

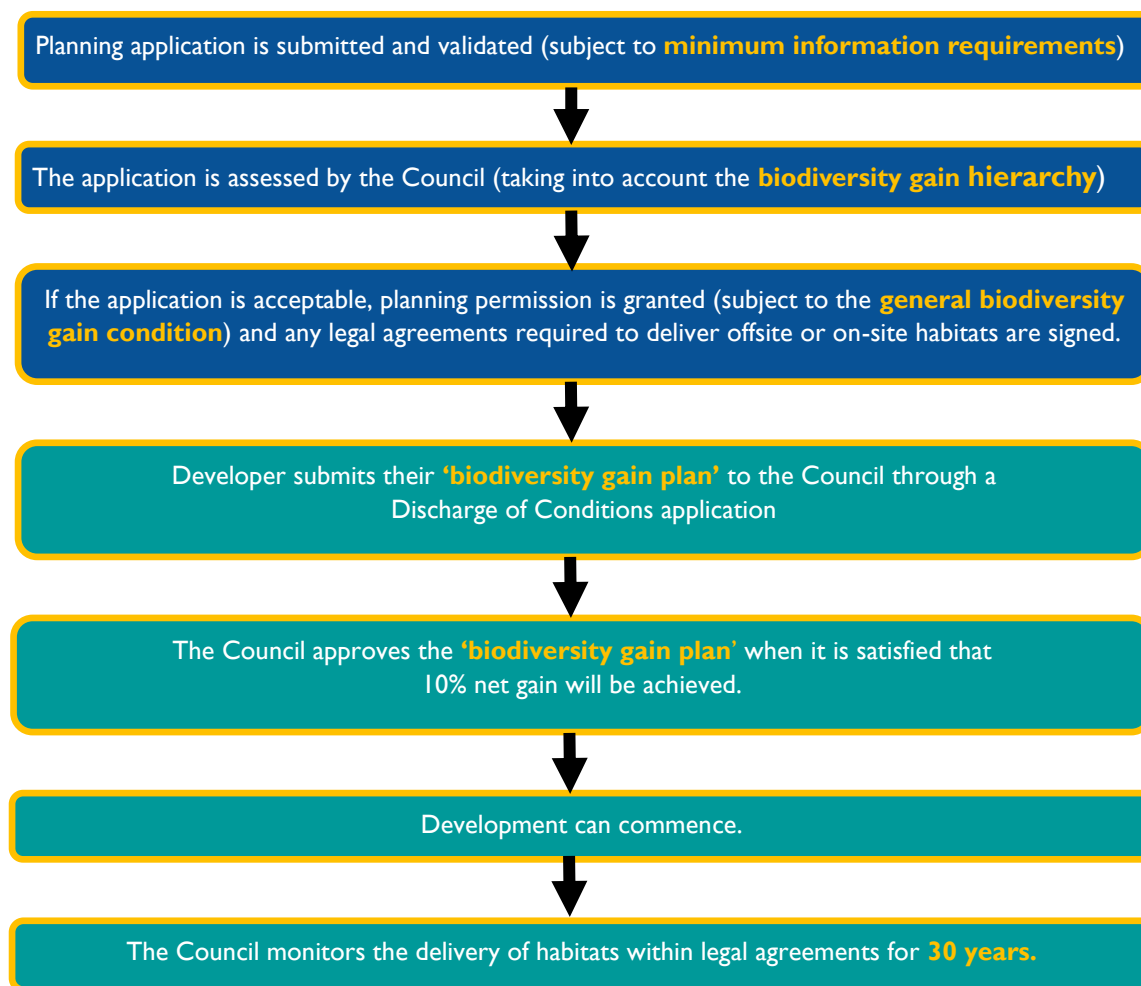
BNG: SPECIALIST GUIDANCE NOTE FOR ECOLOGICAL CONSULTANTS

1. Introduction

The Environment Act 2021 requires all (non-exempt) developments to deliver a net gain of at least 10%, demonstrated using the Statutory Metric. Government guidance is clear that net gains should be delivered in the following decreasing order of preference (the [Biodiversity Gain Hierarchy](#)):

- The scheme should be designed to avoid impacts on habitats of highest value onsite.
- Habitats should first be created or enhanced onsite (within the red-line boundary).
- If this does not deliver a 10% net gain, additional habitats can be created or enhanced offsite. Within this, there are two possible options:
 - Developers create or enhance habitats themselves, using off-site land in their own control (i.e. any land outside of the redline boundary of the planning application). This land must be secured with a legal agreement, recorded on the government's biodiversity net gain sites register and specifically allocated to the development, and the habitats must be maintained over 30 years. Throughout this page, this is called “*registered off-site biodiversity gain*” to distinguish it from credits-based options.
 - Developers buy credits (“commercial units”) from an off-site provider, who will undertake the habitat creation or enhancement work themselves and provide the necessary units for 30 years.
- If this does not deliver a 10% net gain, developers can make up the shortfall by buying statutory credits from the government, who will fund third parties to undertake the work and provide the necessary units for 30 years. This is a last resort only.

