

Guide to the Biodiversity Gain Site Register

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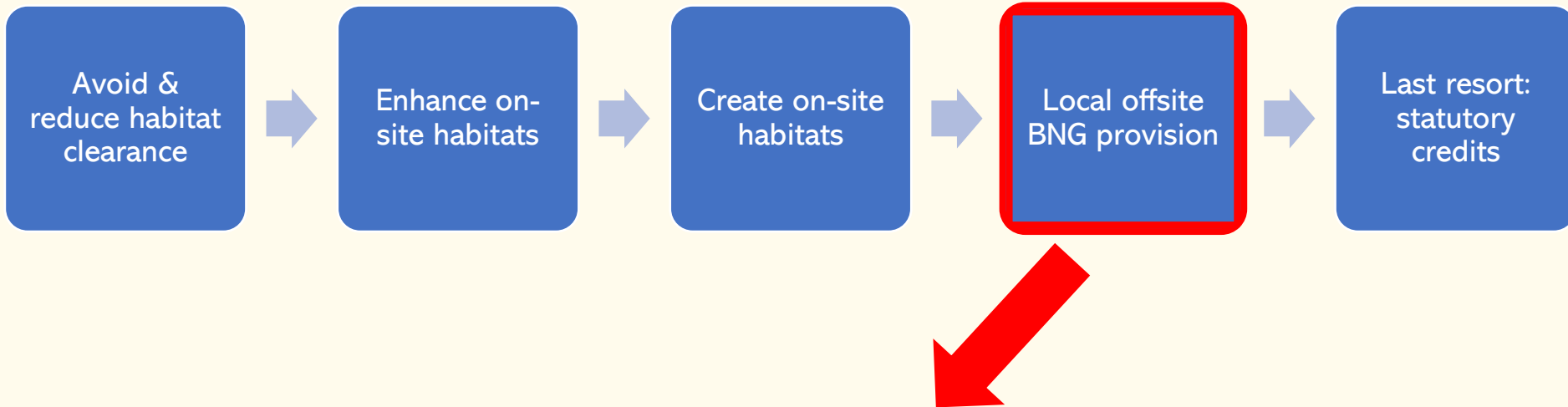
Biodiversity Net Gain

- In England, BNG is mandatory under Schedule 7A of the *Town and Country Planning Act 1990*
- Developers must deliver a BNG of 10%. This means a development will result in more, or better quality, natural habitat than there was before development
- BNG became mandatory in February 2024 for major developments, April 2024 for minor developments
- BNG will be extended to Nationally Significant Infrastructure Projects (NSIPs) in 2026

The Biodiversity Gain Site Register



Biodiversity Gain Hierarchy



- The Gain Site Register is a record of Biodiversity gain sites providing off-site gains
- All off-site gains used by developments **must** be recorded on the Register (allocations)
- Unallocated/partly allocated can also be added to the Register
- NE has no role in on-site assessment or enforcement

Gain Site Register: Role of Natural England



Functions of the Register are set in the *Biodiversity Gain Site Regulations 2024*

Natural England is the Biodiversity Gain Site **Register Operator**

Responsible for:

- Establishing and maintaining the Gain Site Register.
- Recording off-site gains used by developments, safeguarding against double counting
- Verifying that applications to the Register:
 - meet eligibility criteria
 - from eligible applicants
- Issue penalties for false information about gain sites

Gain site eligibility

A gain site must be:

- in England
- secured with a section 106 or Conservation Covenant which creates an obligation to
 - Undertake works for habitat enhancement and
 - Maintain the enhancement for at least 30 years after completion
- enhanced habitat is available for off-site BNG
- be recorded as a Local Land Charge
- Must use the statutory metric to record the baseline habitat and projected enhancements
- Does not have to be allocated to a development

NE has does not assesses:

- Gain site management, HMMPs, ecological outcomes
- Metric calculations
- Arrangements for selling units into the BNG market

Recording off-site gains



The Register records allocations of off-site gains to:

- Allow developers to demonstrate meeting planning conditions
- Prevent double-selling from gain sites

Conditions

- Must be calculated using the statutory metric
- Made only to TCPA approved developments (NSIPs from May 2026)

Can an allocation be removed?

