A PRACTICAL GUIDE TO OFF-SITE BNG

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(This guidance note replaces GN29-22 which should be deleted from your files)

INTRODUCTION

Biodiversity net gain (BNG) was introduced in England under the Environment Act 2021. It is now a mandatory requirement for most developments that require planning permission, including infrastructure projects. Biodiversity Net Gain requirements ensure that developers reduce impacts on the environment, and where unavoidable, compensate for impacts on nature by replacing any damage plus a minimum of 10%. A baseline biodiversity assessment is measured by an experienced ecologist using the Defra Biodiversity Metric to identify the biodiversity units needed to replace any damage. Replacement biodiversity units can be created on-site (within the red line planning boundary), or off-site, in a habitat bank.

The Guidance Note is for members who are considering creating and selling off-site biodiversity units through creation of a habitat bank. It applies to England only. Member who are involved in development should refer to GN26-29 on BNG planning considerations.

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1. KEY INFORMATION ON BIODIVERSITY NET GAIN

Legal Background

Mandatory Biodiversity Net Gain (BNG) was introduced with primary legislation in the Environment Act 2021. Six statutory instruments create the full statutory framework.

The framework deems that developments within scope (and not exempt) will have planning permission granted subject to a pre-commencement planning condition for a minimum 10% biodiversity net gain. Local planning authorities set the percentage net gain. Biodiversity net gain land must be managed and maintained for a period of 30 years and must achieve the planned habitat and condition.

All BNG land has legal status. **On-site BNG land** (within the planning red line boundary) will be subject to planning conditions as part of the planning consent. **Off-site BNG land** will be subject to a planning obligation such as a **Section 106 agreement**, or a **conservation covenant**. Section 106 agreements will be enforced by local authorities. Conservation covenants are a new type of legal agreement (not just for BNG) that will be administered by government appointed Responsible Bodies who will ensure compliance.

Table 1 Start dates for mandatory BNG in England

Type of Development	Start Date
Large developments under Town and Country Planning Act 1990	12 February 2024
Small site developments under Town and Country Planning Act 1990 (Exemptions for sites under 0.2 ha from 6 August 2026)	2 April 2024
Nationally Significant Infrastructure Projects (NSIPs)	2 November 2026

Developer process for off-site biodiversity unit need

A Defra step-by-step guide for developers purchasing off-site biodiversity units is available here, and summarised in Table 2.

Table 2: Developer process for off-sit biodiversity unit need

1.	**Developers undertake a pre-development assessment** of the site using the Defra Biodiversity Metric (updated June 2026) to measure existing habitat and calculate biodiversity unit requirement for BNG post development. Developers consider the mitigation hierarchy to avoid, minimise, and mitigate on-site as a preference.
2.	A **Biodiversity Gain Plan** is produced that sets out how the biodiversity units will be delivered, either on- or off-site, or a combination.
3.	**Off-site units can be purchased** from 'habitat banks' with biodiversity units already created, or direct arrangements with landowners to 'bespoke habitat creation'. A spatial multiplier calculation encourages off-site biodiversity units to be in the local

	area – currently based on the Local Planning Authority (LPA) and National Character Areas (NCA), but will change to Local Nature Recovery Strategy (LNRS) areas.
4.	**Off-site biodiversity units must be recorded** on the Government's public Biodiversity Gain Site Register and linked to a specific development.

Landowner considerations for off-site BNG habitat

Providing off-site biodiversity units in a habitat bank or bespoke habitat creation is governed by the legal requirements, but also a growing list of market requirements to provide confidence and security to the buyers. Since its introduction there has been a steep learning curve for developers, landowners and advisers, as the processes embed and the best way of operating is developed. So, while the headline economics can look attractive, there are long term risks and responsibilities that landowners should consider. Defra has published guidance, most recently updated in June 2025, Sell biodiversity units as a land manager, which sets out the obligations and options.

