



## Central Governance

Central governance is crucial to the success of BNG policy and its environmental outcomes, which must be delivered over 30 years for both on-site and off-site habitats. For developers and off-site providers that make claims of delivering these BNG outcomes, central governance means that independent third parties:

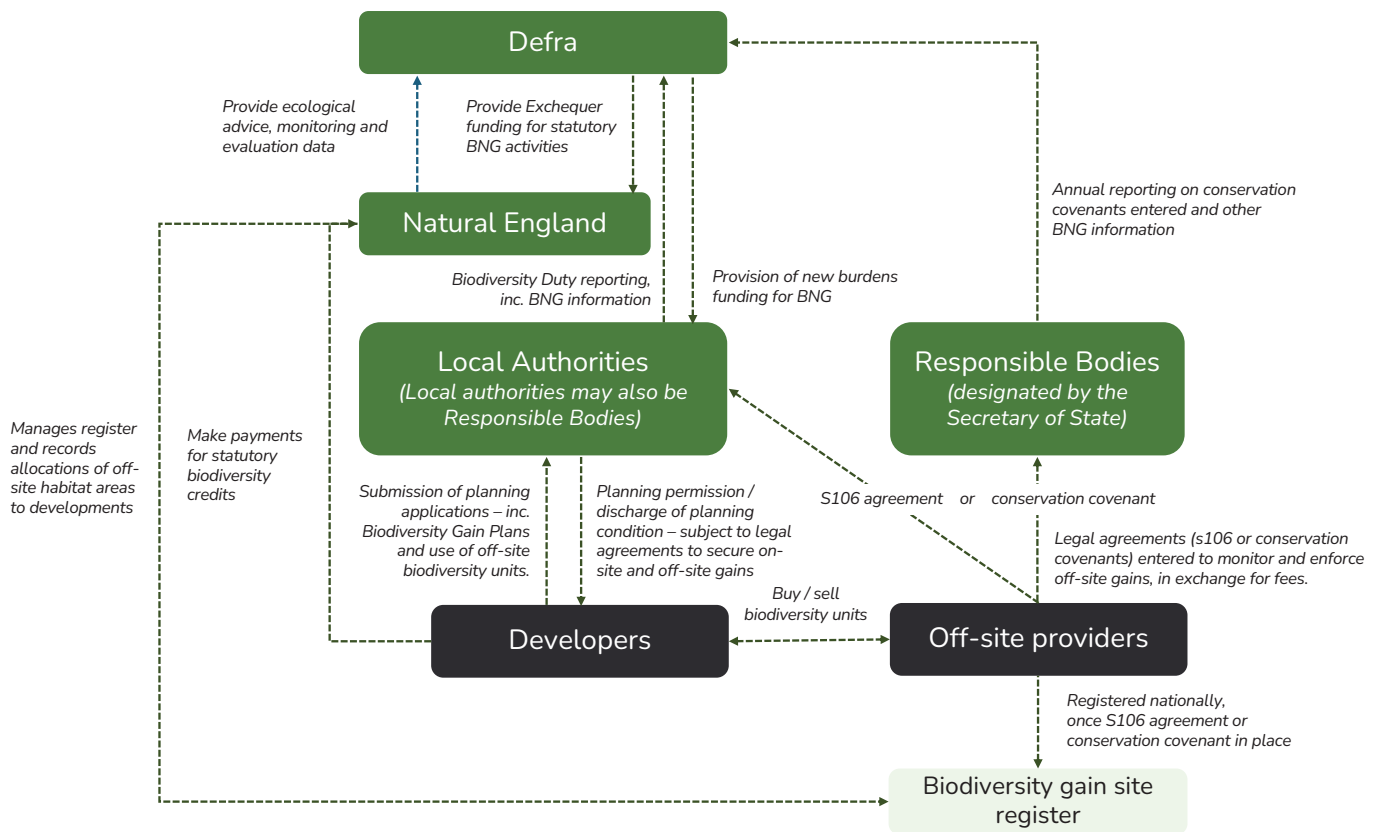
1. set the rules for how the exact claims are made - such as the use of the statutory biodiversity metric,
2. assess individual proposals for how BNG outcomes will be delivered – including through Habitat Management and Monitoring Plans & Biodiversity Gain Plans.
3. monitor these outcomes over the 30-year period, and
4. take enforcement action if these outcomes are not delivered.

