

## **Biodiversity Net Gain:**

### **Supplementary Decision Notice Information**

**PLEASE NOTE:** This planning permission is subject to mandatory biodiversity net gain (BNG). Further approval of a Biodiversity Gain Plan, pursuant to the requirements of the General Biodiversity Gain Condition, is required before any development can lawfully commence.

#### **General Biodiversity Gain Condition**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that every planning permission granted in England, unless exempt, is deemed to have been granted subject to the condition (the “General 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 Biodiversity Gain Plan.

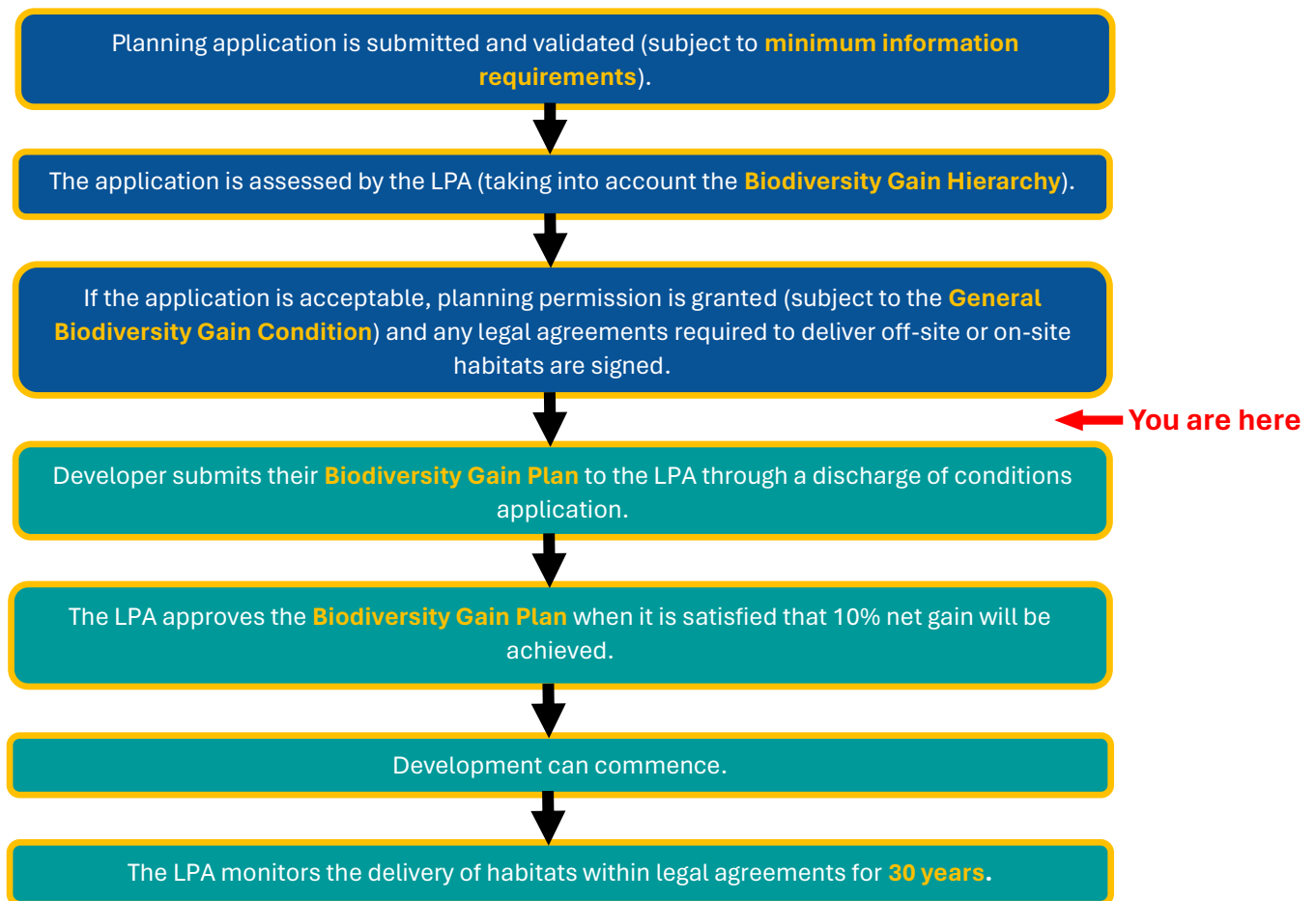
The relevant planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, is **Vale of White Horse District Council**.

