



Surrey Nature Partnership

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Biodiversity & Planning Conference

2025

Photo credit: Jon Hawkins, Surrey Hills Photography

Surrey Biodiversity Conference 2025

Habitat Banks – LPA perspective

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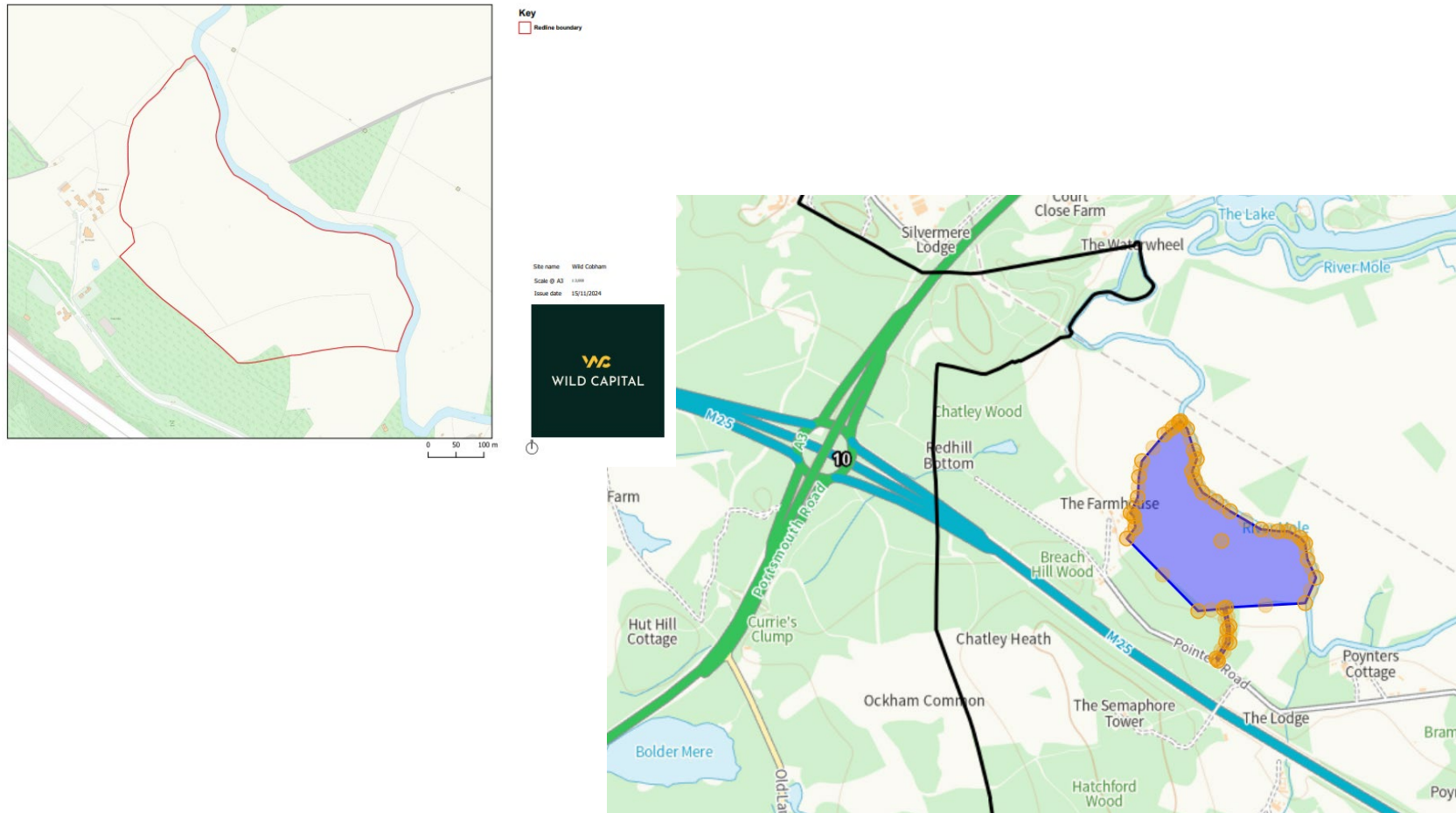
Habitat Banks

Contents

- Securing a Habitat Bank
 - What is in the Section 106 agreement
 - Monitoring
 - Enforcement
 - Lessons learnt
 - The planning process for securing BNG through Habitat Banks
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Habitat Banks

Chatley Farm, Cobham Habitat Bank



Habitat Banks

Securing a Habitat Bank

- To qualify as registered off-site biodiversity gain, habitat banks must:
 - Secure creation/enhancement and maintenance of habitats with a S106 planning obligation or conservation covenant for minimum period of 30 years; and
 - Have surplus biodiversity units formally recorded in the statutory biodiversity gain site register operated by Natural England
 - We used Section 106 agreement rather than conservation covenant
 - We considered no planning permission required
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Habitat Banks

What is in the Section 106?