Central governance is also required for the off-site market component of BNG, such as the prevention of double counting when units are sold or exchanged.

Within the context of BNG, organisations that are delivering these functions include Local Planning Authorities (LPAs), Responsible Bodies (RBs – who may also be LPAs), Defra, and Natural England. This pillar therefore focuses on the challenges faced by these organisations in fulfilling their defined roles.



## Central Governance Structure



(Note: see Glossary for short definitions of S106 agreements, conservation covenants and other governance-related terms)

## What do market stakeholders think about the state of central governance in BNG?

As BNG is a legal requirement that is designed to deliver on the government's environmental goals – including those within the 25 Year Environment Plan<sup>12</sup> – it is generally supported that England's government should take an active role in how the policy and the off-site market is governed. A non-governmental organisation – such as charities and private companies with a focus on ecological conservation – may become Responsible Bodies<sup>13</sup> (RBs) and provide central governance on a local level for off-site providers through the provision of conservation covenants. However, RBs are also designated by the Secretary of State, with assistance from Natural England in the process.

Several lessons on effective governance have been taken from other environmental compensation schemes around the world. Many of these lessons – such as the use of municipalities to govern and prioritise local compensation – were incorporated into the design of BNG's central governance, which was developed over 10 years before the policy's launch.

However, the first five months of mandatory BNG have highlighted some key challenges that central governance actors face, which has had a significant impact on the wider market. Common themes include:

- Resource and capacity constraints.
- Balancing BNG with other local priorities and internal processes.
- Uncertainty over data requirements – both up-front and over the 30-year period.



Some of these challenges can be solved by market innovation and industry-led support. For example, the Planning Advisory Service (PAS)<sup>15</sup> has provided resources to help LPAs prepare for and meet their BNG responsibilities – including minimum requirements and good practices.

However, due to the inherent nature of central governance in the BNG system, many market stakeholders argue that most of these challenges may only met by action from central government.

### What needs to be addressed?

In April 2024, members of the Working Group convened to discuss the way the BNG market is governed centrally by these various actors and the solutions that may help unlock the challenges that they are experiencing. These ideas are put forward here primarily for the benefit of Defra, which manages BNG policy.

#### Short term (1-2 years)

- Confirm the new burdens funding for LPAs beyond March 2025, ideally giving multi-year funding visibility to help with LPAs' longer resource planning.
- Work with relevant industry to offer further training, technical assistance and capacity building to LPAs – and to a lesser extent RBs - in regard to BNG delivery.
- Offer further guidance on appropriate 'market making' for LPAs to adhere to – including ambitions of >10% BNG requirements, permission of cross-boundary sales, wider LA participation as sellers or brokers, and balancing of BNG with other planning priorities.
- Streamline the validation process for RBs – including refined processes for LAs and eNGOs, and public visibility over application responses.
- Upgrade the off-site register to incorporate more detailed geo-spatial data and further market data.
- Commit to a review of LPAs' delivery within the next two to three years, including resource and capacity, workforce planning and an assessment of the planning application process in relation to BNG.
- Work with relevant industry to create or clarify appropriate monitoring guidelines for LPAs to adhere to in their statutory biodiversity reporting – including for on-site and off-site gains.





### Medium Term (3-5 years)

- Create a new body or clarify which body is responsible for the oversight of LPAs' delivery over their statutory BNG responsibilities, publishing information on how potential breaches may be reported accordingly.
- Iterate the monitoring and reporting requirements that LPAs and RBs must adhere to, using results from the statutory biodiversity reporting of LPAs and annual reporting of RBs.
- Create a register for tracking on-site gains or incorporate this data into an existing register.
- Review the enforceability of on-site gains, specifically the provisions that LPAs are given in the case of habitat failure or breaches.
- As further Environmental Net Gain (ENG) concepts are developed, work with relevant industry to provide further indication on how the two concepts will intersect versus where they will be kept separate to prevent double counting.