- Yes, if there is no active planning permission linked to that allocation

The Register does not:

- Demonstrate how a development is meeting 10% BNG
- Act a marketplace for units
- Report sales/prices for unit sales

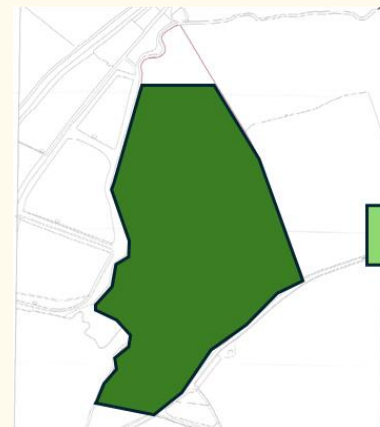
Recording off-site gains



- Unit allocations are made from total area of available habitat
- Units available from habitat are determined at time of allocation including the spatial risk multiplier
- There is no explicit spatial mapping

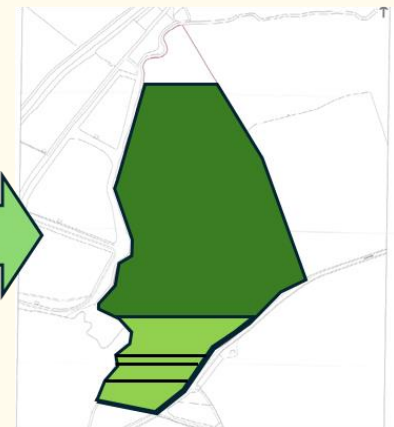
Available enhanced habitat

10 ha grassland – lowland meadow



Allocated habitat calculation

10 ha grassland – lowland meadow
3 ha allocated to
4 developments



- The Register displays:
 - Name of development
 - Size, type and condition of allocated habitat
 - Biodiversity unit value

Habitat information		
Baseline habitat		
Original information for the site, before any ENG improvements		
Area	Condition	Area in hectares (ha)
Grassland - Poor/bed grassland	Poor	0
Grassland - Poor/bed grassland	Poor	7.92
Grassland - Poor/bed grassland	Poor	0.01
Grassland - Poor/bed grassland	Poor	0
Grassland - Poor/bed grassland	Poor	0.05
Grassland - Poor/bed grassland	Poor	0.01
Grassland - Poor/bed grassland	Poor	0.01
Grassland - Poor/bed grassland	Poor	4.55
Grassland - Poor/bed grassland	Poor	0.03
Grassland - Poor/bed grassland	Poor	0.01
Grassland - Poor/bed grassland	Poor	0.01
Grassland - Poor/bed grassland	Poor	0.01
Grassland - Poor/bed grassland	Poor	3.47
Total		19.16

Allocation information		
There could be more than one allocated site in each development.		
Planned habitat		
Planned habitat enhancements from this gain site that have been allocated to a development		
Local Planning Authority	North West Leicestershire LPA	
Planning reference number	24/0248/FUL	
Project name	New Forest View Campus, Bosworth Road, Derby DE12 7DG	
Biodiversity value		
Habitat type	Value	
Area	0.29	
Area	Condition	Area in hectares (ha)
Grassland - Lowland meadows	Moderate	0.0516
Total		0.05

Applications to the Register



<u>Application</u>	<u>Fee</u>	<u>Who can apply</u>
Gain site registration	£639	Landowner or leaseholder only
Record offsite gains	£45	Landowner or leaseholder, or Any person with consent from all landowner(s) or leaseholder(s)
Amend a gain site record	£639	
Amend an allocation	£45	
Remove a gain site	£89	

- There must be a named applicant
- An applicant may authorise an agent to manage their application

Enforcement powers



NE may issue a fine of £5,000 if it finds that false or misleading information is given with a site registration

