

**DENTONS**

# **Dentons & Planning Advisory Service**

## **BNG Templates: Updates**

March 2026

Grow | Protect | Operate | Finance

# Introduction



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# Today's Session

1. Existing resources
2. Updates to template resources
3. Refresher on the phased condition template and update
4. FAQs on BNG
3. Q&A

A close-up photograph of fresh green basil leaves, showing their characteristic serrated edges and vein structure. A semi-transparent purple overlay covers the left and center portions of the image, creating a modern, professional look. The text is positioned on the left side of this overlay.

# **Existing Resources**

## *Overview*

# Scenarios



Development delivering BNG onsite only



Development securing BNG onsite and offsite



Habitat Banking

# Existing Templates



Condition to secure onsite BNG (non-phased)



Condition to secure onsite BNG (phased)



s.106 agreement for onsite BNG

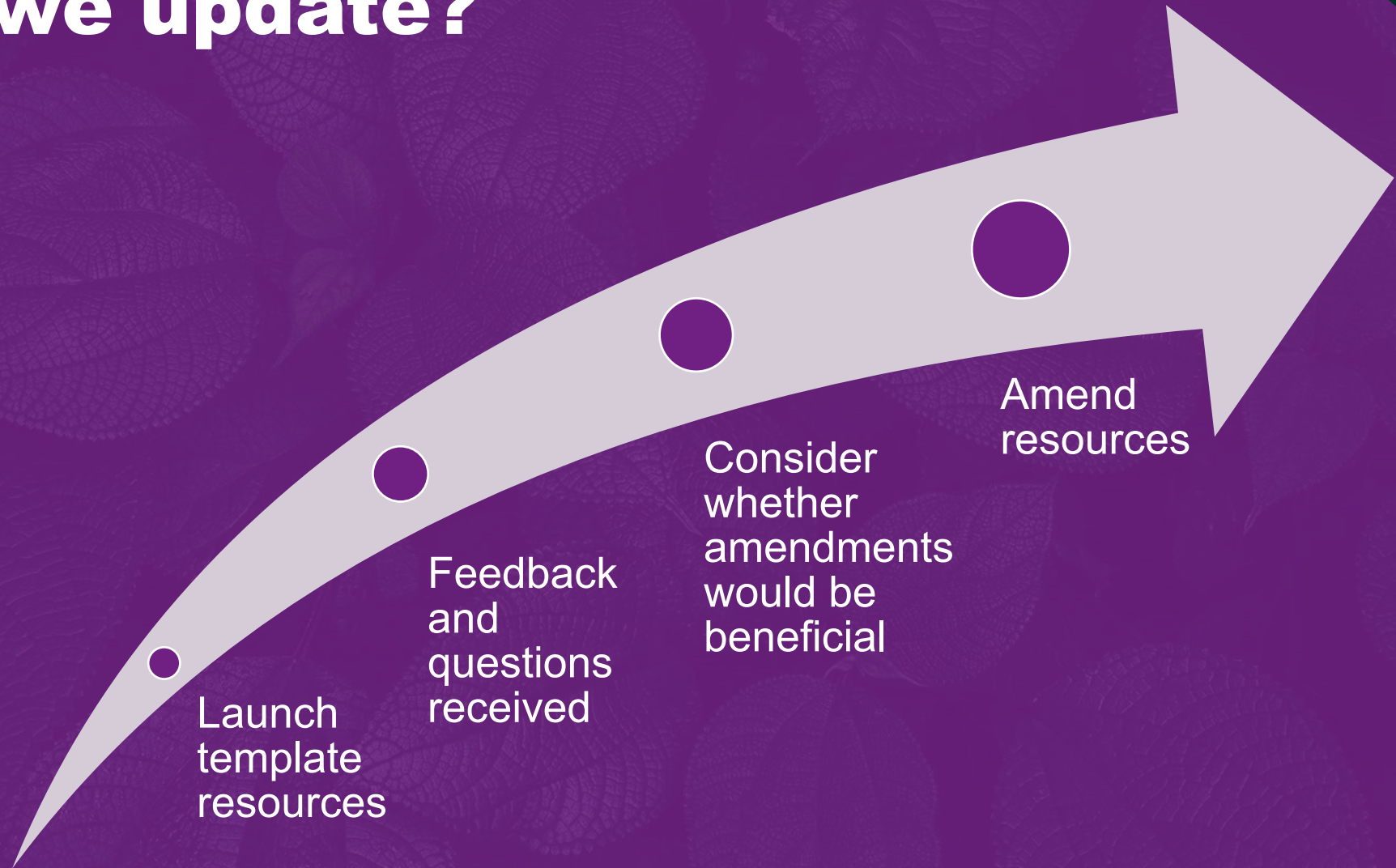


s.106 for a development securing BNG onsite and offsite



Habitat bank s.106 agreement

# Why did we update?



# Why did we update?

Previous versions of the templates are still legally compliant

Launch template resources

Feedback and questions received

Consider whether amendments would be beneficial

Amend resources