- Plan of the Biodiversity Gain Land
- Land owner covenants
 - Registration requirements
 - Implementing the Habitat Management and Monitoring Plan (HMMP)
 - Process for allocation
 - Process for amending HMMP
 - Covenants regulating use of the land
 - Notification requirements - capacity report every three months until all allocated
 - Step-in rights

DATED 7th NOVEMBER 2024

(1) ELMBRIDGE BOROUGH COUNCIL

AND

(2) WILD CAPITAL 1 PROPCO 3 LTD

AGREEMENT

pursuant to Section 106 of the Town and Country Planning Act 1990, section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and other powers relating to land at Chatley Farm, Cobham

Habitat Banks

What is in the Section 106?

- Council covenants
 - To monitor implementation of HMMP
 - Right of access
 - Breach notice and step-in rights
- Monitoring details
- Metric showing baseline
- Habitat Management and Monitoring Plan
- Competency Framework – to ensure ecologist for Habitat Bank and LPA meet certain criteria

Ownership Reference ID: ANS0007158-0013-0000-000000000000



Habitat Management and Monitoring Plan

Site Name:	Chatley Farm, Cobham Habitat Bank
Date:	24/07/2024
Version:	1.0

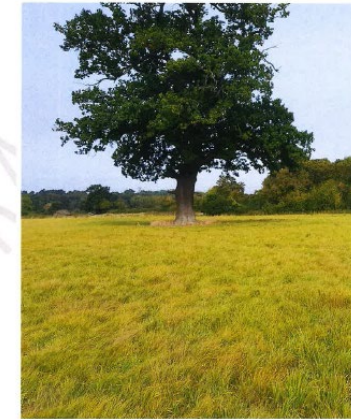
Author:



Client:



Template Version 1.0 November 2023



Habitat Banks

What is in the Section 106?

Baseline: 86.92 biodiversity units
 Uplift: 89.45 biodiversity units

Proposed Habitats – Mixed scrub, other neutral grassland, ponds, traditional orchards, wet woodland. Species rich native hedgerow, ditches, tree planting.

Design Envelope ID: 44852AF1-1E53-4119-BAE8-737EAE80805

Headline Results

Scroll down for final results & tracking rules

Category	Habitat Type	Units	% Change	
On-site baseline	Mixed scrub	0.00		
	Other neutral grassland	0.00		
	Ponds (non-priority habitat)	0.00		
On-site post-intervention	Mixed scrub	0.00		
	Other neutral grassland	0.00		
	Ponds (non-priority habitat)	0.00		
On-site net change	Mixed scrub	0.00	0.00%	
	Other neutral grassland	0.00	0.00%	
	Ponds (non-priority habitat)	0.00	0.00%	
Off-site baseline	Mixed scrub	67.93		
	Other neutral grassland	1.65		
	Ponds (non-priority habitat)	14.39		
Off-site post-intervention	Mixed scrub	148.41		
	Other neutral grassland	13.81		
	Ponds (non-priority habitat)	27.79		
Off-site net change	Mixed scrub	80.48	117.19%	
	Other neutral grassland	6.74	33.19%	
	Ponds (non-priority habitat)	9.41	65.42%	
Combined net unit change	Mixed scrub	79.28		
	Other neutral grassland	6.74		
	Ponds (non-priority habitat)	9.41		
Spatial net change (SMA) deduction	Mixed scrub	0.00		
	Other neutral grassland	0.00		
	Ponds (non-priority habitat)	0.00		
FINAL RESULTS				
Total net unit change	Mixed scrub	79.28		
	Other neutral grassland	6.74		
	Ponds (non-priority habitat)	9.41		
Total net % change	Mixed scrub	N/A	† baseline zero - % cannot be calculated	
	Other neutral grassland	N/A	† baseline zero - % cannot be calculated	
	Ponds (non-priority habitat)	N/A	† baseline zero - % cannot be calculated	
Tracking rules satisfied? Yes				
Unit Type	Target	Baseline Value	Units Required	Units Delivered
Other neutral grassland	10.00%	0.00	0.00	0.00
Mixed scrub	10.00%	0.00	0.00	0.00
Ponds (non-priority habitat)	10.00%	0.00	0.00	0.00