Under the Environment Act 2021, demonstrating BNG is predominantly a post-planning matter, because permission is granted subject to a *General Biodiversity Gain Condition*, which is discharged by providing a detailed document - a *Biodiversity Gain Plan* - before work starts. The process up to approval (blue) and post-approval (turquoise) is summarised below:



For phased developments, there is a slightly different approach to discharging the General Biodiversity Gain Condition, with an “*Overall Biodiversity Gain Plan*” and “*Phase Biodiversity Gain Plans*” produced at outline and reserved matters application stages, respectively.

More information on the exemptions, minimum information requirements, biodiversity net gain hierarchy, biodiversity gain plan and legal agreements are provided in this document, which provides detailed guidance on what the Council expects at each stage of the flowchart above. If you have site- or project-specific questions, the Council operates a pre-application advice service.

2. BNG exemptions

Some types of development are exempt from the 10% BNG requirement. The most important of these are:

- Developments which [meet the definition](#) of “householder” developments.

- Developments which are exclusively comprised of dwellings [meeting the definition](#) of self-build or custom housebuilding, and:
 - Consist of no more than 9 dwellings, and
 - Occupy a site no larger than 0.5 hectares.
- Developments with very minor effects: This is the *de minimis* exemption. To qualify, a development must have:
 - No impacts on any priority habitat; and
 - No impacts exceeding 25 m² of area habitats (with a non-zero value); and
 - No impacts exceeding 5 m of linear habitat (with a non-zero value)
- Developments subject to retrospective applications, or which have been granted permission as the result of a successful appeal against planning enforcement action.
- Applications to amend or remove planning conditions (“Section 73 applications”) where the original permission was not subject to BNG.
- Developments where permission is granted by a development order (e.g. permitted development, LDOs)
- Developments whose sole purpose is creating or modifying habitats to deliver off-site net gain.

Some other types of planning permission not generally assessed by the Council (Urgent Crown Development, high-speed rail) are also exempt. Full details can be found [here](#).

3. “Significant” onsite and offsite habitats – legal agreements

Certain types of habitat creation and enhancement are required to be secured for 30 years:

- Any registered off-site biodiversity gain (see above).
- On-site habitat creation or enhancement that is considered to be “significant”. The concept of “significance” is detailed in [government guidance](#), but these are typically habitats which contribute significantly to the on-site post-development value, and which will require ongoing management using ecological techniques. Based on this guidance, the Council defines the following types of habitat provision as “significant”:
 - Creation of habitats of Medium distinctiveness or above.
 - Enhancement that increases the distinctiveness level of retained habitats.
 - Enhancement that increases the condition score of retained habitats
 - Creation of habitats of any distinctiveness or condition (excluding built habitats such as buildings, roads and hardstanding, and private gardens) whose area or biodiversity value is large relative to the whole site (25% or more of the site area, or 25% of the total biodiversity units delivered onsite).

In line with the Environment Act 2021 and government guidance, the Council will seek to secure these habitats for 30 years, generally with a legal obligation such as a Section 106 agreement.

NB: In government guidance, “Significant” habitat on site does not include retention of existing habitats of Medium distinctiveness or above. However, the Council’s view is that maintaining these habitats can require equivalent levels of ecological management input to “significant” creation or enhancements, and the Council may therefore also seek to secure management of these areas for 30 years. These instances will be assessed on a case-by-case basis.

4. BNG: what information is required with a planning application?

Applicants need to prepare minimum information as part of a planning submission for the application to be validated. The Council’s minimum validation requirements are based on the national requirements, although several additions have been made to assist us in assessing applications (see the local validation checklist).

