Consultation

Leverhulme Centre
for Nature Recovery

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Response to a Defra consultation: Biodiversity Net Gain - considering a targeted exemption for residential brownfield development

This is the Leverhulme Centre for Nature Recovery's response to the Department of Environment, Food & Rural Affairs consultation on an exemption from BNG for residential brownfield development, issued in April 2026.

Section 1: Definition of brownfield residential development

Question 6 Do you support the proposed regulatory definition of residential brownfield development?

No. We disagree for three reasons.

1. The purpose of the new definition of brownfield land is to exempt much of it from Biodiversity Net Gain (BNG) requirements, and this would undermine our statutory nature recovery obligations. The new definition is not necessary for directing development towards existing urban areas, as the National Planning Policy Framework (NPPF) does this using the terminology "within settlements" or "outside settlements", or uses the term "previously developed land". Setting a new definition of brownfield land in order to provide a new exemption from BNG requirements would undermine our statutory nature recovery obligations, as shown in the evidence presented in the consultation.

Photo by Sandy Millar at unsplash.com

- 80% of all planning applications are already exempt from BNG, including via the 0.1 ha exemption and the self-declared “de minimis” exemption. The new 0.2 ha exemption would exempt 51% of the remaining 20% of developments, bringing the total exemptions to 90% of all planning applications, and the proposed brownfield exemption would exempt a further 10-15% of those remaining developments, bringing total exemptions to 92-93% of all developments, together with significant loss of BNG units.
- This risks undermining confidence in the emerging nature market, which is a critical tool for delivering nature recovery via BNG and other mechanisms.
- It will make it much more difficult or even impossible to achieve our statutory nature recovery obligations and other commitments including:
    - The general biodiversity objective under Section 40 of the Natural Environment and Rural Communities Act 2006 as amended by the Environment Act 2021 to conserve and enhance biodiversity in England.
    - The Environment Act 2021, Schedule 7A, which states that “Every planning permission granted for the development of land in England” requires a biodiversity gain plan to be submitted and approved. While there are provisions for exemptions to be applied, it clearly contravenes the spirit of the act for these exemptions to apply to over 92% of planning applications.
    - The stated aim of the government to leave nature in a better state than before development.
    - The UK’s international commitment under the Kunming-Montreal Global Biodiversity Framework (GBF) and the statutory target under the Environment Act 2021 to halt and reverse the decline in species abundance by 2030.

2. The percentage of the site covered by previous structures is not an appropriate measure. The reason for directing development towards land within settlements or previously developed land is:

- to locate development close to existing facilities, transport links and infrastructure, which is covered by the criteria of “within settlements” or “close to stations”, and
- to avoid building on greenfield sites which might have high amenity and biodiversity value.

These are both good criteria, but the consultation itself recognises that previously developed land can, over time, evolve into highly biodiverse habitats that support many rare species. Indeed, it is the previous development itself that often underpins the value of these sites. The mix of old buildings, piles of rubble, wildflowers, scrub, young trees and puddles that often develops on these sites provide abundant nectar, berries, and nesting and hibernation sites to support a vast range of invertebrates, reptiles, bats, birds and small mammals, especially as the hard materials often absorb and retain heat, providing a favourable microclimate for reptiles and butterflies.

The Building Safety Levy regulations definition based on percentage coverage was not developed for the purpose of assessing the ecological value of a site and cannot meaningfully be applied in this context. Instead, to determine whether the site is suitable for development

there should be a requirement to carry out an ecological survey (as part of a BNG assessment) and assess its value to the local community.

3. The proposed definition would allow developers to define large areas of non-developed land as 'brownfield'. Setting the definition to "at least 75% of the land within the planning application boundary is previously developed land" would allow developers to include large areas of any type of land within their boundaries, regardless of its biodiversity or amenity value.

Question 7 Do you agree that the proportion of the land within the planning application boundary should be ≥75% Previously Developed Land (PDL) to qualify?

No. Other PDL? Please specify: 100%

We do not agree that a new definition should be created or used, as explained in Q6. However, if a new definition is created, the threshold should be 100%. Otherwise, developers would be able to draw boundaries that include large areas of any type of habitat, regardless of its biodiversity or amenity value. This could include land adjacent to the previously developed site (but not "within the curtilage" in legal terms) that could have high biodiversity value (e.g. woodland, wetlands, meadows or scrub) or high amenity value to local people.