The background of the slide features a close-up, high-angle shot of several vibrant green leaves, likely basil, with prominent veins. A semi-transparent purple shape, resembling a stylized arrow or a rounded rectangle, is overlaid on the right side of the image, pointing towards the center. The text is positioned within this purple area.

# **Updates to Template Resources**

*What have we changed?*

# Onsite s.106 Agreement: Monitoring Fee



## Onsite

### **PAS Biodiversity Net Gain (BNG)**

### **Legal Agreement Template Version 2.0**

The Planning Advisory Service (PAS) commissioned [Dentons](#) to create a suite of sample agreement templates to facilitate securing biodiversity gains in the various ways allowed for by the Environment Act.

This template is provided for council legal teams to modify according to their

- NB- Monitoring Fee arrangements are not intended to be prescriptive (they demonstrate a possible arrangement).
- Consider what the monitoring fee is intended to monitor: is this compliance with the BNG condition or just the maintenance period?
  - *Drafting notes updated.*

# Habitat Bank & Offsite Agreements: Conservation Covenant conversion



## Habitat Bank

### PAS Biodiversity Net Gain (BNG)

### Legal Agreement Template Version 2.0

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- Changes to drafting notes to allow habitat bank template to be used a conservation covenant.
- Look at recitals, Clause 2.1 and 2.2 (Legal basis), and Clause 14.2 (Limitation of liability - statutory defences)

