

Navigating BNG, Metric Rules: Rule 4

An advice note for local planning authorities, working with planning applications proposing to apply the biodiversity metric rule 4 - exceptional ecological circumstances.

November 2025

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Acknowledgements

Thank you to colleagues from the Department for Environment, Food and Rural Affairs (DEFRA) for supporting the creation of this advice note.

A special thank you to the Local Government Officers on the PAS Biodiversity Net Gain Local Planning Authority (LPA) Practitioner Forum, who spared the time to share their experiences. Which helped the PAS team put this note together.

Contents

Statutory Biodiversity Metric Rules	02
Applying Rule 4	03
Rule 4 Scenarios	05
Key Takeaways	09

Summary

This advice note begins with a recap of the biodiversity metric rules set out in the Statutory Biodiversity Metric User Guide (SBMUG) [1], with a particular focus on appropriately applying Rule 4. It includes real-world examples to help illustrate what does and does not meet the criteria when applying this rule. We also share additional tips to consider when reviewing applications that propose deviations from the trading rules.

This document has been produced by the Planning Advisory Service (PAS) based on our work supporting Local Planning Authorities (LPAs); it is not legal or official government advice nor is it detailed technical guidance. It should not be used in place of appropriate expertise.

For LPAs, the Statutory Biodiversity Metric Tool acts as a form of evidence to demonstrate that a development can meet the mandatory Biodiversity Net Gain (BNG) requirement.

There are four rules that must be applied when using the Biodiversity Metric Tool and these are set out in the Statutory Biodiversity Metric User Guide. Rule 4 is designed for use in exceptional ecological circumstances, requiring clear ecological justification for deviations from the statutory biodiversity metric rules. LPAs must consider and evaluate such justifications before permitting deviations. Rule 4 applies to both development sites and can apply to off-site gain locations. Further information on Rule 4 is provided in the SBMUG.

Statutory biodiversity metric rules

The SBMUG lists four fundamental metric rules:

(1) The trading rules of the biodiversity metric must be followed. Trading rules require habitat loss to be compensated for on a like-for-like or like-for-better basis.

The metric tool classifies habitats into five levels of distinctiveness, which reflect the unique ecological characteristics of each habitat. These levels are very low, low, medium, high, and very high distinctiveness. The metric categorises area-based habitats into 15 broad habitat types, each comprising a range of specific habitat classifications that may vary in their level of distinctiveness. For hedgerows, the tool identifies 13 distinct types, while for watercourses there are five, each with differing levels of distinctiveness.

Table 3, located under the 'Biodiversity Metric Rules and Principles' section of the SBMUG, provides further guidance on how Rule 1 should be applied and how applicants can adequately compensate for habitat loss across all three tabs of the metric tool.

(2) Biodiversity unit outputs, for each type of unit, must not be summed, traded, or converted between types. The requirement to deliver at least a 10% net gain applies to each type of unit.

There are three 'types' of biodiversity unit: area habitat units, hedgerow units and watercourse units. Losses and gains for each biodiversity unit type have to be accounted for separately in the metric. For example, if an applicant proposes to remove an area of grassland, the creation of a length of hedgerow, regardless of its distinctiveness or type, would not be sufficient to offset the loss.

In such cases, there remains a requirement to demonstrate a measurable gain in area-based habitats. This applies even if the proposal includes gains in linear habitats or watercourses, as these are treated separately within the metric tool. The same principle applies to hedgerows and watercourses.

(3) To accurately apply the biodiversity metric formula, you must use the statutory biodiversity metric calculation tool (SBM) or statutory biodiversity metric tool (SSM) for small sites.

It is important to note that any version of the statutory metric tools can be used for BNG calculations, version updates do not affect calculation outputs. However newer versions are preferential to address any technical issues. There is also guidance on transferring data from previous versions of the metric tool. Although the SSM is restricted to small sites, users can still use the SBM for small sites.

(4) In exceptional ecological circumstances, deviation from this biodiversity metric methodology may be permitted by the relevant planning authority.

This rule applies only in cases where there is a clear ecological justification that a proposal will deliver significant environmental benefits not fully captured by the metric tool. The LPA will only permit the use of Rule 4 in cases where exceptional ecological circumstances are justified and evidenced.