No additional area habitat units required to meet target. † No additional landscape units required to meet target. ‡ No additional landscape units required to meet target. †

Habitat Creation, Enhancement and Management Plan (Habitat Proposal) ENR01



Habitat Banks

Monitoring

- Walkover survey within 6 weeks of completion of Habitat Improvement works for each phase
 - Full Habitat and condition assessment survey in Year 5 and every 5 years after
 - Final survey no later than 35 years following completion of first phase
 - 30 years monitoring – Years 1, 2, 5, 10, 15, 20, 25, 30 (starts after completion of works)
 - Calculation for monitoring fee – Estimate of hours for ecologist and hourly rate (index linked)
 - Benchmarking clause if the Council has to replace ecologist over the 35 years (no more than 10% above average of 3 quotes)
-

Habitat Banks Monitoring

Notification of allocations – including balance of units not yet allocated

APPENDIX 1 : FORM OF CAPACITY REPORT

A. Planning Reference.	B. Site Address	C. Number of Habitat Units Allocated	D. Date of Notice of Allocation	E. Applicant	F. Comments	G. Number of Uplifted Biodiversity Units not yet allocated

Example of notification of allocations received:

Wild Cobham Capacity Report			Date		25/02/2025			
WC ref.	A. Planning Reference	B. Site Address	Ca. No of Habitat Units Allocated	Cb. Area of Habitat Allocated	D. Date of Notice of Allocation	E. Applicant	F. Comments	G. Number of Uplifted BUs not yet Allocated
BNG00336	RU.24/1239	Cwm Eithin, Gorse Hill Road, Virginia Water, Surrey, GU25 4AS	0.05	0.01	05/02/2025	NEW RICHMOND DEVELOPMENTS LTD		89.40
BNG00392	RU.24/1287	Casuarina, 7 Badgers Hill, Virginia Water, Surrey, GU25 4SB	0.07	0.01	14/02/2025	NEW RICHMOND DEVELOPMENTS LTD		89.32
BNG00291	2024/1956	Land West Of Morane Blundel Lane Stoke D'abernon Cobham Surrey KT11 2SY	0.13	0.02	14/02/2025	BURHILL HOMES LTD		89.20
BNG00111	24/01189	Montrose House Coronation Road Ascot SL5 9LP	1.61	0.40	25/02/2025	CLAIRE AND LEE SCOTT		87.58

Habitat Banks

Enforcement

- If habitat banks aren't progressing as planned, relies on HMMP in S106 for Habitat Bank. LPA granting permission for individual planning applications are unable to enforce
 - 35 years is a long time to monitor
 - LPAs can only ensure a Habitat Bank is registered and units allocated against the development, which can be checked against the NE gain site's register allocation reference on gov.uk.
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Habitat Banks

Lessons from negotiation

- Referred to Planning Advisory Service website for example S106s, but lots of changes
 - Start monitoring once all enhancement works completed, otherwise, you will have multiple lots of 30 years monitoring
 - No control over allocations - likely to go to developments outside borough and price is set by Habitat Bank provider
 - Identify ecologist to review monitoring information and contingency arrangement
 - Flexible approach to habitat delivery in the plan
 - Prevents other development coming forward on site for 30 years
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Habitat Banks

The Planning Process

- Application Stage – confirm if on-site or off-site
 - Standard Condition – referred to in informative only
 - Submit Biodiversity Gain Plan
 - Habitat Bank is one of the three measures permitted to deliver BNG under the Environment Act 2021:
 1. Onsite habitat creation
 2. Registered offsite biodiversity gain (Habitat Bank); and
 3. Purchase of statutory biodiversity credits
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Habitat Banks

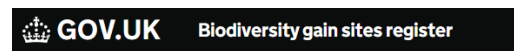
The Planning Process

- Biodiversity Gain Plan Condition stage:
 - Complete Biodiversity Gain Plan form
 - Copy of Allocation Agreement
 - BNG Metric
 - LPA review information and consult with ecologist if appropriate to check if 10% BNG will be achieved
 - LPA to check pre and post development calculations, whether it meets BNG trading rules and that developer's habitat valuations are accurate
 - LPA should check BNG Allocations Register on [gov.uk](https://www.gov.uk) that off-site gains have been registered and allocated to the development
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Habitat Banks