# Habitat Bank & Offsite Agreements: Financial Security

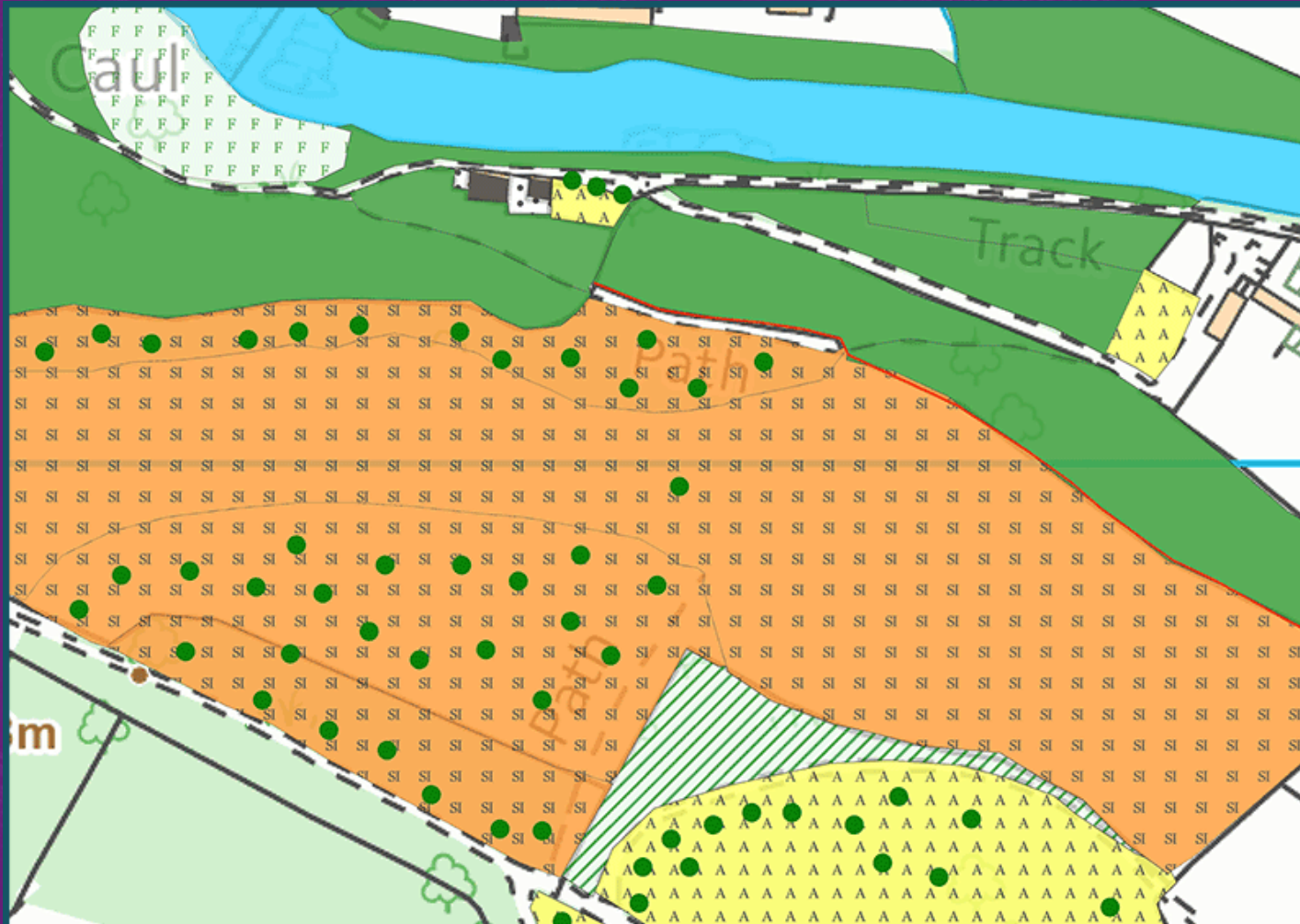
## Schedule 5 – Bond Sum Reduction

**Drafting Note:** If no bond is sought, this schedule can be deleted. The table below show a form of a Bond Sum Reduction Schedule.

Anniversary of Completion Date for Habitat Creation and Enhancement Works	Annual Habitat Management Budget (£)	Biodiversity Gain Land Monitoring Contribution (£)	Inflation allowance %	Amount held in Bond (£)	Annual Spend (£)
0					
1					
...					
30 <sup>th</sup> Anniversary	<i>End of legal agreement</i>				

- Explores examples of financial security in drafting notes.
- security deposits that are topped up;
- ringfenced (invested) capital; and
- periodic submission of financial accounts.
- Consider: obligations bind future successors in title.

# Habitat Bank & Offsite Agreements: Phased HMMP



- Drafting note update to flag that HMMP can be phased – consider drafting in legal agreement if HMMP is phased.
- Consider whether any HMMP works are conditional.

# Phased and single phased Condition Templates: “Significant” Gain



- Further clarity that only significant BNG needs to be secured by condition.
- Nonsignificant include, among other things, private gardens and potted plants.

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# **Phased BNG Template Condition**

*Phased Development*

# The statutory conditions for phased development

Biodiversity Gain (Town and Country Planning) (Modifications and Amendments)...

## Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024/50

### Preamble

Version 1 of 1

17 January 2024 - Present

#### Subjects

Environment; Planning

Made: 17 January 2024

Laid before Parliament: 19 January 2024

Coming into force: 12 February 2024

The Secretary of State makes these Regulations in exercise of the powers in sections 59(2)(b), 62(1) and (2), 69, 74(1)(d), 76C(2), 333(2A) and (7) of, and paragraphs 14(2)(f) and (3), 16, 18 and 19 of Schedule 7A to, the Town and Country Planning Act 1990<sup>1</sup> and section 142(1) of the Environment Act 2021.