Table 3: Summary of landowner considerations for off-site BNG habitat banks

Basic legal requirement
• 30-year agreements that start after habitat creation. • Legal requirement to deliver on the Habitat Management and Monitoring Plans over the period.
Economics of habitat banks
• The costs of creating a habitat bank include initial surveys and fees in the region of £15-20k for a typical site of about 15-20 ha, as well as the costs of creating the new habitat. • Minimum site size will depend on type of units being created, but typical sites will be a minimum of 10ha. Water, trees or hedgerows will be much smaller. • Annual management costs can be significant, including site upkeep, monitoring, verification, and possible remedial actions. As the market is maturing, there are increasing costs that may not have been foreseen at the start, including assurance to demonstrate compliance, insurance and higher marketing costs. • As supply has grown, there are some areas with oversupply which is reducing the prices (as is expected in a functioning market). • Potential reduction in land value, particularly if there is no mechanism for funding management for the agreement term. • Lower risk options are available through habitat bank businesses who essentially pay a rent for the land and take on the costs and risks.
Demand for biodiversity units from developers
• More BNG is being placed on-site than originally anticipated, which has impacted demand for off-site units. • Planning delays for large developments, the changes in government policies on exemptions, and delays in introducing BNG for the Nationally Significant Infrastructure Projects has also impacted on demand for off-site units during 2026, but this may change in the future.

- Large developers and infrastructure projects plan months and years ahead and are looking for long term professional sales relationships and process to provide assurances on delivery.

2. IS CREATING OFF-SITE BNG HABITAT RIGHT FOR MY BUSINESS?

Off-site BNG habitat is not suitable for every site and every business. Initial steps are relatively low cost. Once committed there are significant upfront costs for surveys, plans and habitat creation, alongside professional fees. There are also ongoing management, marketing and professional costs once the habitat bank is running. There are different routes to delivering habitat including working with brokers or habitat bank specialists. The key considerations are summarised in Figure 1 and discussed in detail in this section.