No enforcement powers for:

- Onsite management or delivering outcomes
- Allocations or developments

Appeals

- Any decision made by the Register Operator may be appealed
 - Application rejections
 - Enforcement decisions
- Appeals are made to the First Tier Tribunal (General Regulatory Chamber)

Biodiversity Gain Site Evidence Requirements Overview



Applying The Biodiversity Gain Site Register Regulations 2024

Regulation 6 land eligibility

Regulation 7 applicant eligibility

Documents

- Legal agreement; correctly executed
- Land boundary
- HMMP (if referenced as a separate document in the legal agreement, sometimes this is found within the legal agreement itself)
- Land Ownership evidence - Official copy of register of title AND official copy of filed plan (different if land is not registered with the land registry we will need root of title)
- Local land charge official search certificate
- Statutory metric

Regulation 6 – Land Eligibility



Legal Agreement S.106 or ConCov – executed as a deed. Binding.

It must be clear from the LA that the agreement is made in relation to statutory BNG and makes land available for allocation for the purpose of Schedule 7A TCPA 1990. Intro G

We check that the legal agreement stipulates that persons must carry out habitat enhancement works, which when completed must be maintained and monitored for at least 30 years.

Agreement Term

PAS LA - (would expect equivalent provisions in concov)

*Agreement Expiry Date means a date which is the expiration of the period of 30 years following the **Completion Date**.*

***Completion Date** means the date specified in the Certificate of Completion as the date the Habitat Creation and Enhancement Works were completed.*

NB. If this is not clear, we will ask for a Deed of Variation.

Obligations to undertake creation and enhancement works



Who has these obligations and is the purpose of them clear?

In the legal agreement there must be a statement that:

- LO party to LA, person or organisation, has responsibility for habitat creation/ enhancement works. It must be a clear stand-alone requirement.

- *PAS Schedule 2*

Gain Site Operator Covenants to

- *begin the Habitat Creation and Enhancement Works no later than 12 months following the date of first Allocation;*
- *complete the Habitat Creation and Enhancement Works in accordance with the Habitat Management and Monitoring Plan;*

Maintenance and Monitoring

Legal agreement must contain name of individual or organisation responsible for **maintenance** of habitat enhancement for at least 30 years after completion of works.

PAS LA Schedule 2

(The GSO) upon receiving the Certificate of Completion from the Council, (must) maintain the Biodiversity Gain Land in accordance with the Habitat Management and Monitoring Plan for a period of not less than 30 years from the Completion Date.

Legal agreement must contain name of individual or organisation responsible for the **monitoring** of the habitat enhancement, LPA or RB. Schedule 3 PAS Template.

Inputting dates when making application to register a gain site



Habitat Enhancement Works Start Date	<input type="text"/>
Habitat Enhancement Works End Date Status	<input type="text" value="End Date in Perpetuity"/>

Habitat enhancement works start date (only if works have started) – this can be left blank if not started yet

Habitat enhancement works end date status – This means the date the agreement will end, this confuses some and incorrect dates have been added. Take care here. If added, ensure it reflects 30 years of maintenance and monitoring, 30 years after the completion of works. If this is impossible to predict due to phased parcels, use in perpetuity, which is indicative only and allows for flexibility. **This date will appear on the Register.**