Minimum requirements for all applications

- Confirmation (on the planning application form) of whether you believe that BNG applies to the application. If you believe the application is exempt, you should provide information to justify this, but no further information is required.
- Confirmation of whether or not the applicant believes that the development would be delivered in phases.
- Full information on the baseline habitat values. This must include:
 - The Statutory Biodiversity Metric tool with all baseline habitat information completed (NB: this must be the original MS Excel file (saved in .xlsx format), not a screenshot), and
 - Written justification for selected habitats and condition assessments (the full results of the habitats survey), and
 - A statement describing any irreplaceable habitats on site, and
 - At least one plan, to scale and with a North indicator, showing all baseline on-site habitat, including any irreplaceable habitat (if applicable).
- The reference date of the baseline habitat assessment. By the default, this is the application submission date. You are allowed to select a different, earlier date, but you must justify why you wish to do this in writing.
- A statement of whether the landowner or anyone else has carried out on-site activities (not specifically [authorised by planning permission](#)) that have reduced the baseline biodiversity value. The Council will not accept BNG assessments where there is reasonable evidence that the submitted “baseline” habitats have actually been manipulated in this way. In these cases, the submission should confirm what activities have been carried out and the date they were commenced. The BNG calculation should follow the precautionary principles set out in

[government guidance](#), with the calculation based on as much information as possible about the pre-manipulation habitats. Supporting information describing the assumptions made should be supplied.

- The estimated breakdown of habitat creation (in Biodiversity Units) between on-site and off-site habitat (including registered off-site biodiversity gain, commercial units and/or statutory credits). It is accepted that this may change in the Biodiversity Gain Plan, but the most accurate estimate possible should be given.

Additional minimum requirements for applications containing habitats secured for 30 years

As described above, two types of habitat creation or enhancement will be secured for 30 years: registered off-site biodiversity gain and “significant” on-site habitats. In these cases, the Council will require additional information at application stage, because the necessary legal agreements will need to be made at this point. Therefore, if the application will deliver “significant” on-site or registered off-site biodiversity gain, you must additionally submit a draft version of the Biodiversity Gain Plan (or if a phased development, the Overall Gain Plan; see below) with the planning application. The Council acknowledges that the details of these habitats may change in the finalised version, but the draft Plan should include, as a minimum:

- The completed metric including post-development habitats,
- Estimated areas of the proposed significant on-site habitats and/or registered off-site biodiversity gain,
- Details of the creation and management regime (such as method statements).

5. Planning application assessment

If the submitted application includes all the above information (and meets other minimum requirements for a planning application), it will be validated and assessed by the Council’s ecology team.

The Council will not ordinarily refuse a valid application on the basis that a net gain cannot be delivered, but it needs to be satisfied that sufficient emphasis is being placed on maximising biodiversity value on-site (and meeting other biodiversity planning requirements, such as the separate requirements to protect Priority Habitats). The application will therefore be assessed against the [Biodiversity Gain Hierarchy](#) (see Section 1). The Council will also check that the baseline ecological data (habitat classifications and conditions) are ecologically reasonable.

6. BNG: The Biodiversity Net Gain Plan (non-phased developments)

All planning approvals for (non-exempt) developments will carry the General Biodiversity Gain Condition. This a pre-commencement condition, and to discharge it, you will need to produce a Biodiversity Gain Plan.

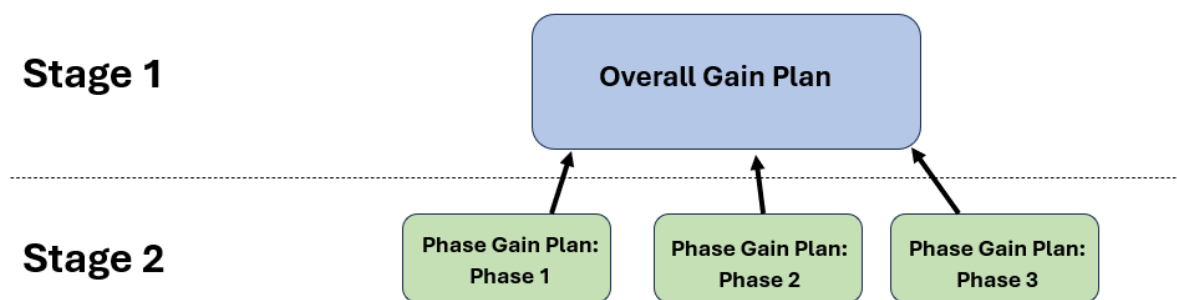
This document sets out in detail how BNG will be delivered. The Council's requirements for the content of the Biodiversity Gain Plan are based on the national requirements. A [proforma is available from the government](#) and you are encouraged to use it, although the Council does not require it to be used as long as the information requirements are met.