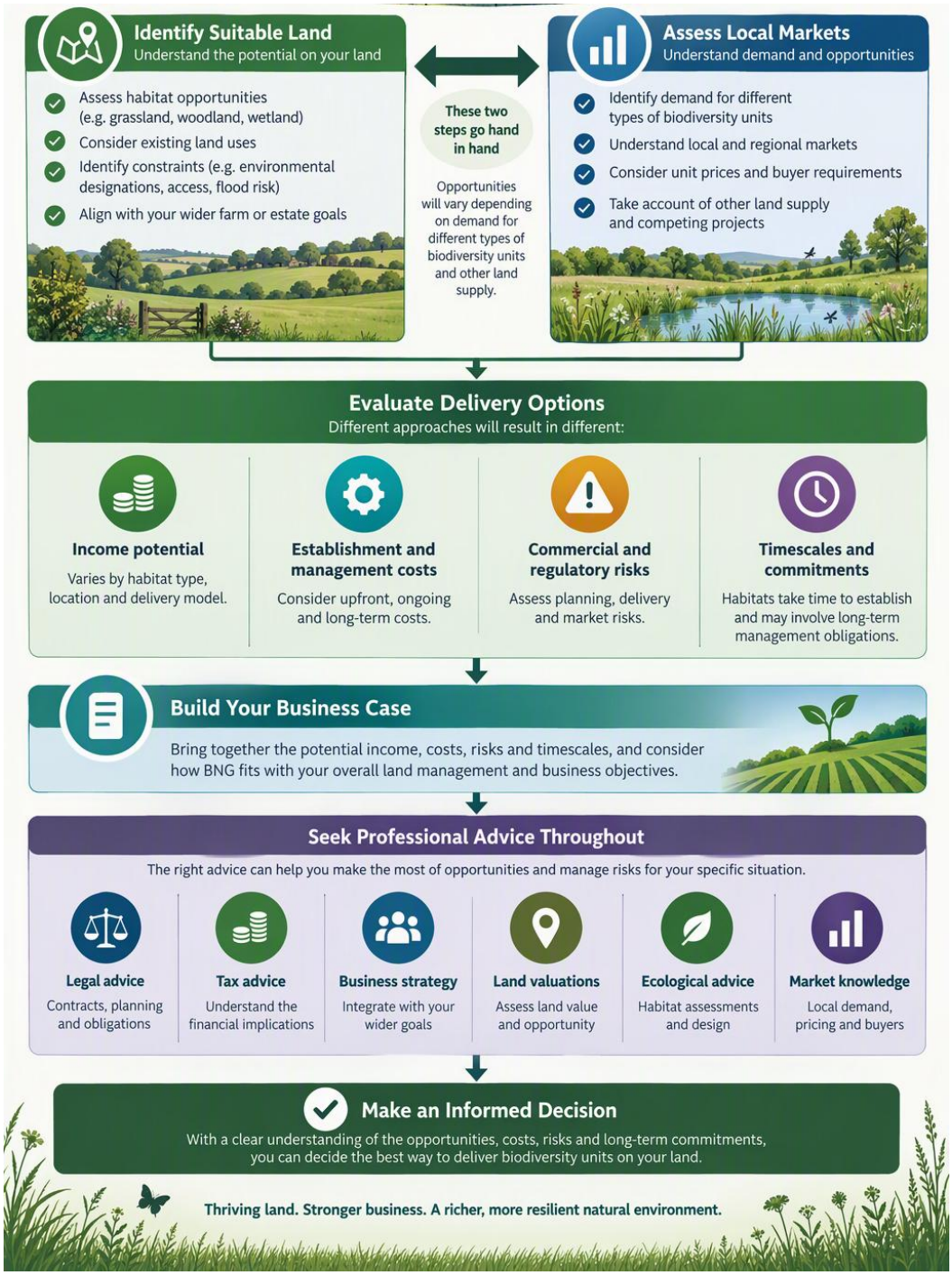


Figure 1: Making and informed decision about BNG

Business strategy

Entering land into long-term biodiversity net gain contracts are worth investigating as a potential diversification. The income stream can help build business resilience, but other drivers include business and personal objectives for the environment, and part of whole farm or estate planning for the future. Income can be significant with typical per hectare income typically upwards of £40,000, but variable depending on current land status, habitat, location and scale. But bear in mind that this must cover the initial investment and running costs for 30 years.

While the income can be attractive relative to other farming or energy options, it does come with risks and uncertainties. Some of these can be managed and mitigated, but others, such as the flexibility of future land use at the end of the contract is less clear. The costs of management and monitoring in future years is highly uncertain, and careful consideration should be made of the scale and location to ensure it does not impact on future opportunities.

It is essential to take professional advice on the tax and legal aspects which can be complex given the long duration of the contracts – see later section for details.

Identifying potential land

A whole holding assessment can help to identify the best sites for further investigation. Things to consider include:

- **Biodiversity potential** - Land that is currently in poor environmental condition has the potential to create more biodiversity units and maximise the value per hectare. Typically, land can produce 2-6 units per hectare. Land and habitat identified in Local Nature Recovery Strategies (or similar) as priority areas, will have higher strategic significance with a multiplier in the Biodiversity Metric making them more valuable.
- **Type of biodiversity units** – There are three main types of biodiversity unit – Habitat units measured by area (e.g. grassland, woodland, heathland, wetland, arable margin and scrub); Hedgerow units (new and restoration) measured in length; and watercourse unit measured in length. The type of unit or mix will depend on the site, likely local demand and strategic significance.
- **Land in agri-environment schemes** - Land that is in agri-environment schemes (AES) can be considered, although the biodiversity baseline will be higher, and additional action will be required to create the new units. It is possible to withdraw from AES agreements to go into BNG, but you should discuss intentions with the Rural Payments Agency.
- **Stacking potential** - Stacking is the mechanism where you can receive more than one income on the same land for different ecosystem services. Currently BNG can be on the same land as Nutrient Neutrality (subject to review at some point). Some farming can be possible if compatible with the BNG requirements, as can eco-tourism and public access.
- **Permissions** – Protected sites such as Sites of Special Scientific Interest, have a legal requirement for management, so may be difficult to put into BNG, and will need permission from Natural England.
- **Tenanted land** – Land that is tenanted may not meet the requirements of management control for the period of contract. Increasingly landlords and tenants are working in partnership for long term environmental management where there is a common interest in doing so.
- **Alternative land use potential** – Avoid land that might have other high value options such as development.
- **Location** – This will depend on the type of habitat being created and the land use, but careful placing of biodiversity land can minimise risk of reduced land values and increase chance.
- **Scale** – The costs of advice, creation, management and monitoring are lower per hectare for larger sites, but there is no minimum, and will depend on the type of units being created.