It is important to note that other metric rules still apply, even where Rule 4 is invoked. Rule 4 may be used to support proposals in specific circumstances, particularly where creating a proxy habitat could offer equivalent or enhanced ecological benefits to replace habitats that are difficult to recreate.

Applying rule 4

Appropriate use of rule 4

The SBMUG highlights that Rule 4 can be applied to both on-site and off-site habitat interventions, only where the strict criteria are met.

Exceptional ecological circumstances

The guidance states that in certain circumstances, deviation from the statutory biodiversity metric methodology may be permitted by the relevant planning authority. These deviations include:

- Deviation from trading rules when justified by provision of significant ecological benefits beyond those the metric tool can measure for the proposed habitat, mitigation and compensatory measures.
- The use of habitat created in advance function to allow a reduction in the standard time to target condition for habitat creation and enhancement.

As the SBMUG states, the use of this rule should be rarely used and not applied routinely for common issues such as minor loss of area habitat. Even if a development proposes a significant net gain exceeding the 10% requirement, this alone does not constitute exceptional ecological circumstances. Schemes should not apply Rule 4 unless there is clear justification that the proposal will deliver substantial ecological benefits beyond the scope of the proposal.

Exceptional ecological circumstances can occur when:

- The site has optimal conditions (soil, hydrology, nutrient status) for restoring a wildlife-rich or historic natural habitat, and
- The project team has expertise and resources to deliver the habitat with negligible risk of failure.

Such circumstances may include one or more of the following:

- Highly complex landscape-scale habitat changes, such as heathland creation, heathland-grassland mosaic or other open mosaic.
- River re-meandering to restore natural hydrological processes.
- Large-scale restoration of natural processes, such as rewilding.

Review of applications wishing to apply rule 4

Applicants should apply Rule 4 only in exceptional ecological circumstances and the LPA should ensure they are satisfied that the criteria above have been met. The decision lies with the LPA to make a professional judgement as to whether the justification of the use of Rule 4 for a proposal is satisfactory.

BSI 42020 [2] states that *professional judgement involves applying knowledge and experience to interpret evidence and make informed decisions. While different professionals may reach varying conclusions, judgements should always be based on sound reasoning and justifiable evidence.*

Using professional judgement, the LPA should consider whether:

- When trading rules are deviated from, there is a clear ecological justification for the specific habitat intervention being delivered in lieu of the habitat required to meet the trading rules.
- When the use of habitat created in advance function is used, the number of years inputted appropriately reflects the reduction in time to target condition and difficulty of habitat creation for the specific habitat intervention in these circumstances.

The following information provided by the applicant are sufficient to enable the proposals to be delivered:

- Knowledge and experience of the ecological consultant providing the proposals.
- Knowledge and experience of the project team to deliver the proposals.
- Justification for habitat interventions under Rule 4.

Review of applications wishing to apply rule 4 cont.

Additional considerations could include:

- Preference for habitat delivery which is ecologically connected close to the location of biodiversity loss ensuring any works provision benefits locally.
- Provision of other habitats that combined, provide the same functions to specific species or assemblage of species impacted by the development. Applicants should demonstrate how the new habitat proposals provide the ecological functions required to support the relevant species groups and assemblages.
- Provision of ecologically niche habitats for species and assemblages, where these biodiversity benefits cannot be measured by the metric. This could include habitats which enhance ecosystem services and bring significant benefits to the local area and meet other policy requirements.
- Collaborative bespoke off-site habitat mosaic.

Open mosaic habitat

Open mosaic habitat (OMH) is a high distinctiveness metric habitat that is frequently cited as presenting challenges for both LPAs and applicants resulting in development viability concerns, particularly on brownfield sites, because of the difficulty in creating OMH at scale, the scarcity of suitable creation sites, and the availability of off-site market units. It has been highlighted to the PAS team that there has been misidentification of OMH, where it has been recorded as its constituent parts rather than a collective mosaic, and vice versa where some urban habitats have reportedly been misidentified as OMH.

OMH is valued for its biodiverse invertebrate assemblages attracted to the messy, floristically rich and disturbed habitats with nutrient poor and compacted soils, varied topography and hydrology. OMH is a difficult habitat to correctly identify given constraints of the survey season and that without disturbance and management mapped areas of OMH are likely to mature in to other habitats with lower distinctiveness categories. OMH can also be misidentified and recorded as its individual habitat components instead of OMH.