- Basic details about the author and the development: name and address of the person completing and submitting the Plan, development description and planning application reference.
- Information about the steps taken to follow the biodiversity gain hierarchy (see above). Where the biodiversity gain hierarchy has not been followed, you should provide justification.
- The reference date of the baseline habitat assessment (see above) and justification for selecting an earlier date than planning submission, if relevant.
- Details of any habitat degradation (see above) and the precautionary approach that has been taken to assess baseline habitats in light of this;
- Full information on the baseline and the post-development habitat values, both on-site and off-site (if using registered off-site biodiversity gain). This must include:
 - The Statutory Biodiversity Metric tool with all baseline and post-development habitat information completed (NB: this must be the original calculator file, not a screenshot), and
 - Written justification for selected habitats and condition assessments (including the full results of the habitat survey, plus details of how the landscape plans were used to derive post-development habitats), and
 - A statement describing any irreplaceable habitats on site and setting out how these will be protected, or the bespoke arrangements (agreed with the Council beforehand) for compensating impacts on them, and
 - At least two plans, to scale and with a North indicator, showing all baseline on-site and off-site habitat (including areas of retained and enhanced habitats), all post-development on-site and off-site habitat including any irreplaceable habitat (if applicable).
- Proof of any registered off-site biodiversity gain allocated to the development and any commercial units or credits purchased for the development. Note: if you are proposing to use registered off-site biodiversity gain, the registration of the site and the allocation of units to the development must be done before the Biodiversity Gain Plan is approved.
- A description of arrangements for creation, management and monitoring of any habitats that must be maintained for at least 30 years (i.e. “significant” on-site and registered off-site biodiversity gain). Typically, this would be in the form of a

separate Habitat Management and Monitoring Plan and must include detailed method statements for ground works to create and maintain habitats.

7. BNG: The Biodiversity Net Gain Plan (Phased developments)

In phased developments, the discharge of the General Biodiversity Gain Condition occurs in several stages. Before any works can commence, an “*Overall Gain Plan*” must be produced to demonstrate how the development as a whole can deliver a 10% net gain, including approximate estimations of the contribution of each phase to the overall gain. Each subsequent individual phase cannot commence until a “*Phase Gain Plan*” has been approved. The “*Phase Gain Plan*” will show in detail how that particular phase will contribute to the overall 10% net gain:



Overall Gain Plan

While this document sets out how the development as a whole will achieve a 10% net gain, its contents are slightly different to the requirements for the Biodiversity Gain Plan for non-phased development. This is because the intention is to set the overall expectation for BNG across the entire development, rather than to finalise a precise BNG score at this stage, acknowledging the fact that detailed design work may not yet have been undertaken.

- Basic details about the author and the development: name and address of the person completing and submitting the Plan, development description and planning application reference.
- Information about the steps taken, or proposed to be taken, to follow the biodiversity gain hierarchy (see above). Where the biodiversity gain hierarchy has not been/will not be followed, you should provide justification.
- The reference date of the baseline habitat assessment (see above) and justification for selecting an earlier date than planning submission, if relevant.
- Details of any habitat degradation (see above) and the precautionary approach that has been taken to assess baseline habitats in light of this;
- Details any registered off-site biodiversity units allocated to the development (or proposed to be allocated), any commercial units or statutory credits purchased

for the development (or proposed to be purchased), and their respective approximate contributions to the overall BNG score.

- Full information on the baseline habitat values for the site and of any off-site land to be used for self-provided off-site habitat.
- Outline information about the proposed post-development biodiversity value of the on-site habitat and any registered off-site biodiversity gain at completion of the entire development, and the values contributed by each phase to the completed total development. This is expected to be less precise than the baseline information, but where proposals for development and habitat enhancement on each phase are not yet finalised, reasonable assumptions should be made about the likely development and habitat enhancements. These values will set expectations about the biodiversity value of on-site habitats, and the final values will need to be set out in later Phase Biodiversity Gain Plans. As with non-phased developments, the combined baseline and post-development must comprise the following:
 - The Statutory Biodiversity Metric tool with all baseline and proposed post-development habitat information completed (NB: this must be the original calculator file, not a screenshot), and
 - Written justification for selected habitat types and condition assessments (including the full results of the habitat survey, plus details of assumptions used to derive post-development habitats), and
 - A statement describing any irreplaceable habitats on site and setting out how these will be protected, or the bespoke arrangements (agreed with the Council beforehand) for compensating impacts on them, and
 - At least two plans, to scale and with a North indicator, showing all baseline and proposed on-site and off-site habitat, including any irreplaceable habitat (if applicable). The proposed on-site habitat plan may be a parameter plan or similar showing the likely extent of development parcels and open space for
- A description of arrangements for creation, management and monitoring of any proposed habitats that must be maintained for at least 30 years (i.e. “significant” on-site and self-provided off-site habitat). Typically, this would be in the form of a separate Habitat Management and Monitoring Plan and must include detailed method statements for ground works to create and maintain habitats.

