



Biodiversity Net Gain Regulations: Update

On 13th July, the Government published and laid before Parliament the long-awaited regulations introducing amendments to the Biodiversity Net Gain (BNG) regime.

These represent the first package of changes arising from the Government's 2025 consultation on the implementation of BNG.

BNG became mandatory for most major and minor planning applications in England on 12 February 2024, with the requirements extended to small sites from 2 April 2024. The regime requires qualifying developments to deliver at least a 10% net gain in biodiversity, secured for a minimum of 30 years, with developers expected to prioritise on-site habitat creation before considering off-site measures or statutory biodiversity credits.

The most significant change for planning applications is the introduction of a new exemption for development on sites of 0.2 hectares or less.

From 6th August 2026, development within a red line boundary of 0.2 hectares or less will no longer be subject to mandatory BNG, unless the proposal would negatively affect on-site priority habitat. This is intended to reduce the disproportionate administrative and financial burden associated with BNG for the smallest developments.

Other changes taking effect on 6th August include:

- A new exemption for temporary development where the whole development is temporary and planning permission is granted for five years or less, unless on-site priority habitat is affected;
- The removal of the existing small-scale self-build and custom-build exemption. These developments may instead benefit from the new

area-based exemption where the site measures 0.2 hectares or less, or from another applicable exemption; and

- Changes to the biodiversity gain hierarchy for minor development, allowing qualifying schemes that remain subject to BNG to consider off-site biodiversity gains on an equal footing with on-site habitat creation or enhancement.

These changes will provide greater flexibility for minor developments, including allowing applicants to proceed directly to off-site provision where this represents the most appropriate way of delivering BNG.

Transitional arrangements have also been published to clarify which planning applications will be assessed under the existing rules and which will be subject to the amended regime.

Broadly, the changes will apply only to new applications for planning permission made on or after 6th August 2026. Existing planning permissions and applications submitted before that date will continue to be subject to the current BNG legislation. An application under section 73 of the Town and Country Planning Act 1990 cannot be used to bring an existing permission within the new 0.2 hectare exemption.

Further changes to the BNG regime are expected. The Government has indicated that it intends to introduce additional targeted exemptions and make changes to the statutory biodiversity metric later in 2026. A separate consultation on a potential targeted exemption for certain residential development on brownfield land closed on 10th June 2026, and the Government's response is awaited.

Jonathan Harper, Partner in Rapleys' Planning Team, commented:

"These changes are welcome news for those bringing forward development on smaller sites. For sites of 0.2 hectares or less, they will remove the requirement to assess, calculate and deliver mandatory BNG in most cases, reducing both the associated costs and the administrative burden, along with the associated time delays. It is also positive to have certainty over when the new regulations will come into force.

However, there remains a strong case for further reform of the BNG regime. The current system introduces significant additional costs and administrative requirements throughout the development process.

Additional information is required at the planning application stage, while delays can arise in obtaining local authority ecological feedback, both during the determination of applications and when discharging conditions, particularly where authorities face resource constraints.

Legal agreements are often required to secure significant on-site gains or other BNG commitments, together with their long-term management and monitoring. Where off-site provision is necessary, developers must also meet the cost of sourcing appropriate biodiversity units. Secured habitats must then generally be managed and monitored for at least 30 years.

There is clear scope for the process to be further simplified and streamlined while continuing to deliver meaningful biodiversity gains. If the Government is serious about growing the economy and addressing the housing crisis, future reforms to the BNG regime should be considered in that context."

Please get in touch with a member of the Rapleys Planning team if you have any queries about the BNG requirements or require advice on how they may affect a proposed development.



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