The West Midlands Combined Authority's technical resources on Brownfield Habitats and BNG [3] provide practical guidance to incorporate OMH into early-stage scheme designs within urban settings. These resources outline the key criteria that defines OMH, offering clarity on how to identify valuable examples of this habitat type, and include real-world case studies of urban brownfield site regeneration. They also highlight the potential ecological value of smaller OMH areas that may not fully meet the formal criteria but still hold local significance, offering unique ecological niches often absent from more conventional urban green spaces.

Buglife's Brownfield Hub [4] offers a detailed insight into the ecological significance of brownfield sites, particularly their value for invertebrates, and highlights the unique potential of these areas to support a wide diversity of habitats. The Hub explains why brownfield sites are often subject to greater scrutiny in planning proposals and provides practical management guidance, including a general introduction to brownfield ecology, methods for identifying OMH, and best practices for managing such habitats for invertebrates.

The resource also includes a series of case studies that showcase successful approaches and highlight the challenges commonly faced in balancing development and biodiversity on brownfield land. The importance placed on conserving unique habitat types such as OMH, strongly aligns with the intent behind Rule 4.

Rule 4 scenarios

This section presents a series of scenarios illustrating cases where rule 4 has been applied, including an instance where OMH is present. Each scenario details the applicant's proposal, highlights key factors determining the claim's validity, and offers guidance on navigating such cases in line with planning practice guidance (PPG). These scenarios have been carefully selected to address common concerns faced by local planning officers, with suggested approaches to help prevent similar issues in the future.

A former industrial site allocated for commercial development within the Local Plan, the application is proposing new commercial units and parking.

The site contains pockets of OMH, scrub, spoil piles, bare ground and areas of hard standing. Ecological surveys have identified an important and diverse invertebrate assemblage on-site. The post-development design retains small pocket areas of OMH habitat that exceed 0.25ha around the south and west facing boundaries. These are interspersed with planting to reflect nectar and host plant needs of the butterflies present on site. Spoil piles of different substrate are incorporated into the design for topographical variation and part of the car park is to be left as bare ground.

The building design includes bee bricks and blocks around the building at different heights and aspects to provide a variety of microclimatic conditions and ecological niches for different invertebrates within the building structure. Bee planters (planters with holes for bees) are scattered around the building and are to be planted with species favourable to the known resident invertebrate assemblage. Bee posts are proposed around the site boundary and in suitable locations identified from the baseline surveys.

Sustainable Drainage Systems (SuDS) features are built into the design to hold and filter run-off and standing water. An *other green roof* (metric habitat type) is proposed to cover 20% of the commercial building, innovatively incorporating small areas of ephemeral mini pools and using the on-site nutrient poor substrate as the growing medium. The outdoor storage areas for waste and cycle storage included the same specification of green (brown) roof to retain and create habitat for the on-site invertebrates [5].

At the time the planning application was made no off-site OMH habitat units were available locally or nationally. The applicant was keen to ensure biodiversity net gain was delivered as close to the development site as possible. The applicant worked with a gain site provider in the same National Character Area (NCA) to create a mosaic of habitats including grassland, bare ground, scrub and lowland meadow that provided a greater range of structurally diverse and microhabitats than were present in the baseline survey of the development site.

The mosaic proposals were clearly defined with details of the short and longer term management regimes required to maintain the new mosaic of habitats. OMH is high distinctiveness habitat, and lowland meadow is very high distinctiveness habitat and the applicant referred to the invertebrates likely to be supported by the lowland meadow habitat as matching this key ecological benefit of the OMH.

The LPA reviewed the design proposals and although the metric demonstrates a 10% gain per unit category, the proposals did not satisfy the trading rules, as the mosaic habitats proposed by tailored green roof provision were mostly of medium distinctiveness. The professional judgement of the LPA was the on-site design provided as many ecological opportunities for invertebrates as the scheme could allow with the proposed use of the site (and these too were not able to be fully represented in the metric).

On consideration of the proposals the LPA recognised the circumstance that no local or national OMH units in adjacent NCA's were available for purchase and were keen to ensure the biodiversity units were delivered in a nearby location at scale to benefit the local populations of invertebrates and other species.