Phase gain plans

Compared to the Overall Gain Plan, the Phase Gain Plan is intended to focus more narrowly on the individual contribution of the relevant phase to the overall net gain (for which precise details must be provided, based on the submitted landscaping plans). It will also provide a progress review of the cumulative progress to date in delivering the overall net gain target described in the Outline Gain Plan and identify residual requirements for future phases.

- Basic details about the author and the development: name and address of the person completing and submitting the Plan, development description and planning application reference.
- Information about the steps taken, or proposed to be taken, to follow the biodiversity gain hierarchy (see above). Where the biodiversity gain hierarchy has not been/will not be followed, you should provide justification.
- Full information on the baseline and the post-development habitat values on-site for the focal development phase. This must include:
 - The Statutory Biodiversity Metric tool with all baseline and post-development habitat information completed (NB: this must be the original calculator file, not a screenshot), and
 - Written justification for selected habitats and condition assessments (including the full results of the habitat survey, plus details of how the landscape plans were used to derive post-development habitats), and
 - A statement describing any irreplaceable habitats on site and setting out how these will be protected, or the bespoke arrangements (agreed with the Council beforehand) for compensating impacts on them, and
 - At least two plans, to scale and with a North indicator, showing all baseline on-site and off-site habitat, all post-development on-site and off-site habitat including any irreplaceable habitat (if applicable).
- Details of any registered off-site biodiversity units allocated to the development as a whole (or proposed to be allocated), any commercial units or statutory credits purchased for the development as a whole (or proposed to be purchased), and their respective contributions to the overall BNG score.
- Details of the on-site habitat provided by completed phases (the results of Statutory Biodiversity metric calculations from previous Phase Gain Plans) and future phases (this can be the projected contributions from the Overall Gain Plan, unless the projected values have since changed, in which case revised figures should be provided. These values, plus the details of off-site habitats (registered off-site biodiversity gain, commercial units and credits) will be used by the Council to assess (at each phase) the progress to date towards the BNG target set out in the Overall Gain Plan, and will help to flag any shortfall in units likely to occur in future phases. Where previous Phase Gain Plans have identified such a shortfall, arrangements may need to be presented to provide additional offsite units.
- A description of arrangements for creation, management and monitoring of any habitats that must be maintained for at least 30 years (i.e. “significant” on-site and registered off-site biodiversity gain). Typically, this would be in the form of a separate Habitat Management and Monitoring Plan and must include detailed method statements for ground works to create and maintain habitats.

8. Post permission: discharge of the General Biodiversity Gain Condition

The Council will discharge the General Biodiversity Gain Condition if the above requirements for the content of the Biodiversity Gain Plan (or Overall and Phase Gain Plans) are met, and if the Council is satisfied:

- The pre-development and post-development values are acceptable
- The value of any registered off-site biodiversity gain is acceptable
- The value of any commercial units or statutory credits are acceptable
- That the 10% **biodiversity gain objective** will be met
- That the **biodiversity gain hierarchy** has been applied correctly

9. Variations and Section 73 Applications

Providing BNG is mandatory (unless exempt). Therefore, you cannot use a section 73 application (an application to vary or remove a planning condition), or any mechanism to vary or remove the General Biodiversity Gain Condition.

You also cannot vary an approved Biodiversity Gain Plan. If you need to make any alterations to a development via a non-material amendment (NMA) or a Section 73 application to vary another condition, then the following procedures will apply:

- If the revised development under the NMA or Section 73 permission does not involve any changes to the post-development habitat values (by definition, this is likely to include all NMAs), the approved Biodiversity Gain Plan for the original permission will continue to apply, and no further information needs to be provided.
- If the revised development will involve changes to the post-development habitat values, a new Biodiversity Gain Plan must be provided to re-discharge the General Biodiversity Gain Condition. There is special additional provision for this in the case of phased developments, this is set out in [government guidance](#).