### Notes

<sup>1</sup> Section 59 was amended by paragraphs 1 and 4 of Schedule 1 to the Growth and Infrastructure Act 2013 (c. 27) and by paragraphs 1 and 3 of Schedule 4 to the Planning (Wales) Act 2015 (2015 anaw 4). Section 62 was substituted by section 42(1) of the Planning and Compulsory Purchase Act 2004 (c. 5) and subsection (1) was amended by paragraphs 1 and 8(1) of Schedule 12 to the Housing and Planning Act 2016 (c. 22). Section 69 was substituted by paragraphs 1 and 3 of Schedule 6 to the Planning and Compulsory Purchase Act 2004, and was amended by section 190(1) and (4)

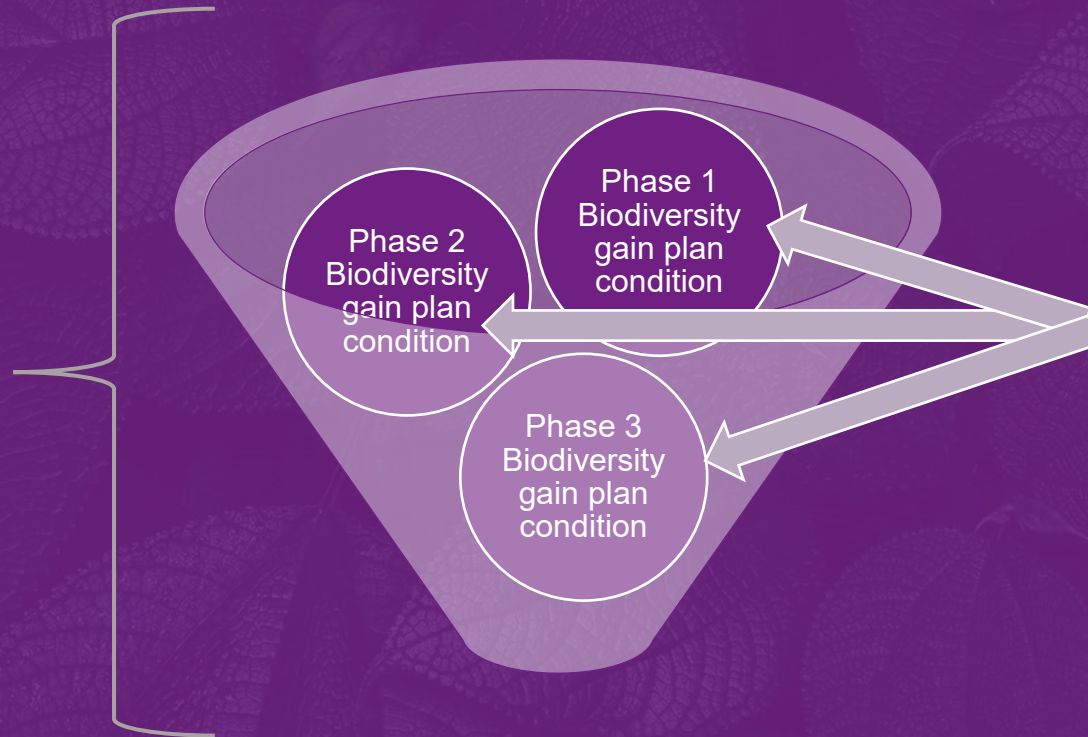
Schedule 7A TCPA is modified by Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024

These rules only apply to:

- outline planning permissions where the reservation of matters for subsequent approval has the effect of requiring or permitting development to proceed in phases; and
- the grant of any kind of permission subject to conditions having that effect.

# The statutory conditions for phased development

**Overall biodiversity gain plan condition** securing sitewide BNG  
Needs to set out approach for each phase but will be treated as *indicative*



Submitted with reserved matters application or after RM approval.

# The statutory conditions for phased development

Assumes no irreplaceable habitat onsite



## **BNG Condition for Phased Development**

### **PAS Biodiversity Net Gain (BNG)**

#### **Condition Version 1.0**

The Planning Advisory Service (PAS) commissioned [Dentons](#) to create a suite of sample agreement templates to facilitate securing biodiversity gains in the various ways allowed for by the Environment Act.