Question 8 To what extent do you agree that the proposed regulatory definition aligns with current interpretations of 'Previously Developed Land' under the NPPF glossary for planning decisions?

Strongly disagree

The current definition allows land "within the curtilage" of the previous buildings or hardstanding to be included. The new definition is even more lax, as any land could be included under the 25% allowance, and there is a risk that this could include land adjacent to the previously developed site that could have high biodiversity value (e.g. woodland, wetlands, meadows or scrub) or high amenity value to local people.

Question 9 Overall, do you consider the proposed definition and evidential requirements to be proportionate and workable for applicants and local planning authorities?

Strongly disagree

Applicants

While the proposed definition is, in theory, less subjective (by setting an exact area percentage and previous development date), it is also more lax, by opening up the potential for developers to draw the red line boundary of the site to include adjacent green space which could be of high biodiversity or ecological value. It could also be hard to establish the exact footprint of

previous structures if these are not clear on the ground or from previous records. These factors alone could lead to planning delays that exceed the cost of a basic ecological survey to inform BNG, which we consider would be more appropriate.

Local planning authority

While the proposed definition is, in theory, less subjective (by setting an exact area percentage and previous development date), it is also more lax, by opening up the potential for developers to try to game the system by drawing the red line boundary of the site to include adjacent green space. It could also be hard to establish the exact footprint of previous structures if these are not clear on the ground or from previous records. These factors alone could lead to planning delays that exceed the cost of a basic ecological survey to inform BNG, which we consider would be more appropriate.

More importantly, this consultation appears to take a narrow view of what is proportionate, referring only to immediate costs for applicants and local authorities. A broader view is needed, to consider how this would support or contradict the multiple, statutory duties on local authorities and have wider impacts on nature and communities.

Local authorities have a statutory duty to conserve and enhance biodiversity under Section 40 of the Natural Environment and Rural Communities Act 2006 as amended by the Environment Act 2021. There is also an expectation in the NPPF (as stated in the consultation document) that they will deliver green infrastructure as part of new developments, in line with the Green Infrastructure (GI) Principles and Standards. This proposed new definition and the associated exemption of all brownfield sites from the requirement to protect existing biodiversity and build in new green spaces would conflict with those objectives, undermining the work being undertaken elsewhere in the local authority under the Local Nature Recovery Strategy (LNRS), climate change adaptation and mitigation strategies or green infrastructure strategies. This would cause confusion, conflict, and waste public money and resources. Instead, it would be preferable to see a joined-up approach that takes full account of the value of urban green spaces for nature, health and climate resilience.

The consultation document itself provides a long list of alternative policies for delivering green space on developments, including via the GI Framework and LNRSs, but fails to note that, unlike BNG, none of these are mandatory. When taken in conjunction with the proposed changes to the NPPF, including the high housing delivery targets and presumption in favour or urban development, the net result is likely to be increasing pressure to develop all brownfield sites, regardless of their biodiversity value (see https://naturerecovery.ox.ac.uk/outputs/briefing-aligning-planning-policies-for-nature/).

In addition, any assessment of a development site needs to consider the costs to local communities, in terms of lost access to nature (health and well-being, recreation), and increased vulnerability to climate impacts (floods and overheating) that all arise from lost opportunities to incorporate green space in developments. The modelling done for the consultation clearly shows that even with very conservative estimates of the monetary value of biodiversity, the costs far outweigh the benefits of this proposed exemption, even without taking into account the climate impacts associated with loss of green space.

Section 2: Considering a targeted BNG exemption

Question 10 What impact do you think the introduction of a mandatory BNG requirement has had on brownfield residential schemes of less than 2.5 hectares?

Positive impact - increased onsite habitat provision/provision of green infrastructure, increased benefits to local communities.

The rationale for applying BNG on brownfield sites under 2.5 hectares is the same as for all BNG: to encourage developers to retain features of high biodiversity value, such as existing trees and hedgerows, to compensate for any damage they cause, and to build new green features into their development. This is a fair requirement for all developments of any size – even the smallest development can usually squeeze in features such as some small trees or shrubs, a bioswale, green roof or flower-rich verges, or alternatively pay for offsite compensation if this is not possible.