## 1. Equip LPAs with sufficient resources and capacity to deliver their BNG obligations – including, but not limited to, in-house ecologists.

**Priority: High**

### Summary:

Many LPAs are facing a critical shortage<sup>15</sup> of in-house ecologists or those with ecological expertise, along with other important staff versed in BNG – for example, legal teams and financial planners that could also be located within wider LA teams. Funding is lacking and, at times, there can be an unrealistic expectation for the few experienced individuals to upskill other teams within LAs, which exacerbates their limited capacity.

The government has provided the statutory new burdens funding up of £10.6m until March 2025 – between £26,807-£43,467 per LPA depending on the average number of planning applications received<sup>16</sup>. Some argue that this is insufficient for LPAs to meet their BNG responsibilities. New burdens funding has also not been confirmed beyond March 2025. Both of these factors present challenges for LPAs in financially planning for longer-term staffing and other BNG-related costs. This in turn creates further uncertainty and limits the ability for LPAs and LAs to plan their longer-term strategies for supporting BNG delivery.



### Potential Solutions for Central Government:

- Increase funding for LPAs that is geared towards building internal capacity and offered with a degree of flexibility, particularly with visibility over the longer term (post-March 2025) new burdens funding schedule.
- Continue to work with existing training providers and industry experts to offer core BNG training designed for teams across LPAs and wider Local Authorities.
- Create a capacity-building facility to offer technical assistance to Local Authorities on more specific issues, working with organisations such as the Agricultural Law Association, which offers training courses to LPAs on legal issues relating to BNG.
- Commit to a review of Local Authorities' delivery of BNG within the next three years, including funding provided to LPAs, workforce planning and an assessment of the application process (see Action #4).
- Work with industry to provide relevant legal templates for LPA use in BNG delivery, including through PAS (see Action #4 in Demand Side).

### Buckinghamshire Council

Buckinghamshire Council has developed a Habitat Bank Criteria that any off-site provider is required to meet if they wish to enter into an S106 agreement with the Council. This criteria has been designed to help streamline the Council's internal processes and speed up development of the local off-site BNG market and associated ready supply of off-site BNG units that are available to local developers. It sets out up to 24 items of information that the off-site provider needs to prepare either before first meeting with the Council, or before signing the S106 agreement. These items include the proof of legal control over the land, full details of the habitat proposal – including a 30-year cash flow, and proof of alignment to the Council's interim strategic significance guidance, ahead of its full LNRS publication to ensure that the best outcomes are being delivered for Buckinghamshire biodiversity.

Separate to the monitoring fee that is based on the habitat proposal's size and technical difficulties, which can be paid in instalments for the duration of the S106 agreement, Buckinghamshire Council also charges off-site providers a one off set-up fee of £9,000 – £15,000 (as of July 2024). This is to cover the time and internal resource required to comprehensively review the proposal and associated documentation submitted by the offsite provider, to enable completion of the S106 agreement (which is prepared by the Council instead of the off-site provider).





## 2. Provide guidance to LPAs and Responsible Bodies (RBs) on appropriate monitoring activities and requirements for different off-site habitats over the 30-year period.

**Priority:** High

### **Summary:**

There is a lack of consensus on what monitoring for different habitats is appropriate for LPAs and RBs to undertake over the 30-year period, which in turn affects the fees that are charged to off-site providers through S106 agreements and conservation covenants. Anecdotally, there have been fees quoted that market stakeholders consider both too low and too high, which is casting further doubt over the robustness of the monitoring and auditing function that LPAs and RBs are tasked with. This issue also links with the challenge of drafting S106 agreements, as these fees and requirements must be included within such agreements (see Action #2 in Supply Side).

In some cases, LPAs have pre-existing relationships with experienced partners, such as local eNGOs, that they have relied on for guidance. However, in many cases LPAs do not have a clear pathway for clarifying their monitoring requirements. Once the activities and processes are made clear, it is considered relatively easy to cost these out.

The situation is further complicated depending on the structure of the underlying Local Authority, for example, with two-tier systems (districts and boroughs) and different divisions of responsibilities between these tiers. This means there will not be a single uniform monitoring fee across different LPAs, even when the monitoring activities are similar.