This template is provided for councils' teams to modify according to their council's standards and the specific requirements of individual developments. This template is aimed at providing a streamlined approach, enhancing the efficiency in drafting, and benefitting all stakeholders involved. The Planning Practice Guidance recommends the use of planning conditions rather than planning obligations, a condition will serve the required purpose equally well. These template conditions reflect this recommended approach.

# Phased Condition Template: General Drafting notes update



## **BNG Condition for Phased Development**

### **PAS Biodiversity Net Gain (BNG)**

#### **Condition Version 1.0**

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- Acknowledges that not all detail or information will be available for phased development
- Clarification: no requirement for prior phases to achieve target habitat condition.
- Signposting to biodiversity gain plan templates.

The background of the image is a close-up photograph of fresh green basil leaves. The leaves are vibrant green with prominent veins. A semi-transparent purple shape, resembling a stylized leaf or a decorative overlay, is positioned in the center of the image. The text 'FAQs on BNG' is written in white, bold, sans-serif font on the purple background.

# **FAQs on BNG**

# Beginning habitat creation/enhancement prior to BNG

South Bristol Cemetery		
Headline Results		
<a href="#">Return to results menu</a>		
<b>On-site baseline</b>	Habitat units	27.02
	Hedgerow units	5.85
	River units	0.55
<b>On-site post-intervention</b> <small>(Including habitat retention, creation &amp; enhancement)</small>	Habitat units	25.28
	Hedgerow units	10.95
	River units	0.55
<b>On-site net % change</b> <small>(Including habitat retention, creation &amp; enhancement)</small>	Habitat units	-6.44%
	Hedgerow units	87.13%
	River units	0.19%
<b>Off-site baseline</b>	Habitat units	3.34
	Hedgerow units	0.00
	River units	0.00
<b>Off-site post-intervention</b> <small>(Including habitat retention, creation &amp; enhancement)</small>	Habitat units	5.87
	Hedgerow units	1.17
	River units	0.00
<b>Total net unit change</b> <small>(including all on-site &amp; off-site habitat retention, creation &amp; enhancement)</small>	Habitat units	0.79
	Hedgerow units	6.27
	River units	0.00
<b>Total on-site net % change plus off-site surplus</b> <small>(including all on-site &amp; off-site habitat retention, creation &amp; enhancement)</small>	Habitat units	2.93%
	Hedgerow units	107.08%
	River units	0.19%
<b>Trading rules Satisfied?</b>	<b>Yes ✓</b>	



# Self Build: Exemption in Practice

## Self-build and custom build applications

You must meet all of the following conditions to qualify for an exemption as a self-build or custom build.

The development must:

- consist of no more than 9 dwellings
- be on a site that has an area no larger than 0.5 hectares
- consist exclusively of dwellings that are self-build or custom housebuilding as defined in [section 1\(A1\) of the Self-build and Custom Housebuilding Act 2015](#)

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## • Occupation requirement!

“... the building or completion by—

- (a) individuals,
- (b) associations of individuals, or
- (c) persons working with or for individuals or associations of individuals,

of houses to be occupied as homes by those individuals.”

# Informatives on Decision Notices

## What biodiversity gain information should be included on the written decision notice?

When granting planning permission, [Article 35 of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#) requires the decision notice to set out:

- information relating to the biodiversity gain condition including the exemptions to the condition, and transitional provisions in relation to that condition;
- information to note the effect that section 73(2D) of the Town and Country Planning Act 1990 applies (that an earlier biodiversity gain plan in relation to a previous planning permission is regarded as approved);
- the [planning authority](#) for the purposes of the Biodiversity Gain Plan;
- requirements relating to [irreplaceable habitats](#); and
- where [development is to proceed in phases](#), a statement to that effect, and that the development cannot begin before an [Overall Biodiversity Gain Plan](#) and [Phase Biodiversity Gain Plan](#) have been submitted to, and approved by the planning authority, and that a Phase Biodiversity Gain Plan is required to be approved before that phase may begin.

Local planning authorities are encouraged to use [suggested paragraphs for](#)

- Decision notices should not repeat statutory condition(s).
- Refer to PPG on this and see MHCLG suggested informatives.

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**Q&A**