- **End of contract use** – In theory, at the end of the 30-year contract, the land can be used for any purpose. This will depend on the what the land has been used for and any potential controls on change of use. For example, land in grassland for more than 15 years will be subject to Environmental Impact Assessments, and woodland will be subject to Felling Licences (which usually require replanting). There is also a risk that the land could have a legal designation such as Site of Special Scientific Interest if it should meet the requirements.

Baseline Assessments

Many farms and estates are undertaking baseline assessments across the holding to identify suitable land for a range of environmental projects. This can take the form of simple mapping of natural capital assets such as water, trees, hedgerows and other habitat – a first filter approach. This can be augmented by using publicly available data to identify various data layers such as protected sites, alongside business specific information such as cropping performance, soils data etc. There is a high degree of innovation in mapping and planning, using various data sources including earth observation and some degree of artificial intelligence for assessments.

In order to enter land into BNG, you will need a formal baseline assessment using the Biodiversity Metric, conducted by a suitably qualified and experienced ecologist. This can be costly, so it should only be considered on land that is likely to be taken forward. The assessment is used to calculate the potential biodiversity units that can be created.

Assessing Market Opportunities

The market opportunities for Biodiversity Net Gain will vary around England. The market will develop over time, with a greater degree of market transparency and clearer buying signals. The market price will vary depending on the demand and supply.

Local demand will depend on the level of development for housing and industry, and on national infrastructure projects. It will also depend on how much biodiversity net gain is place on-site. Most developers are planning to place as much of their net gain requirements on-site as possible, which is encouraged. This will mean fewer opportunities for off-site delivery and may dampen demand. There may be specific opportunities for the more specialist habitats, especially those that are difficult and/or costly to create and manage. There may be demand from outside the local planning authority if biodiversity units can be created more economically or are specialists with more restricted supply.

The BNG supply will affect the price so getting an understanding of local supply now and in the future will help to decide if it is worth considering. There is no single place to notify biodiversity units ready for sale or land available. The CLA has worked with the Future Homes Hub to develop a Biodiversity Unit Finder which allows land managers to promote their land availability. Contacting local land agents and advisers, and the local authority, will provide some insights into the market supply and demand.

Route to Market – habitat banks or bespoke habitat creation

There are two main routes to market (see Figure 2):

- **Habitat banking** – creating biodiversity units before a buyer is found
- **Bespoke habitat creation (delivery on demand)** – creating biodiversity units under an agreement with a buyer

Habitat banking requires investment in baseline surveys, creation of habitat plans and any capital works such as fencing, planting etc to create the units. The units are then immediately available for a buyer who is putting in planning permission with no delays. This is likely to be particularly important for some specialist units that take time to create such as woodland or water.

Bespoke habitat creation means that the land manager/project developer negotiates an agreement with a developer to deliver a requirement number and type of units based on the developer actual needs. It is more certain for the seller with a defined price before works begin.

Delivery models for landowners

There are three main delivery models for landowners each with different risk:reward profile:

- **Develop and manage own project,** identify buyers and negotiate price
- **Work with a project developer** to advise, find buyer and negotiate
- **Leasehold** – let the land on a long-term agreement to someone who will create the habitat, manage the land, find the buyer and negotiate price.

Developing and managing your own project is likely to deliver the highest net income but also carries the highest risks over the contractual period. The upfront costs can be high with professional advice for the ecological surveys, tax planning and legal contracts. Advisors may also be used to support the marketing and negotiations. The main risks come from ensuring the long-term management and delivery of the habitat, with potential risks linked to pests and weather extremes that might require habitat reinstatement.

Working with a project developer will result in higher costs of delivery but provides added support in designing the project and access to the market.

Leasehold models are the lowest risk, in that the landowner will receive a rental payment for the land and all the creation and management is delivered by the project owner who takes all the payments. This is a common model for habitat banking. It can be a way of securing income without the risks. However, be aware that income from this route will be treated as investment income for inheritance tax purposes, and so there is the risk it will jeopardise a business's entitlement to business property relief. There may also be hybrid models where the land is leased to the project owner, who then enters into a contract for the landowner to deliver the BNG services on the land.