The Planning Process

LPA check BNG Allocations Register on gov.uk
<https://www.gov.uk/guidance/search-the-biodiversity-gain-sites-register>



Home

[BETA](#) [Contact the Data Services Platform Service team if you have feedback, questions or](#)

Search the register

Enter one of the following:

- a biodiversity gain site reference number
- a planning reference number
- the Local Planning Authority (LPA)
- a habitat type
- a responsible body

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	Elmbridge LPA
Planning reference number	2024/1956
Project name	BNG00291 Land West of Moranre Blundel Lane

Biodiversity value

Habitat type	Value
Area	0.13

Area	Condition	Area in hectares
Heathland and shrub - Mixed scrub	Good	0.13
Total		0.13

Gain site reference number

BGS-151124001

Gain site	Habitat	Allocation	Amendments
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Gain Site

Gain site size	15.15 hectares (ha)
Grid reference	TQ092589
Local Planning Authority or responsible body	Elmbridge LPA
Land boundary	Link to land boundary

Planned habitat improvement

Planned site information after BNG improvements have been made

Area	Condition	Area in hectares (ha)
Heathland and shrub - Mixed scrub	Good	0.0924
Grassland - Other neutral grassland	Good	0.2858
Lakes - Ponds (non-priority habitat)	Moderate	0.0399
Heathland and shrub - Mixed scrub	Good	0.1007
Grassland - Traditional orchards	Moderate	1.0789
Heathland and shrub - Mixed scrub	Good	1.1566
Lakes - Ponds (non-priority habitat)	Moderate	0.0035
Heathland and shrub - Mixed scrub	Good	0.1548
Grassland - Other neutral grassland	Moderate	1.4264
Individual trees - Rural tree	Moderate	0.2524
Grassland - Other neutral grassland	Good	10.2408
Total		14.83

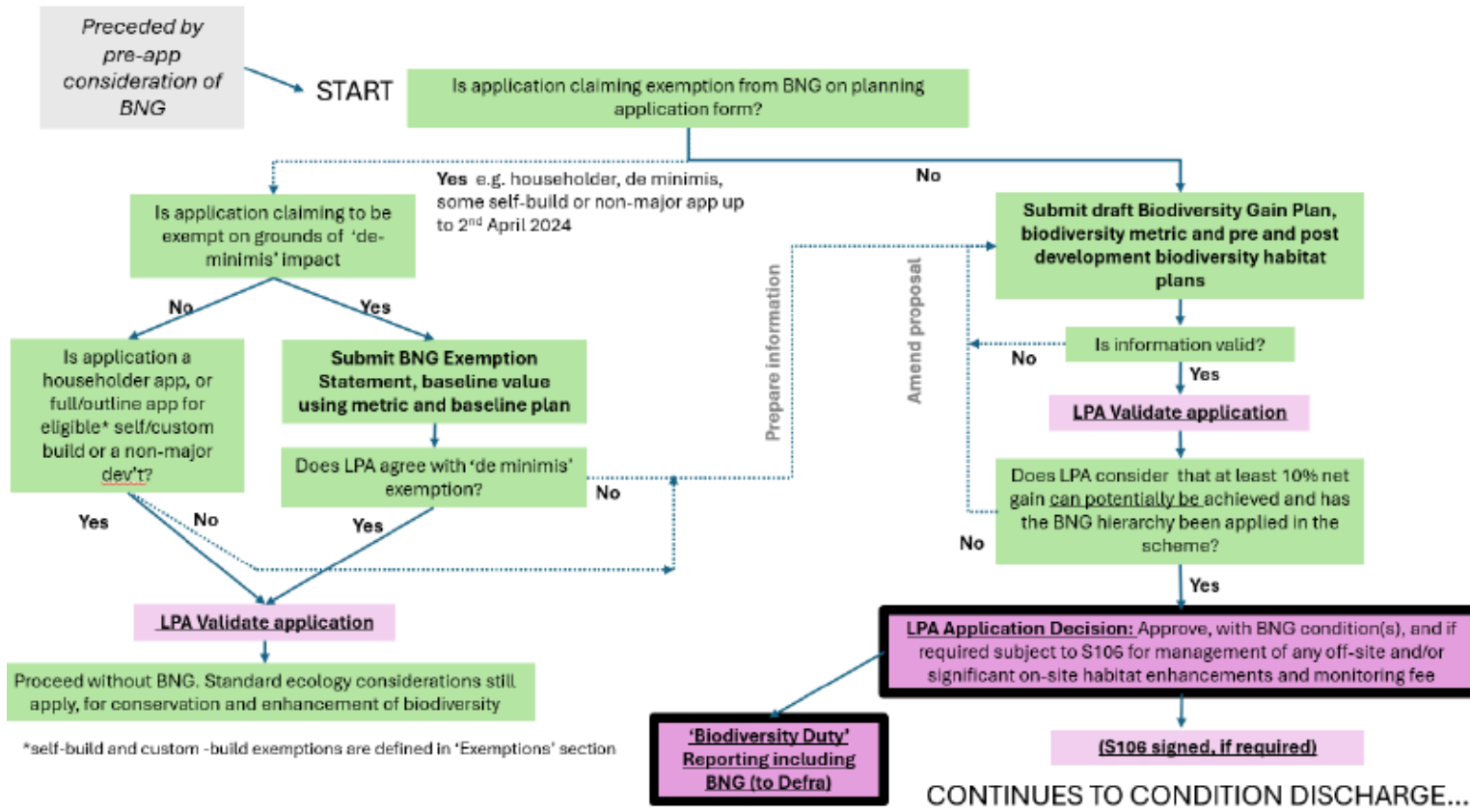
Hedgerow	Condition	Length in kilometres (km)
Species-rich native hedgerow - associated with bank or ditch	Good	0.294
Species-rich native hedgerow - associated with bank or ditch	Good	0.34
Total		0.63