### **Potential Solutions for Central Government:**

- Work with industry to create guidance on appropriate monitoring guidelines for LPAs and RBs – and by extension on-site and off-site habitat providers - to adhere to, drawing from expertise offered by eNGOs and other experienced environmental organisations for different habitat types.
  - For example, as grasslands appear to be the most common habitat type put forward, efforts could first focus on a ‘UK Grassland Standard’ that includes both maintenance and monitoring practices.
  - Iterate and formalise this guidance in line with findings from RBs’ annual reporting and LPAs’ statutory biodiversity duty reporting, which must first be published in January 2026 and occurring every five years thereafter.
- Work with industry to run financial workshops with a range of Local Authorities (of different structures) that have taken different approaches to structuring their monitoring fees and identify best practices/minimum requirements to be adopted across both LPAs and Responsible Bodies.



## Verna Monitoring Calculator

Verna provides software that supports LPAs, habitat banks and developers with their various BNG responsibilities. They have released a free [monitoring fee calculator](#) for LPAs to use in setting fees within their S106 agreements for both on-site and off-site monitoring over 30 years. The calculator allows LPAs to input a range of assumptions based on their local contexts, including salaries, consultant fees, monitoring years, inflation rate and the costs of assessing the initial management plan. The calculator is provided with a step-by-step guide and a webinar.

### 3. Provide guidance on the separation of LPAs' roles as approver/regulator of off-site BNG habitats, and the participation of LAs in the provision of off-site BNG.

**Priority: High**

#### Summary:

Some market stakeholders have perceived conflicts of interest between the LPA's role of approving off-site proposals and other ways that the wider LA can participate in the off-site market. For example, where LAs are using their own land for off-site BNG habitats (thereby becoming BNG unit sellers themselves) or where partnerships have been formed with habitat bank operators. Some have suggested there is the possibility of anti-competitive pressure for LPAs to favour certain proposals, such as directing buyers to LA-owned sites or refusing to sign S106 agreements with other suppliers, due to the general lack of guidance on how these roles should be kept separate.

There can be various reasons why LPAs might use their limited capacity to take forward LA-owned sites or sites with a limited number of suppliers. For example, there have been a few cases noted where LPAs have declared that – on a short-term basis - they are only proceeding with LA-owned land for off-site BNG delivery, due to the lack of certainty around their own commitment risk with signing S106 agreements, and the need to test new BNG-related processes. In other instances, LPAs have expressed concerns that there may be a risk of excessive over-supply in the market and that by enabling BNG sales with fewer suppliers that have larger land portfolios – more robust BNG outcomes can be delivered and monitored more efficiently over the 30-year period.

Other market stakeholders counter-argue that market forces should be allowed to settle BNG without as much direct influence from LPAs, including how LA-owned land is favoured. It was also suggested that LPAs concentrating their efforts on enabling only LA-owned land to enter the market run the risk of stymied supply in the longer-run.





Overall, there is a need for clearer guidance on the role of an LPA as a market maker/regulator and – separately – how the wider Local Authorities can act as sellers, brokers or other intermediaries in BNG transactions.

#### Potential Solutions for Central Government:

- Assess where further guidance on LPAs' roles as market makers/regulators is needed and outline where measures should be standardised to ensure a consistent approach across LPA processes (see Action #11 in this pillar and Action #9 in Demand Side for further examples of this).
  - Utilise the support of relevant industry bodies to disseminate this guidance, such as PAS and the Royal Town and Planning Institute (RTPI).
- Work with governance experts to provide guidance on the creation of arms' length processes/bodies for LA participation in BNG delivery as landholders, including information on processes (both pre-existing and BNG-specific) on how conflicts of interest are addressed and avoided.

#### 4. Incentivise the 'front-loading' of BNG information in the planning process, including details about on-site habitat plans.

**Priority: High**

##### Summary:

The national validation list sets out what developers must provide when submitting a planning application. Some market stakeholders consider the national validation list requirements for BNG to be minimal, as details about the post-development state of the on-site habitats and any use of off-site units are not required until after planning permission has been granted. After this, the full Biodiversity Gain Plan<sup>17</sup> is submitted to discharge the biodiversity gain planning condition (a pre-commencement condition) that developers must meet before they can start development works.

