



STANFORDS

ESTABLISHED 1879

**Colchester City Council Preferred Options Local Plan
Regulation 18 Consultation 2025**

Draft Planning Policy Comments For and on Behalf of Stanfords Colchester LLP

Section: 4

Policy EN2: Biodiversity Net Gain (BNG)

We support the principle of delivering biodiversity net gain (BNG) in line with legislation however, the wording of this policy risks undermining the legislation, causing confusion and potentially being over-prescriptive.

The opening requirement that “All development proposals must deliver a minimum of 10% biodiversity net gain (BNG) in accordance with legislation...” is problematic for two reasons:

Conflict with the statutory exemption framework

BNG legislation expressly provides for specific exemptions (and possible further exemptions with the upcoming changes), yet this policy asserts that *all* development proposals must deliver 10% BNG.

The phrase “in accordance with legislation” implicitly acknowledges that some forms of development will be exempted, but the unqualified “all development proposals” wording is inconsistent and could cause confusion.

If the intention is simply to restate the legal position, then the policy should say so clearly and not attempt to extend BNG duties to development types that are not caught by the legislation.

Unnecessary duplication of legislation

Stating that development “must deliver a minimum of 10% BNG in accordance with legislation” adds little beyond what the statutory regime already requires. Local plans

do not need to repeat primary legislation; they should add locally specific clarity, not simply restate legal obligations.

If this policy is intended merely to point to the legal requirement, it is questionable whether it is needed at all in its current form. Its real purpose appears to be the treatment of offsite BNG and “preferred sites”, and that is where the policy should focus.

The second paragraph states that:

“All opportunities must be taken to maximise the delivery of onsite BNG. Alternative measures... should only be considered appropriate where it can be demonstrated that the required level of BNG cannot be achieved within the site.”

While encouraging on-site BNG is sensible, this wording is overly rigid as it suggests that *every* theoretical “opportunity” must be exploited, regardless of design, heritage, amenity or viability constraints. In practice, BNG must be balanced with other policy objectives; landscape character, coalescence, heritage settings, tree constraints, SuDS, open space and delivery of housing on allocated sites.

The statutory BNG framework already provides a clear hierarchy (avoidance, on-site, then off-site), and the Metric ensures that habitat choices are ecologist-led. Imposing an extra local test that “all opportunities” must be taken risks creating a higher local bar that may be difficult to interpret and apply consistently, particularly on constrained sites such as PP44.

The most problematic part of the policy is the treatment of offsite BNG and “strategic significance”:

“The sites listed in this policy and shown on the policies maps are the Council's preferred offsite BNG sites... Where offsite BNG units are required... the Council recommends that applicants purchase units from the following strategic offsite BNG sites...”

...

“Only the LNRS strategic opportunities and the BNG sites listed in this policy can be assigned a score of ‘high’ in the strategic significance category in the Biodiversity Metric.”

This approach raises several serious concerns:

Market restriction and value for money

By effectively channelling developers towards a short list of Council-preferred offsite providers, and preventing any other offsite location from being treated as “high” strategic significance, the policy risks distorting the emerging BNG market.

There is no guarantee that these sites will always offer value for money, sufficient capacity, or habitat types that best address the ecological impacts of particular developments (for example, sites on the western edge of Colchester being pushed to purchase units many miles away).

Applicants may be forced into buying units from a narrow set of suppliers at whatever price is offered, rather than being allowed to identify and deliver equally or more beneficial offsite schemes (e.g. on their own landholdings or nearer to the impacted site).

Conflict with the Biodiversity Metric framework

The statutory Metric allows strategic significance to be assessed based on alignment with local strategies, notably the Local Nature Recovery Strategy (LNRS), but does not limit “high” significance exclusively to a handful of named sites.

Restricting “high” strategic significance to the LNRS opportunity maps plus four specific Council-chosen sites creates a closed list which may not reflect future ecological priorities or opportunities. New, genuinely high-value sites could emerge during the plan period but would be artificially limited to a “medium” score under this wording, regardless of their real strategic importance.

Lack of flexibility and local ecological judgement

BNG is intended to be ecologist-led, allowing habitat creation and enhancement to follow the evidence of what is most beneficial in a given context. A rigid policy that pre-determines which offsite locations are “strategic” restricts professional judgement and local innovation. For some schemes, there may be scope to deliver locally significant offsite enhancements close to the community.

Effectiveness and deliverability

The policy assumes that the listed offsite sites will always be available, deliverable and sufficient to meet demand over the whole plan period. There is no evidence that their capacity, long-term management and pricing have been robustly tested against the Council's projected BNG requirement. If these sites become capacity-limited or uneconomic, the restriction on high strategic significance elsewhere could undermine the ability of applicants to achieve compliant BNG outcomes within a reasonable cost envelope, threatening scheme viability and delivery.

Requested modifications

To make this policy justified, effective and consistent with the statutory BNG framework, we request that the Council:

Align the scope with legislation

Replace "all development proposals" with wording that clearly reflects the legislative scope and exemptions and confirm in supporting text that exempt development types will not be required to provide 10% BNG via this policy.

Focus on principle, not duplication

Rewrite the first part of the policy to reference and support the statutory BNG framework.

Soften the "all opportunities" wording

Amend the second paragraph to ensure BNG is balanced with other legitimate considerations (design, heritage, coalescence, viability).

Reframe the role of preferred offsite sites

Redraft the offsite section to identify the named sites as examples of strategic opportunities rather than an exclusive list; and allow other offsite locations to achieve a "high" strategic significance score where they demonstrably align with the LNRS or other robust ecological evidence.

Without these changes, the policy risks:

- Extending BNG obligations beyond the scope of national legislation;
- Over-constraining the emerging BNG market; and

- Making it harder, rather than easier, for developments to achieve compliant, ecologist-led BNG in a proportionate and deliverable way.