Watercourse	Condition	Length in kilometres (km)
Other rivers and streams	Fairly Good	0.43
Ditches	Moderate	0.574
Total		1.00

Habitat Banks

Planning Application Process

Validation and Application Decision

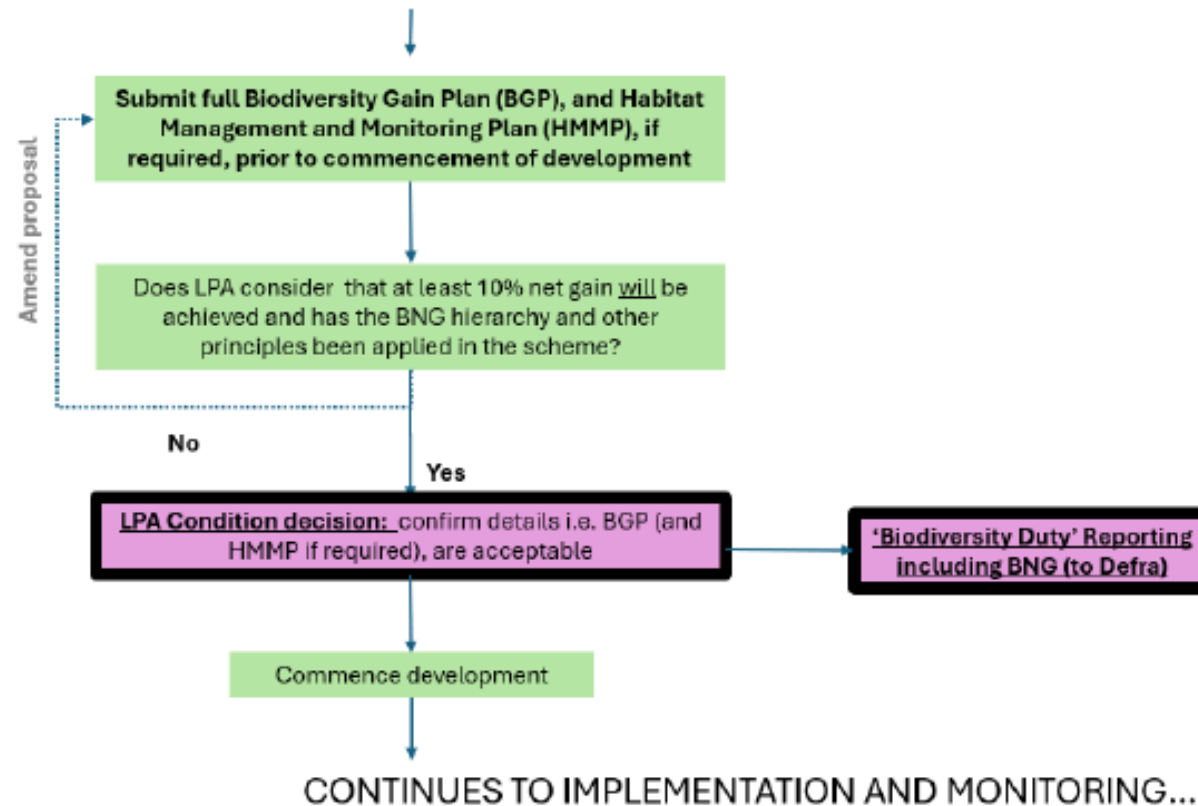


Source: unknown

Habitat Banks

Planning Application Process

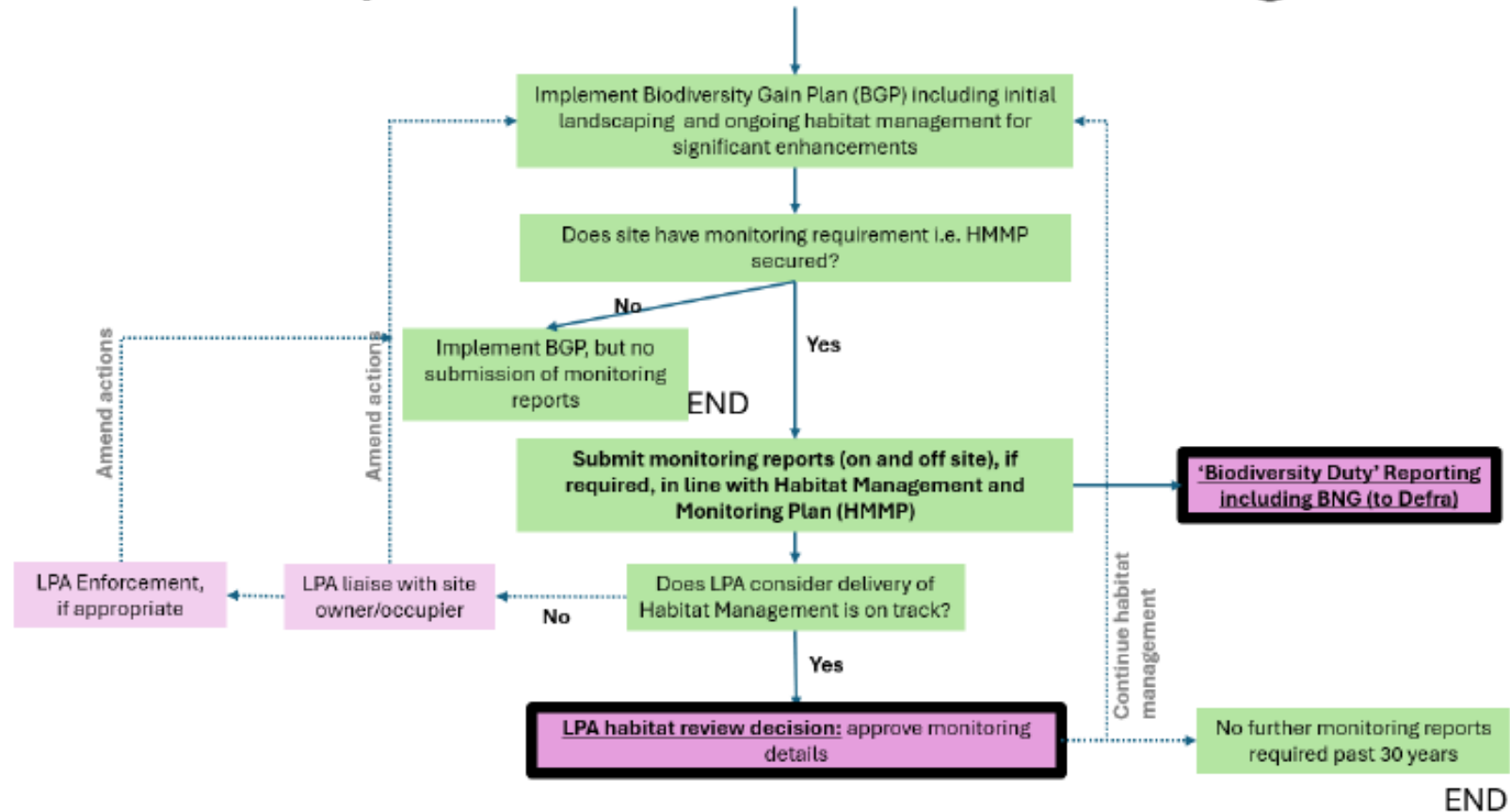
Prior to commencement



Habitat Banks

Planning Application Process

Implementation and Monitoring



Habitat Banks

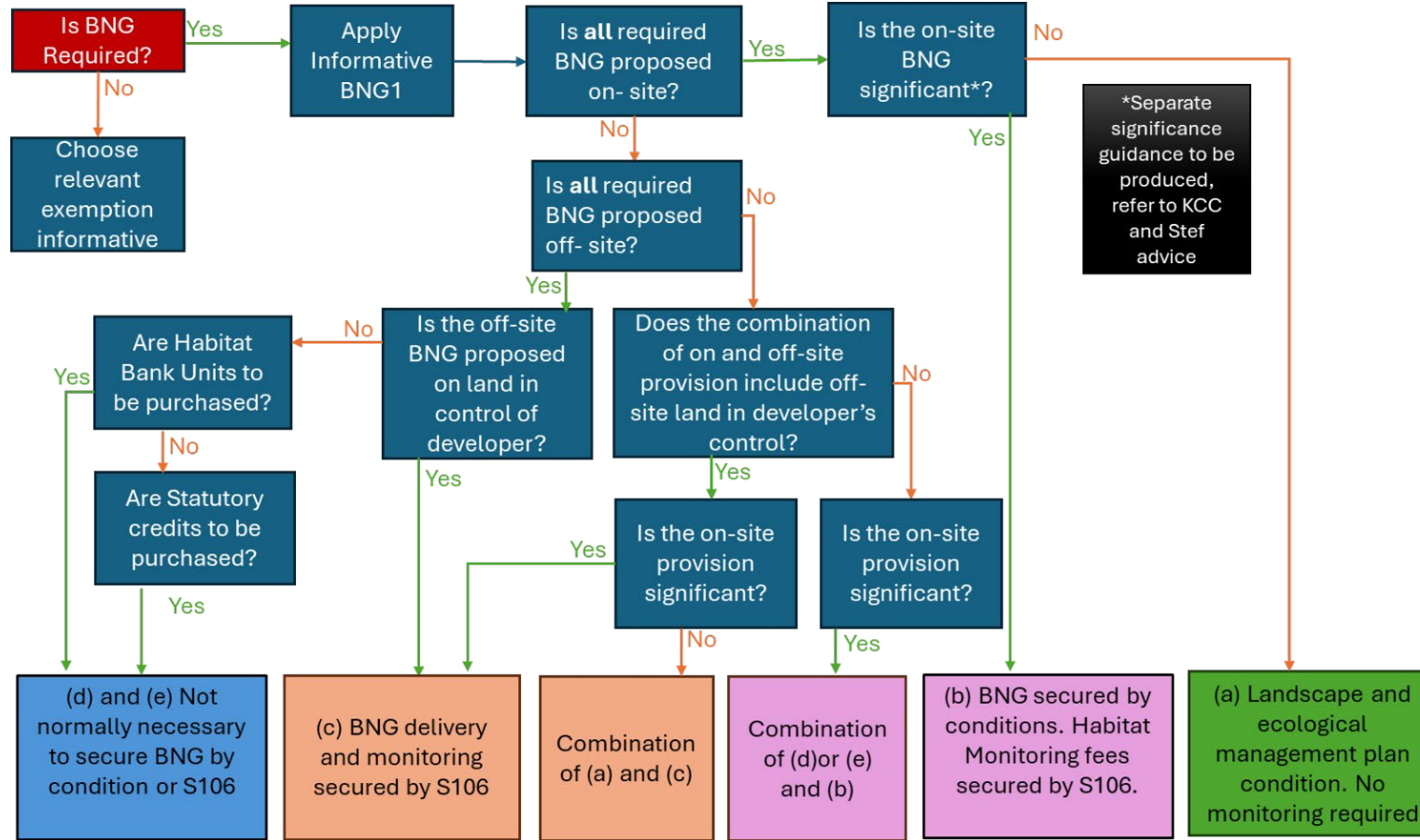
Planning Application Process

BNG Scenario	Summary of Requirements
<u>Scenario a - non-significant on-site BNG</u>	Deemed condition to submit Biodiversity Gain Plan will apply, no on-going monitoring requirements, landscape and ecology management plan condition.
<u>Scenario b - significant on-site BNG</u>	In addition to deemed condition, BNG land secured by planning conditions, habitat management monitoring fees required through S106
<u>Scenario c - Off-site BNG secured through planning permission</u>	BNG outside of red line, but within applicant's control/land. In addition to deemed condition, BNG delivery and monitoring must be secured through S106.
<u>Scenario d – Habitat Bank</u>	Developer proposing to purchase units through a Habitat Bank. Not normally necessary to secure BNG through additional conditions or S106. Deemed condition still applies.
<u>Scenario e - Statutory Credits</u>	Developer proposing to purchase Statutory credits. Not normally necessary to secure BNG through additional conditions or S106. Deemed condition still applies.
Combination of scenarios	Where the BNG proposal is secured through a combination of the potential scenarios, if one of these requires the use of S106 obligations to secure the BNG and HMMP, that should be used instead of duplicating as conditions.