The LPA was satisfied the ecological value of the created mosaic of habitats off-site was not fully recognised in the metric, as ecologically the value of the habitat mosaic is greater than the individual unit value of each area of different habitat. The BNG proposals also included the purchase of two OMH biodiversity credits to ensure some like for like habitat was provided nationally. This bespoke suite of on-site, off-site and credit proposals was sufficient to satisfy the LPA's need to demonstrate exceptional ecological circumstances under the application of Rule 4.

An application for the restoration of an abandoned area of bare ground to heathland, located adjacent to a nature reserve. The applicant is a gain site provider and is using the habitat created in advance function.

In exceptional ecological circumstances, the habitat created in advance function can be used to allow a reduction in the standard time to target condition for habitat creation, generating a gain in the number of biodiversity units produced during a 30 year period.

A Wildlife Trust acquired some abandoned land adjacent to one of their heathland reserves, which contained bare ground, ruderal and scrub habitats. The habitat is not OMH. The proposal is to restore the abandoned land to heathland, buffer the existing heathland reserve, consistent with mapped measures in the LNRS, and register the gain site to sell any biodiversity units created. The Wildlife Trust completed the statutory biodiversity metric using the habitat created in advance function to represent a reduced risk in delivery of the habitat, thus reaching the target habitat type and condition quicker than average.

The application detailed the ecological evidence required to use Rule 4 to apply the *habitat created in advance* function. Details of the soil, nutrient and hydrological properties of the abandoned land were submitted alongside those of the existing adjacent heathland. The management plan of the existing heathland along with the methodology of the habitat creation proposals, which including seed harvesting from the adjacent heathland site, limiting the risk of failure to the creation project also accompanied the planning application.

The number of years inputted into the *habitats created in advance* function should not exceed the time it takes to reach a poor condition, which for lowland heathland is 10 years (see section in the SBMUG). The Wildlife Trust had already secured the necessary consents from Natural England to harvest the heathland seed from the adjacent a Site of Special Scientific Interest (SSSI) donor site.

The LPA reviewed the heathland creation methodology and the long-term management plan alongside the existing management regime for the established heathland site. The LPA checked the value in the habitat created in advance section of the metric and it did not exceed the corresponding value in tab G-4 of the Statutory Biodiversity Metric Tool for the habitat to reach poor condition.

As the applicant is a conservation management organisation, existing owner and land manager of the adjacent site, the LPA were satisfied the ecological evidence supplied was sufficient to have confidence the proposals met the Rule 4 criteria to apply the 'habitat created in advance' function within the metric. The LPA were also satisfied that the risk of failure to establish the new heathland habitat had been minimised by using seed from the adjacent donor site, and in parallel that consent had been secured from Natural England for this activity. The LPA was also supportive of the activity as it buffered an existing protected site and delivered actions that were consistent with those mapped in the Local Nature Recovery Strategy (LNRS), allowing an additional 1.15 gain for strategic significance in biodiversity unit value.

A development for nature conservation reasons, an application to excavate a small area to adjust an existing bund on a wildlife trust managed coastal wetland reserve.

The applicant, a Wildlife Trust, is proposing to regulate current water levels to support nesting conditions for local waders by adjusting the layout of existing earth bunds and sluices. The proposal will require excavating and relocating one of the bunds, but this modification will result in the loss of some open water habitat. Despite the net ecological benefit, this cannot be carried out under permitted development due to the use of machinery and resulting habitat change. As such, this proposal will require a full planning application and trigger the BNG requirement.

It is highlighted that BNG trading rules cannot be met on-site, as improvements to the affected waterbody are constrained by its connection to a larger adjoining system. Furthermore, this is not a typical development application, but a purely ecological proposal aimed at long-term habitat enhancement.

The applicant has provided robust ecological justification, and the project team demonstrates the expertise and capacity to deliver the works with minimal risk of failure. While the scheme aligns with the principle of delivering ecological benefits, its modest scale and limited scope raise questions about whether these benefits will extend beyond the immediate site or nature reserve.