Regulation 7 – applicant eligibility

Applicant = Landowner (qualifying estate) = legal agreement party

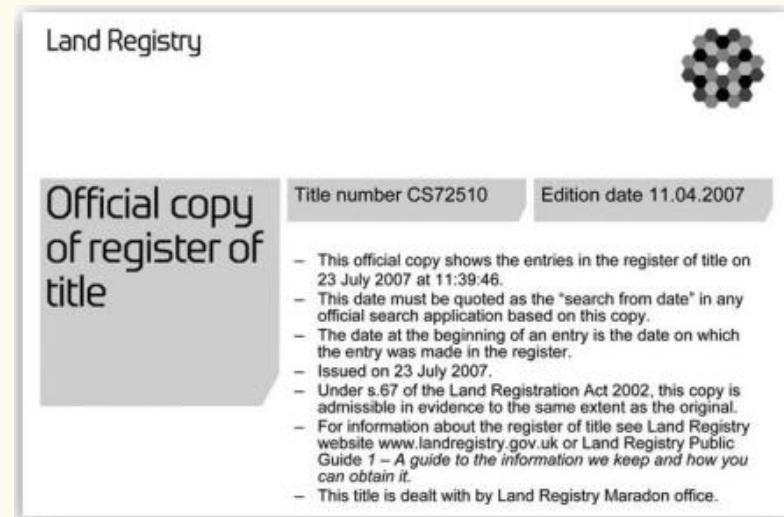


We determine whether the applicant is eligible to make the application by checking they have sufficient interest in the land to be bound by the terms of the legal agreement under which they must carry out and maintain habitat enhancement works.

Land ownership evidence requirements: OCE =
Official copy of register of title plus corresponding
title plan for land identified in the LA.

Does the OCE and title plan, or other land ownership documents provided show the applicant and party to the LA as landowner.

OCE – must be dated within 2 months preceding the date of the application to ensure that we can be satisfied that the land ownership details on the OCE are up to date at the time of the BNG application.
Unregistered land – Root of Title needed.



Scenarios

Title numbers must match each other and numbers in legal agreement.

LO applicant must be party to LA with obligations



Freehold applicant:

OCE of FH + title plan showing the applicant as owner of the FH title.

Leasehold applicant :

OCE of LH + title plan + copy of official lease for 30 + years, showing applicant as owner of LH title

Freehold applicant with leaseholder party to the legal agreement

OCE of FH + title plan showing the applicant as owner of the FH title.
Obligations on both parties.

Leasehold applicant with freeholder party to the legal agreement

OCE of LH + title plan + copy of official lease for 30 + years, showing applicant as owner of LH title. Obligations on both parties.

Problems



Leases – please no break clauses unless the freehold LO is party to the LA with obligations

If present, we cannot be satisfied that the leasehold applicant is required to maintain the habitat enhancement for at least 30 years after the completion of the required works and will ask for a Deed of Variation to remove it.

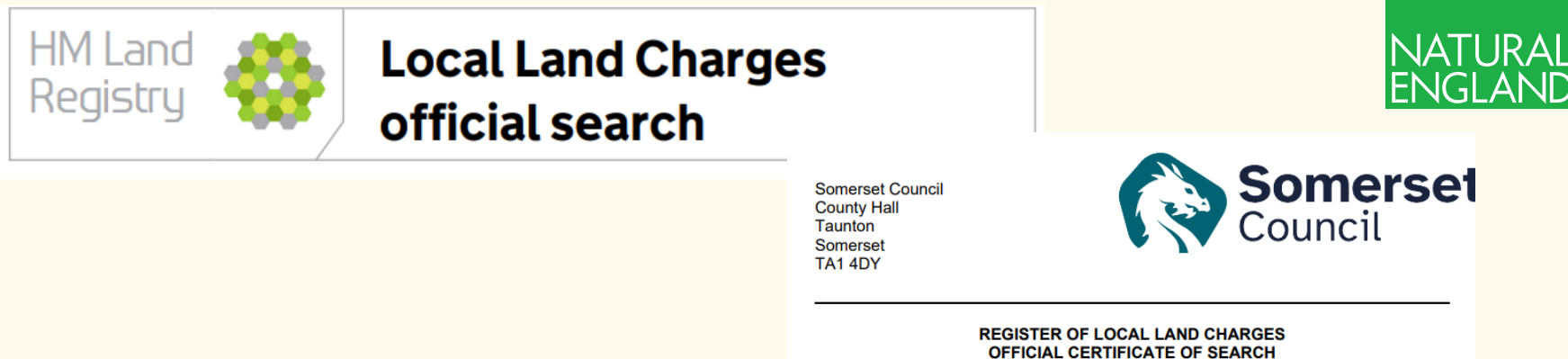
BREAK CLAUSE

- 9.1. The Tenant shall have the right to terminate this lease:
 - 9.1.1. at any time before 1 December 2027 (being the fifth anniversary of the Start Date); or
 - 9.1.2. on or at any time after whichever is the later of:
 - 9.1.2.1. the date of the termination of any Farm and Habitat Management Agreement; or
 - 9.1.2.2. the 30th anniversary of the Start Date