We have not seen any evidence to suggest that additional costs associated with BNG are significant compared to the costs of the whole development, or that BNG is affecting development viability. For the many brownfield sites that have very low baseline biodiversity value and which are well suited to development, BNG requirements will be minimal but are still important to enable high quality new development that supports urban nature. Indeed, the requirement for BNG can encourage developers to consult with ecologists and start to plan incorporation of green space earlier in the project, resulting in better design and place-making, quicker planning approval, and delivering higher quality climate-resilient homes and green spaces with benefits for local people. This is in line with the new Land Use Framework for England aim for green infrastructure to be strategically planned at the heart of any new development.

If the BNG requirement is sufficient to prevent the development taking place, this will usually be because the existing habitat has very high biodiversity value, meaning the development should not have been granted planning permission in the first place. In fact, interviews with developers suggest that BNG is working as intended, by encouraging them to choose less damaging locations for development (https://www.wcl.org.uk/research-shows-that-bng-is-not-a-block-to-planning-applications-being-approved.asp).

Rather than exempting sites under a certain size from BNG, it would make more sense to provide additional resources to support developers with assessing their sites and applying the biodiversity metric.

Question 11 Do you support a targeted area-based exemption for residential brownfield development?

No

We oppose this exemption for four reasons.

1. It risks undermining the private nature market. It would increase the proportion of planning decisions which are exempt from BNG to 92-93%, when applied in conjunction with existing

and planned exemptions including the 0.2 ha exemption and the self-declared “de minimis” exemption. This is expected to further undermine confidence in the emerging nature market, perhaps leading to collapse of the whole market, which was originally intended as a key tool for delivering nature recovery.

2. Many brownfield sites support important species, so this exemption could undermine our statutory nature recovery obligations and commitments including:

- The general biodiversity objective under Section 40 of the Natural Environment and Rural Communities Act 2006 as amended by the Environment Act 2021 to conserve and enhance biodiversity in England, generally interpreted as a requirement for ‘no net loss’ from development.
- The Environment Act 2021, Schedule 7A, which states that “Every planning permission granted for the development of land in England” requires a biodiversity gain plan to be submitted and approved. While there are provisions for exemptions to be applied, it clearly contravenes the spirit of the act for these exemptions to apply to over 92% of planning applications.
- The stated aim of the government to leave nature in a better state than before development.
- The UK’s international commitment under the Kunming-Montreal Global Biodiversity Framework (GBF) and the statutory target under the Environment Act 2021 to halt and reverse the decline in species abundance by 2030.

3. It would deprive local communities of access to green space, opportunities to interact with nature, and climate resilience. Already, Environmental Improvement Plan (EIP) figures show that 33% of people lack access to a 10ha green space within a 15-minute walk (https://www.theoep.org.uk/report/progress-improving-natural-environment-england-20242025). The Green Gap report shows that over 7.4 million people in England live in areas completely lacking access to nearby biodiversity, and in the 20% most deprived areas almost a third of residents have very little access to nature – nearly three times more than in the most affluent communities (https://www.wcl.org.uk/docs/green_gap_report.pdf).

This conflicts with government commitments to “opportunities for all” and reducing burdens on the NHS. There is abundant evidence of the importance of access to nature-rich green space for mental and physical health, local economies, reducing crime, increasing social cohesion, and protecting from heat, floods and air pollution. See https://www.agile-initiative.ox.ac.uk/wp-content/uploads/2023/03/LevelUp_Policy_Brief_v5.pdf.

4. Costs outweigh benefits. The modelling done for the consultation shows that even with conservative estimates of the monetary value of biodiversity, the costs to biodiversity far outweigh the benefits of this proposed exemption, even without taking into account the climate resilience and health impacts associated with loss of green space.

The estimate of biodiversity value is based on Willingness to Pay of £0.07 per 100 hectares per household for a “one step change in wild species presence for semi-natural grassland”, noting that “Habitat delivered under BNG is expected to be more biodiverse and valuable on average than semi-natural grassland, so the actual biodiversity benefits foregone may be higher than this estimate.”

This measure only assesses the cost of "one step change" in biodiversity, i.e. from minimal to low, low to moderate, or moderate to full abundance and diversity of wild species. In contrast, obliteration of a high-biodiversity brownfield site is likely to go from full or moderate to minimal presence of wild species, i.e. two or three step changes.