The intervention is small, with no associated commercial or built development. On-site delivery is constrained by hydrological and landscape factors. However, Rule 4 refers to "exceptional" ecological circumstances, and it is unclear whether a small-scale, biodiversity-focused proposal like this meets that criterion. To meet the threshold for Rule 4, applicants must clearly demonstrate that the proposal is unique and capable of delivering significant ecological gain, not only in terms of BNG but also in supporting wider ecosystem services and contributing to the broader ecological network. Planning authorities may consider regional context and engage with neighbouring authorities when assessing such applications.

A development for nature conservation reasons, an application to excavate a small area to adjust an existing bund on a wildlife trust managed coastal wetland reserve cont.

There may also be an opportunity for applicants to demonstrate how proposed ecological improvements align with strategic priorities, including those identified through Local Nature Recovery Strategies (LNRS). The LPA is currently considering whether they are satisfied that this application meets Rule 4 criteria.

A development for nature conservation and wider environmental reasons, an application for the restoration of a section of river, with vegetated embankments, in-channel improvements, public realm improvements and associated landscaping.

The applicant is proposing the restoration of a section of river within a densely urbanised area, with plans to de-culvert the currently underground watercourse and bring it back above ground. The scheme includes the replacement of existing channel walls with vegetated embankments, in-channel habitat enhancements, and public realm improvements such as the installation of new seating areas and associated landscaping. The proposal aligns with the objectives set out in the Local Plan, which prioritises river restoration, improved accessibility, and the re-naturalisation of urban watercourses. In addition to enhancing biodiversity and ecological function, the project is expected to reduce local flood risk, increase public access to green space, and raise awareness and appreciation of the river environment. It will also support the preservation of a designated heritage asset within the site boundary.

To facilitate the delivery of the proposed river restoration works, the BNG assessment report identified the necessary removal of approximately 13 individual trees, four tree groups, and the partial removal of one additional group. These losses are proposed to be offset through the creation of lowland meadow habitat and the establishment of pockets of mixed scrub within the site. In addition, off-site tree planting is proposed to compensate for the lost tree cover.

In accordance with the relevant planning authority's tree replacement policy, a total of 31 new trees will be planted within a one-mile radius of the development's red-line boundary to ensure the provision remains locally relevant and beneficial to the surrounding community. Consultation with the Environment Agency advised against planting trees directly on the river embankments or banks due to flood risk concerns. Specifically, the agency noted the potential for channel blockage if trees were to establish in these areas, despite available space.

The BNG assessment further highlights that restoring this section of the river will promote naturalisation, support the removal of non-native species and enhance habitat conditions for local biodiversity. Overall, the intervention is expected to create optimal conditions for a diverse range of aquatic species, regulate water flow, support fish passage, and generate long-term ecological benefits upstream. The proposal delivered a 51.17% gain in watercourse habitat and a 34.98% gain in area-based habitats.

The relevant planning authority identified these outcomes as substantial public benefits, affording them significant weight in the planning decision. It was noted that the scheme would not result in harm to residential amenity or key infrastructure such as the local highway network. The planning authority further acknowledged the considerable public value of the scheme, citing benefits including flood risk reduction, enhancement of the public realm, improved access to natural spaces, and contributions to local heritage. These benefits were deemed to outweigh any harm arising from the loss of trees and impacts on non-designated heritage assets. The proposal was, therefore, recommended for approval.

Although the application was submitted prior to the implementation of mandatory BNG requirements, it still demonstrated a gain well in excess of the 10% benchmark and aligned with the policies of the then-current local plan. Throughout the application process and stakeholder consultations, it was evident that this scheme delivered a range of benefits not fully captured by the SBM. The proposal reflected a high degree of alignment with local policy priorities and was regarded as 'exceptional' due to its strategic contribution to future development support, improved public access, and habitat management for local species.

An application for approval of reserved matters following outline approval of a phased development (Phase 1) comprising 209 residential dwellings, an energy centre and a park.

Consultation responses raised concerns that the proposed development could lead to the loss of open space and negatively impact local wildlife. It was also noted that the applicant had not sufficiently justified the removal of trees, and that the scheme breached the trading rules (Rule 1).

The proposal included a SuDS strategy featuring permeable paving, tree pits, rain gardens, and green roofs, supported by a management and maintenance plan. Although the site was determined to have ample space for new planting, the applicant was required to plant an estimated 1,001 new trees. A landscaping plan was submitted, detailing the planting of 1,025 trees using a woodland mix. Trees were to be planted in soft landscaping areas or in permeable resin-covered pits, and the design was considered high quality.