Source: Dover District Council

Habitat Banks

Planning Application Process



Habitat Banks

Informative – where BGP required

Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Elmbridge Borough Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

The permission which has been granted has the effect of requiring or permitting the development to proceed in phases. The modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 apply.

In summary: Biodiversity gain plans are required to be submitted to, and approved by, the planning authority before development may be begun (the overall plan), and before each phase of development may be begun (phase plans).

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
 2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
 3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
 - (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
 4. The permission which has been granted is for development which is exempt being:
 - 4.1 Development which is not ‘major development’ (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:
 - i) the application for planning permission was made before 2 April 2024;
 - ii) planning permission is granted which has effect before 2 April 2024; or
 - iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).
 - 4.2 Development below the de minimis threshold, meaning development which:
 - i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
 - ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).
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Habitat Banks

Informative – where BGP required

4.3. Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4. Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee)

4.5 Self and Custom Build Development, meaning development which:

- i) consists of no more than 9 dwellings;
- ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
 - ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.
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Habitat Banks

Informative – where BGP required

Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:

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 - (b) the planning authority has approved the plan.
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Habitat Banks

PAS BNG Resources

- The PAS BNG Forum on Basecamp BNG is a useful source of information for officers.
- PAS also has templates for legal agreements and conditions

The screenshot shows a forum page titled "_Biodiversity net gain forum for LPAs". The page description states: "A place for local authority officers to ask questions, post updates, share experience and co-develop PAS support on biodiversity net gain (BNG). If you want us to add colleagues, please email pas@local.gov.uk with their details." Below the description is a row of user avatars, with the text "Set up people" on the left and "+ 267 just" on the right. The forum is organized into several sections:

- General:** Includes posts like "Reminder* DEFRA BNG Funding 24/25 Deadline", "Drop-In #28 scratchy notes", "Free Webinar by Freeths on Nature Recovery Working Paper", "Officer BNG Training", and "Drop-In #27 scratchy notes".
- 1. The BNG System:** Includes posts like "Small parcels of 'significant' onsite habitats", "Monitoring, management and removal of trees?", "BNG and Functionally Linked Land", "Agricultural Fields - Similar to 'private' gardens?", and "Offsite units purchased from a Habitat Bank - to monitor or not?".