It is also not clear how many households were judged to be affected by this. The original study looked at willingness to pay for both direct use and 'non-use' values, i.e. the benefit of knowing that nature exists even in areas that are not directly used by the household. This implies that the number of households putting a value on a biodiversity unit should not be confined to those nearby to a development.

To put a range on this, the report concludes that "assuming an even distribution across 100,000 hectares of improvement for both recovery levels and habitats, annual household benefits [of nature recovery] are estimated to be around £230 to £310 per household per year", which equates to £0.23-£0.31 per 100 hectares per household. So the actual benefits could be four times higher than those chosen.

In addition, the UK Natural Capital Accounts clearly show the wider benefits of urban green space for ecosystem services such as recreation, cooling and noise mitigation, and other services such as flood mitigation that are harder to value. These benefits lost or foregone should also be taken into account.

Question 12 If you support a targeted area-based exemption for residential brownfield development, which exemption threshold for a residential brownfield development do you support?

Do not support

Question 13 Do you think there is a case for an area-based exemption for residential brownfield development that is greater than 2.5 hectares?

No

As explained above, this would:

- exempt over 93% of all planning applications from BNG requirements, including many sites supporting high levels of biodiversity,
- significantly undermine emerging nature markets,
- make it more difficult or impossible to attain our statutory biodiversity targets and international GBF commitments,
- deprive local communities of access to nature, especially the most deprived communities,
- undermine climate resilience by increasing the area of hard surfaces and failing to build in green and blue infrastructure for flood protection and urban cooling; and

- not be cost-effective, as the costs to biodiversity outweigh the benefits, even with underestimation of the biodiversity impacts and without factoring in the wider impacts on climate resilience and human health.

Question 14 Do you foresee any unintended consequences arising from a targeted exemption for brownfield residential development?

Yes

Building on and extending the list above, this would:

- exempt over 93% of all planning applications from BNG requirements, including many sites supporting high levels of biodiversity,
- significantly undermine nature markets,
- make it more difficult or impossible to attain our statutory biodiversity targets and international GBF commitments,
- deprive local communities of access to nature, especially the most deprived communities,
- undermine climate resilience by increasing the area of hard surfaces and failing to build in green and blue infrastructure for flood protection and urban cooling,
- cause conflicts between the different functions of local authorities, including their duty to conserve and enhance nature, mitigate and adapt to climate change, and support local health and wellbeing, thus wasting public money as some actions undermine others,
- exacerbate delays in the planning process due to disagreements about:
  - drawing the red line boundary of the site to include adjacent green space
  - establishing the exact footprint of previous structures if these are not clear on the ground or from previous records
  - delivering the continuing requirement for 'no net loss' under the duty to conserve and enhance biodiversity without using the clear, well-established, evidence-based biodiversity metric.

Question 15 How easy or difficult do you think it would be for applicants and LPAs to apply this exemption in practice?

Difficult

We believe that this exemption is likely to increase planning delays due to a backlash from local communities, legal challenges, wrangling over red line boundaries or past site histories, and poor decisions over whether a site is suitable to develop. It would make far more sense to stick with the tried and tested BNG system, which adds minimal costs compared to overall site development costs and profits from house sales.

Question 16 Do you think any additional measures are needed to ensure that the exemption is appropriately targeted in relation to potential ecological impacts?

Yes

We do not believe this exemption should go ahead, but if it does, much stronger safeguards are needed, including a full ecological survey to check for priority habitats and species, which would require protection or compensation.

About us

The ongoing loss and degradation of nature is one of the greatest challenges of our time. In response, the Leverhulme Centre for Nature Recovery (LCNR) was created in 2022 as a hub for innovative research on nature recovery. It brings together experts from a broad range of disciplines across the University of Oxford. The team collaborates with partners in communities and organisations around the world.

What is nature recovery?

We define nature recovery as the activity of helping life on Earth to thrive by repairing human relationships with the rest of the natural world.

Our aims

- To understand the societal, biophysical, policy and systemic factors that enable or challenge nature recovery
- To collaborate with partners in case study landscapes to test and enhance frameworks, technologies, and tools for effective, inclusive, scalable, nature recovery delivery that also provides for society and its wellbeing
- To establish an inclusive nature recovery community at Oxford, leveraging its intellectual capital and interdisciplinary convening power to address key debates and challenges in the field.

Leverhulme Centre
for Nature Recovery

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