Land Registry Delays

We can be flexible in relation to land ownership documents we are prepared to accept while these delays are ongoing. Contact the enquiries team to check what may be acceptable as this will be dealt with on a case-by case basis.

Local Land Charge



Evidence Required

*Reg 8(4)(d) - applicants must provide a copy of an **official search certificate** issued under section 9(4) of the Local Land Charges Act 1975 showing the particulars of the registration of the conservation covenant, or (as the case may be) the planning obligations in the section 106 agreement, in the local land charges register, local authority or Land Registry.*

If Deed of Variation has been submitted, we need evidence that an application to register the D o V as a LLC has been received by the LA or LR.

www.gov.uk/natural-england

Metric

The Statutory Biodiversity Metric

The Statutory Biodiversity Metric

Auditing and accounting for biodiversity

Calculation Tool

Version 1.0.3



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Metric - the form in which specific information required by the regulations is submitted to the Register Operator (*pre and post habitat type size and condition*). We cannot verify whether the metric has been correctly applied or whether the projected enhancement can feasibly be achieved.

- We would only make checks of the Metric to ensure that off-site net change is positive, that trading rules have been satisfied.
- We would advise applicants on uploading issues, nearly always because of off-site baseline being added to the onsite tab. Contact enquiries.

SSM cannot be used for Registrations or Allocations.

Allocations

[Make off-site biodiversity gains as a developer - GOV.UK](#)



Record off-site gains

Record off-site gains for a new development

If landowner is not applicant, consent from every landowner needed. If landowner is applicant, no consent needed from other landowners if more than one)

- Metric with completed off-site gain site summary showing units to be allocated post SRM. We check allocated habitat information is present.
- Planning Permission which must be the in date, full grant of permission with the correct reference and project/development id.
- We check that there is a valid GS and that there is not an over allocation.

Amendment to or removal of gain site, allocation



[Amend a registration or allocation, or remove a registration - GOV.UK](https://www.gov.uk)

Guidance makes it clear what documentation we require.

Registrations

- Site information on the biodiversity gain site register has changed because of a change to the legal agreement.
- Site information on the biodiversity gain site register is incomplete, or inaccurate, for any other reason.
- One application received to date, to change habitats.

Allocations

- Amendments may only be made to **reduce** or **remove** an allocation.
- We expect the applicants to provide written evidence from the LPA granting planning permission that confirming the allocation is no longer required or should be reduced.

Housekeeping – Application mechanics



Choices on Portal GG and Defra id– see guidance, choose Sole Trader as business type

[EHC Online: register for Government Gateway and your Defra account - GOV.UK](https://www.gov.uk/e-commerce-portal)

Administrator – beware of potential issues

Metric – ensure all data added to correct tabs

Payment Stages – up to 8 days

A screenshot of the Government Gateway sign-in page. The title is "Sign in using Government Gateway". Below the title, there are two input fields: "Government Gateway user ID" (with a note "This could be up to 12 characters.") and "Password" (with a "Show" button). A green "Sign in" button is below the password field. At the bottom, there is a link for "New users of Government Gateway" and a link for "Create sign in details".

1. Payment issued via BACS

2. Payment is processed to SSCL (up to 3 working days)

3. Payment is processed and confirmed to BNG services (up to 5 working days)

SSCL – Can take up to 5 working days to clear (stage we receive confirmation)

The logo for Natural England, featuring the words "NATURAL" and "ENGLAND" stacked vertically in white, uppercase, sans-serif font, centered within a solid green square.

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