- 2. DM Processes:** Includes posts like "First appeal decision re 'made' vs. 'submitted'", "How to secure off-site BNG", "Banking excess units", "What ensures BNG is actually delivered?", and "Offsite delivery for a regulation 3 self-application".
- 3. Policy:** Includes posts like "Biodiversity Gain Plan (The Biodiversity Gain Town and Country Planning) (Modifications)", "Drafting Local Plans - What are the Key Topics & Questions?", "Including retrospective applications in policy", "Legal status/weight to give metric user guide", and "Navigating Basecamp - PAS BNG Forum for LPAs".
- Auto-Check-ins (PAS Team):** A section with a question mark icon and the text "Send questions to your team on a schedule to get fresh insights." with an "Ask a question" button.
- Schedule:** Lists upcoming events: "BNG Drop-In (Fortnightly Network Session)" on TUE, MAR 18 (9:30am - 11:00am) and "BNG Drop-In (Fortnightly Network Session)" on TUE, APR 1 (9:30am - 11:30am).
- Docs & Files:** A section at the bottom for documents and files.

Habitat Banks

Summary

- The effectiveness of BNG will stem from it being able to deliver genuine habitat improvements, but also being able to fit into the 'supply demand' product box that does end up making people money
 - Habitat Banks are just one way of securing Biodiversity Net Gain
 - Simplest way for developers to comply with BNG, no additional condition or S106 required at application stage
 - Individual planning applications unable to monitor if Habitat Banks are working, relies on S106 or Conservation Covenant on Habitat Bank itself
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