The rationale for this sequencing of information is due to concerns that developers would be materially disadvantaged or held legally liable to the details of the Biodiversity Gain Plan that they could not guarantee over the entire planning process – which could last for several years. For example, developers required to purchase or partially pay for off-site biodiversity units may see the use of those units, or the entire planning application, denied by the LPA. Likewise, larger planning applications may be staged in terms of their development – such as through outline applications – in which case the full post-development state of the habitats would not be confirmed until much later on.

However, some LPAs have reported that the minimal validation requirements disadvantage both LPAs and developers as it can cause delays to the discharge of the condition regardless, for example, where developers have not met the mitigation hierarchy through their on-site habitat plans. Some market stakeholders argue that providing more information up-front (called 'front-loading') would allow LPAs a much clearer assessment of development plans and not cause pressured decision-making towards the end of the planning process.





This challenge is intensified by the fact that LPAs are under-resourced (see Action #1) and have an eight-week window and a fixed fee structure through which to discharge planning conditions, which presents a tension for LPAs that wish to properly assess the Biodiversity Gain Plans but run the risk of refunding the fee and facing special measures from central government.

Many LPAs are allowed to update their local validation lists to expand the up-front BNG requirements, which central government has signalled it is broadly supportive of. However, this involves a formal consultation run by each LPA, which requires time and resources. Front-loading is encouraged as a best practice within the industry, but it is not always adopted by developers for various reasons.

#### Potential Solutions for Central Government:

- Work with industry to find incentives for front-loading information within the planning application process, such as further information within the national planning practice guidance on the submission of draft on-site habitat plans.
- As part of a formal review of LPAs' delivery of BNG obligations in the next 2 years (see Action #1), review the application process to assess its efficacy in delivering BNG outcomes, including a review of:
  - The national validation list, including where information about the proposed interventions for on-site habitats (including BNG metric calculation) can be included.
  - The fee structure for processing applications – for example:
    - fixed fees based on size of land areas,
    - a process by which costs can be fairly awarded by an impartial third party, if the determination/discharge of condition becomes unduly protracted.

### 5. Streamline the process of Responsible Body (RB) designation, including the application process of becoming an RB and the public visibility over RB operations.

**Priority: High**

#### Summary:

Central government is currently assessing several applications for organisations to become RBs. However, as of 30 July, there are five designated RBs<sup>18</sup>. This figure excludes Natural England, which is not providing conservation covenants on a commercial basis but intends to act as an RB on a select number of strategic pilots and projects. In the absence of further RBs, LPAs are under considerable pressure to enter S106 agreements with off-site providers and therefore enable local supply.

Anecdotally, the process to become an RB can vary significantly in length of time and resource required, even for Local Authorities that had previously enabled voluntary BNG markets within their boundaries and therefore had developed processes.



Government has provided visibility over its criteria<sup>19</sup> of RBs, which are also required to submit information via their annual return<sup>20</sup>. However, some market stakeholders are asking for further scrutiny of RB operations, such as visibility over the application responses and the proposed monitoring activities and processes.

#### Potential Solutions for Central Government:

- Standardise the template, process and guidance by which certain types of organisations – such as Local Authorities and eNGOs - can apply to create their own Responsible Body arm, helping to accelerate the process and increase the number of RBs.
- Increase the public visibility of information relating to RBs, including findings from the application process, clarity over how fees are initially calculated, and details of the RBs' monitoring activities and processes.
  - Building on the above, include clarity around the responsibilities that remain with LPAs when there is an RB engaged as the regulator of off-site BNG habitats – e.g. where data must be shared with LPAs to report on their statutory Biodiversity Duty.

## 6. Increase the provision of public data on the biodiversity gains site register.

**Priority: High**

### Summary:

The biodiversity gain sites register<sup>2</sup> ('the register') has been launched and is intended to act as a source of transparency regarding off-site gains and their allocations to developments across England. It is a requirement of the Environment Act (2021) under Schedule 100<sup>21</sup>.