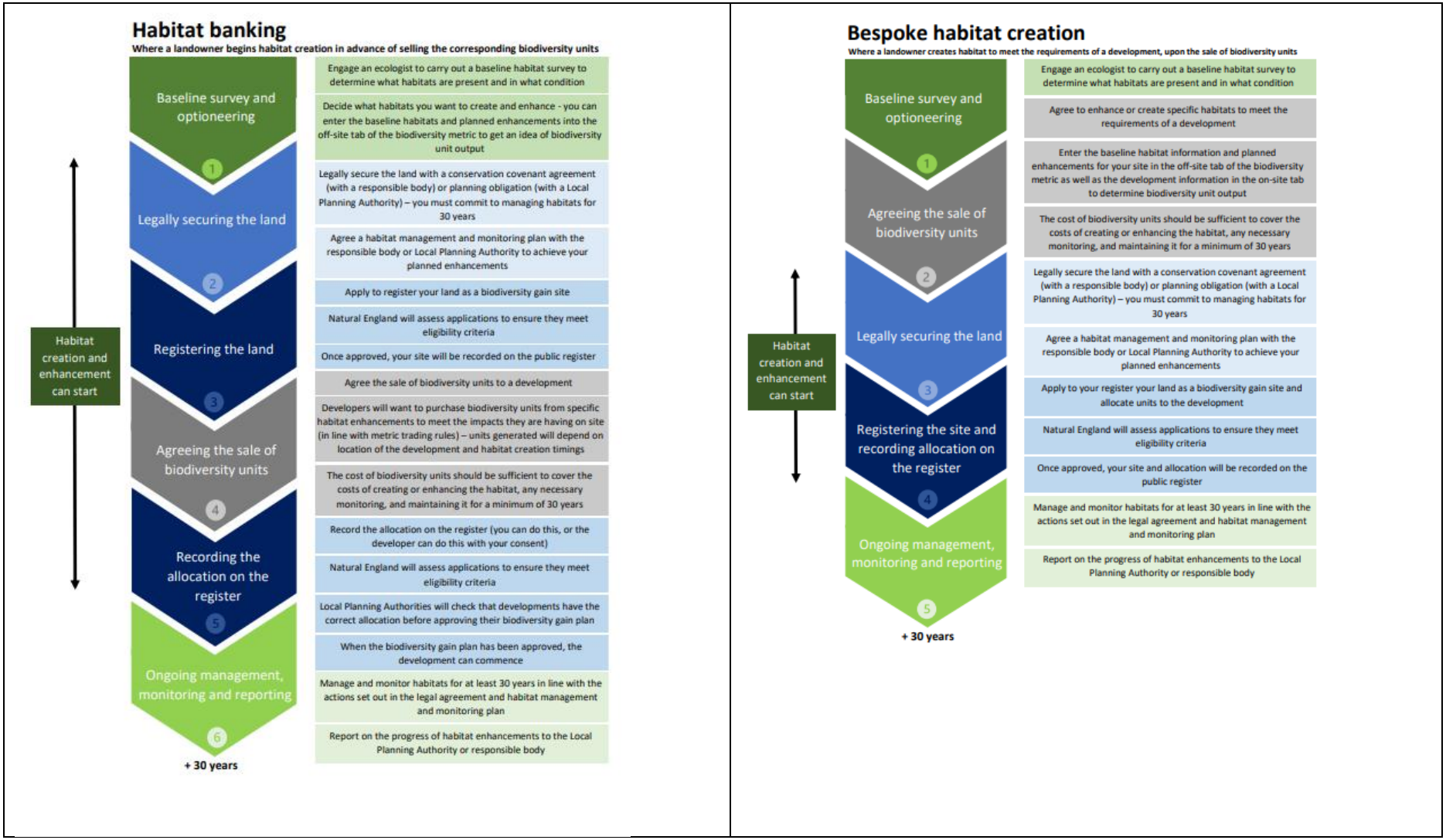


Figure 2: Actions to create and sell off-site biodiversity units – Source: Defra (for full size)

Selling, marketing and negotiating

Marketing and negotiations of biodiversity units is becoming increasingly professionalised, and while there are a number of online advertising platforms to passively market or trade, the larger trades are being managed by specialist BNG unit suppliers, brokers and land agents. BNG requirements for large builders and infrastructure projects will be planned months and years in advance and they will often partner with a BNG offsite provider, to ensure their needs are met and no delays are incurred. In addition, as the supply of biodiversity unit increases, many areas are reaching over supply, so professional marketing is becoming more important.