Detailed guidance on the process and requirements for discharging the general biodiversity gain condition can be found on the council’s website [here](#).

### **IMPORTANT**

**Commencing development which is subject to the General Biodiversity Gain Condition without an approved Biodiversity Gain Plan is unlawful and may result in your development becoming subject to planning enforcement action.**

## **BNG Process Overview**



## **Exemptions and Transitional Commencement Arrangements**

If the development does not fall into at least one of the following exempt categories, a Biodiversity Gain Plan must be submitted and approved before the development can lawfully commence:

1. The application for planning permission was made before 12 February 2024.
2. The planning permission is for retrospective development (within the meaning of section 73A of the Town and Country Planning Act 1990 - planning permission for development already carried out).
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<sup>1</sup> 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 one (or more) of the following:
- a) 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; or
    - 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<sup>1</sup> to which the section 73 permission relates was exempt by virtue of (i) or (ii).
  - b) Development below the *de minimis* threshold, meaning development which:
    - i) does not impact an on-site priority habitat (a habitat specified in the list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
    - ii) impacts less than 25 square metres of on-site area habitat and less than 5 metres in length of on-site linear habitat where those habitats have a value greater than zero (as defined in the statutory metric).
  - c) 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.
  - d) 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).
  - e) Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the

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<sup>1</sup> “original planning permission” 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.

places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

### **Irreplaceable Habitat**

If the on-site 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 the Biodiversity Gain Plan.

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 the Biodiversity Gain Plan if satisfied that the adverse effect of the development on irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact, which does not include the use of biodiversity credits.

### **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.

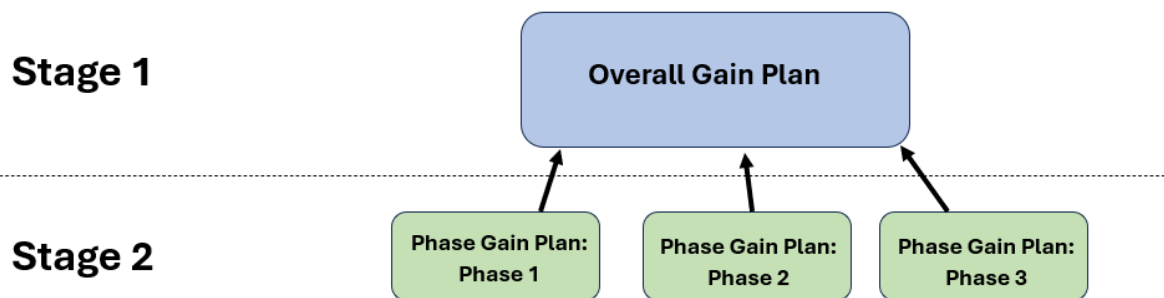
Those circumstances are that the conditions subject to which the section 73 permission is granted:

- 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 on-site habitat is irreplaceable habitat, the conditions do not change the effect of the development on the biodiversity of that on-site habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

## **Biodiversity Net Gain - Phased Development**

Should planning permission be granted for phased development (within the meaning of paragraph 19 of Schedule 7A to the Town and Country Planning Act 1990), the modifications in respect of the General 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.

These modifications are that Biodiversity Gain Plans are required to be submitted to, and approved by, the planning authority in two stages: the Overall Gain Plan before any development can commence, and the Phase Gain Plan before each phase of development can commence.



Detailed guidance on the process and requirements for discharging the general biodiversity gain condition can be found on the council's website [here](#).

## **Why have I been provided with this document?**

Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015<sup>2</sup> requires that where planning permission is granted for a development where BNG applies, the written notice of the decision must include:

- i. Information relating to the condition in paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 (General Biodiversity Gain Condition) including that there are exemptions, transitional arrangements and requirements relating to irreplaceable habitat;
- ii. Information to note the effect of section 73(2D) of the Town and Country Planning Act 1990 (earlier Biodiversity Gain Plan in relation to a previous planning permission regarded as approved for purposes of paragraph 13 of Schedule 7A);
- iii. Details of the planning authority under paragraph 12(1) of Schedule 7A of the Town and Country Planning Act 1990 (biodiversity gain in England); and
- iv. Where development is to proceed in phases and the modifications in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and

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<sup>2</sup> As amended by The Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024.

Amendments) (England) Regulations 2024 apply, a statement to that effect and to the effect that Biodiversity Gain Plans are required before development may be begun (Overall Gain Plan) and required before each phase of development may be begun (Phase Gain Plan).

This document satisfies the statutory requirement.