The register currently provides a PDF of the habitat's red-line boundary and separate lists of the baseline and planned habitat improvement areas. It also includes details on what developments the site's habitats have been allocated to.

While the register offers a degree of visibility, some consider this data as insufficient for the purpose of the register set out in the Environment Act, including provisions within Section 6. Market stakeholders propose that further data is needed to fulfil its intended purpose. For example, it is argued that:

- The PDF should show a geographic breakdown of where the parcels of habitat (both baseline and planned) are located within the boundary. This is so that the spatial configuration of habitats and the feasibility of habitat transformation can be assessed.
- The condition assessment should be included, likewise, to assess the feasibility of how habitats can be improved from their baseline.





- Once purchased, spatial detail should be provided to show which habitats have been assigned and what impact on-site is being met. This is particularly important to prevent any double-counting of units, which is handled by Natural England privately through the register, but details are not posted publicly.
- The number of upfront units generated from the site should be included, potentially by providing the metric calculation spreadsheet. This would support assessment of the overall outcomes for BNG, including how many units are being delivered through the off-site market compared to on-site (see Action #5 in Demand Side for further detail on this).
  - It is important to acknowledge that there are potential complications with unit disclosures that need to be carefully managed, due to the multipliers within the metric. For example, due to the 'time to condition' multiplier, it would not be possible to display the number of unallocated units automatically, as these increase over time. Likewise with the spatial multiplier, developers located further away may report fewer units purchased than what the BNG site has allocated to them (see Action #9 in Metric for further detail on this).

Some of this information becomes available on the Planning Portal when developers submit requests to discharge their biodiversity gain conditions – as these details of off-site provision will be included in their full Biodiversity Gain Plans. However, this information is highly fragmented and difficult to access, to the point where an interested party may spend days or weeks trying to access, match and aggregate data across different sites. It is therefore argued by market stakeholders that the lack of this information on the register defeats its purpose of transparency.

It has also been highlighted that central government – including Defra and Natural England – will need streamlined access to this same data as part of their monitoring and evaluation strategy of BNG policy itself. Therefore, some argue it is of mutual benefit to both central government and the market to expand the data requirements of the register.

#### Potential Solutions for Central Government:

- Review the information that is asked of off-site habitat providers and the developers that purchase their units, incorporating the above data inputs into the off-site register.



## 7. Create a central register for on-site gains or incorporate these into the existing biodiversity gain sites register.

**Priority: High**

### Summary:

Developers are not required to register their on-site biodiversity units on the biodiversity gain sites register or any equivalent register for transparency and monitoring purposes. Though information about on-site gains can be found on individual applications in the Planning Portal, this information is not easily accessed or scrutinised by market stakeholders, preventing an equal assessment with off-site units.

Additionally, it is presumed that central government will require data and oversight of on-site gains for its ongoing monitoring and evaluation of BNG policy. Advocates of an on-site register therefore highlight that it would provide a comprehensive and up-to-date source of information for central government as well as the market.

### Potential Solutions for Central Government:

- Create a register for on-site BNG units with clear governance and monitoring mechanisms or require on-site providers to register with the existing biodiversity gain sites register.
  - As part of this more extensive work, provide updates to the market on its progression.

### Kent County Council

In 2022, Kent County Council engaged SQW and Temple Group to undertake a viability assessment of BNG across Kent, with a focus on assessing the high-level viability of a range of development types at 10%, 15% and 20% BNG targets. The purpose of the report was to provide an initial viability assessment to inform the 13 LPAs in Kent that may be considering a higher BNG target.

The key findings were that a shift from 10% to 15% or 20% BNG would not materially affect viability in the majority of instances when delivered onsite or offsite. The biggest cost in most cases is to get to mandatory, minimum 10% BNG. The increase to 15% or 20% BNG in most cases costs much less and is generally negligible. Because the BNG costs are low when compared to other policy costs, they are highly unlikely to be what renders development unviable. While the study caveats that its findings are strategic in nature and that it does not remove the need for BNG to be tested at the local level, it highlights the value that such viability assessments could bring to LPAs that are considering a BNG target of more than 10%.