Table 4 provides an overview of the types of selling, marketing and negotiation options available. Please contact the CLA national or regional team for further information.

Many organisations offer end to end services from initial assessment through to unit sales and management.

Table 4 Selling, marketing and negotiation options

Types of selling support	Description
BNG project developers and unit suppliers	Usually national, but some local, organisations who develop and run multiple habitat banks, predominantly on leasehold basis with landowner, so an end-to-end service. They have a good understanding of local market demand and connections to developers and infrastructure projects.
Brokers/land agents	Vary in service offered but primarily support to independent habitat bank owners with planning, creation, marketing and brokering.
Independent habitat banks	Owners and managers of habitat banks who do their own sales and marketing.
BNG online trading platforms	Place to list and sell biodiversity units.
BNG online listings	Simple listings of units.

Minimum price: When negotiating price, it is important to have a minimum price in mind based on your initial investment and expected future costs. The contract term is a minimum 30 years from the point of creation of units, so even a simple flat line calculation puts in some perspective before accounting for the range of costs:

- Up-front costs of creation and professional fees
- Annual costs of management and delivery (accounting for inflation)
- Monitoring assessments, and potential additional assurance requirements under development
- Costs of reinstatement if damaged
- Potential impact on land values and future income.

There are other more speculative risks such as possibility of the land being designated as a protected site, or for changes in government policy including tax regimes, that should be considered.

Payment schedules: It is typical for non-leasehold agreements to be paid in full at signing, although increasingly there are alternative payment schedules with part up front and remainder annual payments often through trusted intermediary organisations. Income may come as a large up-front payment which could have a range of uses, but financial planning is also needed to ensure there are the funds for future management.

Tax implications

As with all investments it is important to take tax advice on the implications of changing the use of land to deliver BNG units.

HMRC has published a technical note on ecosystem services which sets out their approach to the taxation of various payments made by developers and others to landowners for the provision of 'ecosystem services'. This includes payments for BNG. The note covers the implications for income tax, corporation tax, capital gains tax and VAT, as well as stamp duty land tax and inheritance tax.

Treatment of payments

In its technical guidance, HMRC make it clear that the tax treatment of payments for BNG turns on the legal arrangements, accounting treatment and the landowner's wider business. Professional advice on the arrangements to be entered into should be taken before contracts are signed.

- **Income tax and corporation tax**. The tax treatment depends on the nature of the activity you will be undertaking and the particular agreement. If creating and selling BNG units forms part of a farming or other trade, the receipt will normally be brought into account as a trading receipt. Where the activity is instead part of a property business, for example because you have let the land to a third party who will be creating and selling the units, the receipt will normally be taxed as property income. The timing of recognition, including where a substantial payment is received upfront for obligations extending over many years, follows the applicable accounting principles rather than necessarily taxing the whole amount solely by reference to the date of receipt.

- **Capital gains tax.** A BNG payment is not automatically capital simply because the agreement lasts for 30 years or restricts the use of land. Capital treatment may arise where the legal arrangements amount to a disposal or part disposal of an interest or rights in the land; otherwise, the payment may be revenue. If the receipt is capital, the normal capital gains tax rules apply, including the part-disposal rules and the possible deduction of allowable expenditure. The contractual terms and the rights granted or restricted must therefore be reviewed in each case.

Inheritance tax

Land use to provide BNG units can benefit from agricultural property relief (APR), even if there is no longer any agricultural activity on the land.

APR will apply if the land was previously agricultural land and the land is managed under an agreement with, or on behalf of, the UK government, Devolved Administrations, public bodies, local authorities, or approved responsible bodies. This can include being party to a section 106 agreement or entering into a conservation covenant that requires you to deliver

the BNG units. Note that voluntarily acting to deliver BNG units without the accompanying agreement is not enough to ensure that you qualify for APR.

If the land qualifies for APR, then the farm buildings and farmhouses that are occupied with the BNG land (and any other farmland) will still be able to qualify for APR, subject to the normal rules.

This relief will continue even after the end of the BNG agreement provided that it continues to be managed in a way that would be consistent with the agreement. This avoids the risk that APR might have been lost once the agreement comes to an end, if the land is not returned to agricultural use.