The planning authority's sustainability team identified that this phase could deliver a 112% reduction in regulated carbon emissions, making it a net carbon-positive scheme. Rooftop solar PV arrays were also proposed across all buildings. Although the application predated mandatory BNG requirements, the applicant voluntarily submitted a metric, demonstrating that the landscaping aligns closely with the original masterplan.

In terms of strategic significance, the site lies within a designated wildlife corridor and forms part of the city's broader ecological network. The submitted metric tool highlighted the application of the strategic significance multiplier outlining both pre/post-development habitats being identified within local strategy. The planning ecologist confirmed the accuracy of habitat classifications within the metric and supported the sound ecological judgement applied. The submitted metric indicated a 20.20% gain in area habitats and a 3,908.30% gain in hedgerow habitat. A site-wide BNG assessment was also carried out across all development phases to ensure a 10% net gain overall. The metric for this phase was confirmed to comply with the trading rules.

Although there is an overall net gain, it's important to note that Rule 4 cannot be applied in every case where other trading rules have been breached. Ultimately, it's up to the relevant planning authority to decide whether the use of Rule 4 is justified. In this case, Rule 4 was not applied. However, there was a breach of Rule 2 during the application process. Following close collaboration with the local planning authority, the applicant amended their landscaping plan and updated the metric tool to reflect the necessary changes, ensuring compliance with the council's local requirements.

Key takeaways

- Rule 4 should not be applied lightly when designing and/or assessing proposals. In principle, this rule is intended to allow deviation from the trading rules only where the relevant planning authority is confident that the proposed scheme with supporting justification, will deliver ecological benefits that go beyond what is captured within the metric.
- The concept of exceptional ecological circumstances should not be used routinely, particularly where the biodiversity losses or enhancements are minor or are confined to the development boundary. To warrant the application of Rule 4, the development should support a strategic provision of ecosystem services that extend beyond the red line boundary, offering measurable benefits to the wider ecological network (and ideally to communities within accessible distance). This also applies where ecologically valuable mosaic habitats including OMH are present, these mosaics often support a combination of habitat features and species that function across a wider landscape.
- In relation to OMH, it is essential that this is considered early in the design process. Where OMH is identified, it is advisable to refer to local planning policies that may influence how these habitats are treated. Retaining OMH on site, where feasible, should be prioritised. The limited regional availability of this habitat type, combined with the challenges involved in its creation or re-creation, should be carefully considered when assessing development proposals. This is particularly important for local authorities with significant brownfield assets undertaking regulatory reviews of potential biodiversity gain sites/supply areas.

When considering whether a development might qualify as demonstrating 'exceptional ecological circumstances' or if it provides ecological benefits that are not captured within the SBM, it can be helpful to consider how the proposal may contribute to relevant Local Plan policy and strategic priorities for nature in the area surrounding the development, such as examples outlined below.

In addition, applicants and decision-makers may find it useful to draw on other resources and existing tools designed to help articulate and demonstrate the environmental outcomes of BNG within development schemes. One such example is Leicestershire County Council's Local Habitat Map [6], which accompanies their LNRS. This map identifies areas of particular importance for biodiversity, as well as locations that could become important, such as those offering high ecological connectivity, potential for habitat expansion, buffer zones or opportunities for enhancement. It also maps features such as green wedges, stepping stones and areas of separation, to help guide decisions that contribute to the formation of local nature networks.

Similarly, the Nottinghamshire and Nottingham Local Nature Recovery Strategy outlines key local priorities and potential measures [7], forming part of their Statement of Biodiversity Priorities. This is something applicants should engage with at the earliest stages of scheme design. These locally identified co-benefits and nature-based solutions may contribute to a well-grounded justification for the appropriate application of Rule 4.

Another useful resource is the Environmental Benefits from Nature Tool [8]. Although entirely voluntary and not a requirement for mandatory BNG, it is designed to complement the SBM by helping developers, planners and other stakeholders understand how a proposed scheme might influence a range of ecosystem services. The tool aligns with Natural England's Green Infrastructure Standards [9], which help to define high-quality outcomes for both local government officers and applicants.

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