## 8. Establish a ‘regulator of regulators’ to evaluate how LPAs are meeting their statutory BNG responsibilities.

**Priority: High**

### Summary:

Some market stakeholders have called for a ‘regulator of regulators’ to evaluate LPAs’ delivery of their statutory BNG responsibilities - including the BNG assessment of planning applications.

If someone suspects these activities are not being carried out correctly, it is unclear to many what recourse they would have to report this. Possibilities discussed include the intervention of existing regulators, government bodies, or investigation through court proceedings. LPAs are required to submit statutory Biodiversity Duty reports every five years. However, there is concern that such reports will not be detailed or timely enough to identify and respond to any issues with effect.

Some aspects of this risk will be addressed through adequate resourcing, guidance and technical assistance for LPAs (see Action #1). However, many market stakeholders have said that without a central and well-resourced regulator to oversee this component of BNG policy, there will be incidents of BNG obligations not discharged to the required standard.

### Potential Solutions for Central Government:

- Create a new body or clarify which body is responsible for this oversight, publishing information on how such breaches may be reported accordingly.
  - Clarify what monitoring and enforcement mechanisms are/will be made available to such a regulator when breaches are found, potentially through legislative amendments to the Environment Act (2021).
  - Central government may wish to tie this work in with other forms of environmental regulation, such as other environmental protections within the planning system or wider nature markets operations.

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## 9. Review the enforceability for on-site habitats that do not reach target state.

**Priority: High**

### Summary:

Many market stakeholders have voiced the critical importance of enforceability to ensure BNG’s success, but LPAs – and to a lesser extent RBs – have voiced their concerns over the lack of clarity and ability to deliver on this core function. One study showed that 95% of LPA respondents believed that the Government had not provided the guidance and detail to support effective delivery of the enforcement of BNG, specifically with regards to enforcement and enforcement service implications<sup>22</sup>.



For non-significant on-site enhancements<sup>23</sup>, enforcement will be delivered via the planning system, secured through planning conditions or obligations. However, LPAs have limited funds for enforcing planning conditions with 80% of enforcement officers already reporting a lack of officers in their team to carry out the existing workload<sup>24</sup>. Additional funding for BNG enforcement of on-site habitats has not been provided to LPAs.

In addition, current guidance advises LPAs to only take action against violations of planning conditions where the violation represents a 'serious harm to a local public amenity.' This is a high bar that is unlikely to capture violations of BNG over 30 years.

There are virtually no examples of planning conditions that stretch over a 30-year period, and therefore it is likely that a more bespoke approach needs to be developed for BNG on-site enforcement. International experience of biodiversity delivery shows that lack of capacity in and enforcement by local councils is a key reason why on-site (and off-site) targets fail to deliver<sup>9</sup>.

For significant on-site enhancements, developers are required to use S106 agreements to secure these in the same way as off-site gains<sup>23</sup>, which can help to address lack of resources as monitoring fees and remediation clauses can be built in. However, to a lesser extent there are concerns with exactly how these are structured and delivered in practice, such as the correct fee to charge to cover activities over the 30-year period (see Action #2).

Moreover, this option is not offered for non-significant on-site enhancements, which do not require a Habitat Management and Monitoring Plan, a legal agreement or a commitment to maintain them for 30 years. It is also unclear how much non-significant gains will contribute to the overall BNG obligation across England, and how this figure compared to significant on-site enhancements will be tracked as part of LPA reporting (see Action #5 in Demand Side).

### Potential Solutions for Central Government:

- Provide more enforcement specific guidance for LPAs, including materials and templates, as part of their statutory responsibilities.
- Formally review the enforcement mechanisms and resources that are used by LPAs for on-site habitats (including planning conditions and S106 agreements) and strengthen accordingly so that LPAs can update their enforcement plans.





## 10. Encourage LPAs to take >10% BNG ambitions, where they deem it viable.

**Priority: Medium/High**

### Summary:

Guidance from central government has stated that plan-makers should not seek a higher percentage than the statutory objective of 10% Biodiversity Net Gain, either on an area-wide basis or for specific allocations for development unless justified. This contrasts with their previous position where it was at LPAs' discretion to set higher targets (e.g. 15%, 20%)<sup>25</sup>.