You should also consider the impact on business property relief (BPR). It is currently unclear whether managing land for the purpose of BNG will be regarded as a trading activity or an investment activity. This is likely to depend on the particular facts. Therefore, a project that requires more active management on your part to maintain the habitats is more likely to be regarded as trading than one in which there is initial work to establish the habitat but then more 'hands-off' management over the remainder of the period. The risk therefore is that the BNG side of your business could be regarded as investment activity and that this could then tip the balance of your overall business from mainly trading to mainly investment, causing you to lose the benefit of BPR entirely. This would not be a concern if your business is already mainly investment (and so does not qualify for BPR to begin with) or if your business is currently very much balanced in favour of trading, and the BNG will only be a comparatively small part of it.

VAT

The sale of BNG units is subject to VAT at the standard rate (20%) if they are sold by a taxable person (i.e. a VAT registered business). The sale of statutory BNG credits is outside the scope of VAT.

It is important to remember that for VAT, if you enter into an agreement to sell BNG units you should ensure that the agreement includes a contract term on VAT. This is because failure to specifically state that VAT is to be paid in addition to the agreed sum for the units or credits, will mean that the price is deemed to be inclusive of VAT. This means that where they are sold by a VAT registered business, that business will have to account to HMRC for 20% of the sum received as output tax.

APPENDIX: KEY BNG TERMS

Term	Definition
Biodiversity Net Gain (BNG)	A legal requirement for most developments in England to leave biodiversity in a measurably better state than before development. Most developments must deliver at least a 10% net gain in biodiversity.
Biodiversity Metric	The tool used to measure biodiversity value before and after development. It calculates biodiversity units based on habitat type, condition, distinctiveness and location.
Biodiversity Units	The standardised measure used to quantify biodiversity value. There are 3 types: habitat area, linear hedgerow and watercourse. These habitats are considered independently and are not interchangeable. You cannot address a loss of one type of habitat by providing another.
Baseline Habitat Assessment	The initial survey of habitats on a site before development takes place. This establishes the site's biodiversity value.
Mitigation Hierarchy	The framework requiring developers to first avoid impacts, then mitigate unavoidable impacts, and finally compensate for any remaining biodiversity loss.
Biodiversity Gain Plan	A legally required document setting out how a development will achieve its Biodiversity Net Gain obligations.
On-site Biodiversity Units	Units generated through habitat creation or enhancement within the development boundary.
Off-site Biodiversity Units	Units generated on land outside the development site and sold or allocated to developers to meet BNG requirements.
Biodiversity Gain Site	Land where habitats are managed, enhanced or created specifically to generate biodiversity units.
Habitat Bank	A site where biodiversity units are generated and sold to multiple developments.
Habitat Creation	Creating a new habitat, such as woodland, wetland or species-rich grassland, where none previously existed.
Habitat Enhancement	Improving the quality, condition or ecological value of an existing habitat.
Habitat Distinctiveness	A measure of how valuable and rare a habitat type is. Higher distinctiveness habitats generate more biodiversity units.
Habitat Condition	An assessment of habitat quality based on ecological criteria. Better condition habitats attract more units.
Spatial Risk Multiplier	A factor within the Biodiversity Metric that reduces the value of biodiversity units located further from the development site.
National Character Area (NCA)	A natural landscape area defined by Natural England. Biodiversity units delivered within the same NCA may receive more favourable treatment in the metric.
Local Planning Authority	The local council responsible for approving planning applications and Biodiversity Gain Plans.
Local Nature Recovery Strategies (LNRS)	48 LNRSs across England will become the area for more favourable treatment in the metric when new legislation is passed.
Section 106 Agreement	A legal agreement used to secure long-term habitat management commitments associated with BNG delivery.
Conservation Covenant	A legal agreement between a landowner and a responsible body to secure long-term conservation outcomes.
Responsible Body	An organisation designated by Government to monitor and enforce conservation covenants.
Biodiversity Gain Site Register	The Government's public register of land delivering off-site biodiversity units.
Statutory Biodiversity Credits	Credits sold by Government as a last resort when suitable on-site and off-site biodiversity units are not used.
Habitat Management and Monitoring Plan (HMMP)	A plan setting out how habitats will be created, managed, monitored and maintained throughout the agreement period.

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