said:

"This policy move is regressive on so many levels. It undermines the Government's localism and devolution agendas by bulldozing democratically made local plans which respond to local nature and community needs. Worse still, the Government's own impact assessment acknowledges that disadvantaged communities will be disproportionately hit by these policies."

"On an economic level, the policies strike a blow to confidence which is critical to the nascent biodiversity net gain market, after so much effort and investment from landowners, farmers, habitat-bank operators and investors. The changes simply don't make sense for a Government ostensibly committed to meeting its international biodiversity and nature recovery targets."

"For these reasons, we have written to the Government stating that, if they do not reverse course, we will be bringing a judicial review of the changes to the NPPF."

Nola Donachie, Lifescape's Managing Lawyer – Litigation, said:

"Our challenge seeks to protect existing environmental commitments and devolved responsibilities. The Environment Act set 10% as the minimum level of BNG to be achieved in return for development consent. Devolved planning powers, however, enabled local

communities to aim for higher levels of BNG where local circumstances justified such. The NPPF seeks to undermine this local discretion by restricting the ability of local authorities to adopt and give effect to BNG requirements exceeding 10%. We have invited the Minister to withdraw the recent changes but intend to challenge the lawfulness of the relevant policies by judicial review if necessary.”

Councillor Ian Thorn, Leader of Wiltshire Country Council, said:

“Wiltshire Council is committed to BNG. We have already successfully delivered the Wiltshire Local Nature Recovery Strategy and significant biodiversity enhancements. We are keen to bring in ambitious BNG delivery plans as part of our Local Plan because we want to provide communities with even more access to high-quality nature. Since becoming PM, Andy Burnham has written to say that devolving power to local areas is a priority. However, this planning policy change suggests that the Government wants to weaken our commitment to BNG through centralised directives.”

Matt Williams, Founder and Developer at ‘abitat’ a BNG Market Intelligence Platform, said:

“BNG is an example of a new market forming. It's a world-first; a rare and precious opportunity to use private capital to drive real change in our environment. New markets need time to settle into a balance, where supply and demand thrive on certainty and abundance. The BNG market as a whole is currently suffering from a lack of transparent, consistent demand. Aside from the clear issues around local determinism, a blanket reduction of that demand by removing the ability of an LPA to decide its own standards will affect the entire market in wholly negative ways. It is possible to improve our environment, lead on the world stage, and champion local initiatives all at the same time. Removing the LPA's ability to set their own standards undermines all of those goals at once.”

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Notes to editors

About the Lifescape Project

The Lifescape Project is a UK registered charity whose mission is the creation, restoration and long-term protection of wild landscapes. Its work is directly concerned with the legal and economic infrastructure that supports BNG and wider nature markets. Lifescape works across science, technology, law, economics and communications to deliver holistic approaches to landscape-scale nature restoration.

Since October 2024, Lifescape has been a designated responsible body for conservation covenants under Part 7 of the Environment Act 2021. The effective operation of the BNG regime and associated nature markets is a matter of direct importance to Lifescape. The charity's conservation covenant work depends upon the continued viability of habitat-bank projects, confidence in the biodiversity-unit market, and the ability of local planning authorities to secure biodiversity gains through the planning system.

About Biodiversity Net Gain

Biodiversity Net Gain is an approach to development which requires biodiversity to be left in a measurably better state than before development takes place.

The statutory regime introduced under the Environment Act 2021 generally requires qualifying development to achieve at least 10% BNG.

Where sufficient biodiversity gain cannot be achieved on the development site itself, developers may obtain biodiversity units from off-site habitat projects.

These projects can involve long-term commitments to create, enhance and manage habitat. The Government and its agencies have repeatedly recognised the importance of the statutory underpinning of BNG as critical to the stimulus and ongoing development of the market.

Legal Matters

Lifescape is concerned that the changes to the NPPF go significantly beyond legitimate policy making, by unlawfully:

- i) frustrating the effective operation of numerous statutes, including both important environmental and localism related regimes; alternatively unlawfully attempting to amend the statutory framework by planning policy;
- ii) failing to give due regard to the Environmental Principles Policy Statement,
- iii) failing to take into account the adverse economic impact of the policies, which was a material consideration in making them;

iv) failing to take account of the disproportionate effect of the revisions on disadvantaged communities and their access to nature; and

v) basing the policy on an irrational justification.

Devolution and Equalities issues

Many statutory provisions aim at devolving decisions on planning and environmental protection to the local level, in recognition of the fact that local authorities, communities and other interested parties are best placed to make informed decisions regarding environmental protection and restoration. On its face, the NPPF seeks to curtail local discretion over planning issues, and in doing so undermines local democracy. It is widely recognised, including by the Government, that access to good quality green spaces is worse in disadvantaged communities. In undermining local authority ambition to exceed the 10% minimum BNG to be achieved by development, the Public Sector Equality Duty Assessment on changes to the NPPF recognised the risk that some groups with protected characteristics already have less access to nature than others, and that these changes will impact them disproportionately.

Media enquiries

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