To justify such policies now, LPAs will be required to provide evidence of the local need and opportunity for a higher percentage, and any impacts on viability for development. This is considered a high bar that will disincentivise LPAs from setting higher BNG targets, and potentially expose those who do to punitive measures.

The perceived rationale for restricting >10% ambitions of LPAs is to avoid a more onerous burden that could cause developments to be:

- a. delayed where developers need to seek additional off-site units and there is no ready supply, and/or
- b. economically unviable with the developers' need to purchase more off-site units.

However, it is countered by market stakeholders that LPAs are generally highly sensitive to their development needs and targets, and that those that have taken a >10% approach have a more prepared and deliberate approach to BNG, including the identification of off-site supply. Some early viability assessments of shifting from 10% to 15% or 20% have also suggested that the additional cost on development would be negligible, and unlikely to render developments unviable<sup>27</sup>.

### Potential Solutions for Central Government:

- Update the BNG Planning Policy Guidance and re-iterate the importance of 10% being a minimum requirement, allowing LPAs to adopt >10% ambitions where they deem it viable.
- Work with industry to explore further studies of the impact of >10% BNG requirements, including their impact on local developments, in order to support future policy making and planning.



## 11. Provide guidance on how BNG should be delivered alongside other local policies, including but not limited to Local Nature Recovery Strategies (LNRSs).

**Priority: Medium**

**Summary:**

As BNG is embedded within the planning system, LPAs and Local Authorities consider it their responsibility to align their local BNG processes with other local policy and spatial planning priorities, particularly in relation to Local Nature Recovery Strategies (LNRSs). In some cases, these policies could conflict with the off-site BNG market or delay proposals due to uncertainties in how they interact.

For example, some LPAs are unsure as to how to enable an off-site BNG market in line with local policies relating to improved infrastructure, housing, agriculture and wider natural capital plans. An example is Greater Manchester Combined Authority's BNG Guidance, 2021 (Appendix A) that sets out how BNG directly intersects with up to 10 key local policies<sup>27</sup>.

There is also the question of what measures are used to enforce these strategies versus where market forces are allowed to settle off-site BNG allocations. Anecdotally, different LPAs have taken approaches and requirements with varying degrees of stringency and intervention to align off-site BNG sales to areas they believe would be most sensible for habitat creation to take place. However, market stakeholders view some of these approaches as overly disruptive and slowing the establishment of local BNG markets.

The majority of market stakeholders acknowledge that LNRSs will be a key piece of policy, but as most have not been released and have a deadline of March 2025, there is a risk of limiting supply creation in areas that might otherwise be incentivised by LNRSs. However, it was stressed by certain members that LPAs cannot wait until LNRSs are finalised to take action on BNG delivery and stimulate supply, and that anything aligned with the Lawton Principle or previous ecological strategies (e.g. Local Biodiversity Action Plans) will generally be the most effective places to deliver off-site BNG proposals.

### Potential Solutions for Central Government:

- Work with relevant industry bodies – such as the RTPI – to provide guidance on how BNG should be considered amidst other local policies in the spatial planning system, such as where development conflicts with nature restoration.





## 12. Align BNG with the broader Environmental Net Gain (ENG) concept and its adaptations (e.g. Marine Net Gain) as these develop.

**Priority:** Low

### **Summary:**

Some market stakeholders have expressed concern around sufficient planning when Environmental Net Gain<sup>28</sup> (ENG) becomes more developed as a tool, as there is a fear of double-counting with land/geospatial areas that have been allocated to BNG, which is a regulatory requirement.

Discussions highlighted that implementation of ENG (or any sub-type of this concept – such as Marine Net Gain) needs to be consistent with the government’s own Nature Markets Framework, which states that “schemes should ensure they do not issue credits or services where the activity providing ecosystem services is being carried out to meet an existing regulatory obligation on the part of the landowner or manager.”

### **Potential Solutions for Central Government:**

- Work with industry to provide further indication, as other ENG concepts are developed, on how the two concepts will intersect versus where they will be kept separate to prevent double counting.