

# HABITAT BANK PROPOSAL

---

Guidance for developers and  
landowners

**Council of the Isles of Scilly**

Old Wesleyan Chapel,  
Garrison Lane, St Mary's  
Isles of Scilly  
TR21 0JD

Phone: 0300 1234105  
Email: [planning@scilly.gov.uk](mailto:planning@scilly.gov.uk)



Council of the  
ISLES OF SCILLY



## Guidance on Creating a Local Habitat Bank | Publication Details

Published | 31/03/2025

Version | 1.0 Interim

If you require any of the documents in an alternative language, in larger text, Braille, easy read or in an audio format, please contact the Council at [diversity@scilly.gov.uk](mailto:diversity@scilly.gov.uk) or telephone 0300 1234 510

Council of the isles of Scilly

Planning Department

Old Wesleyan Chapel

Garrison Lane

St Mary's

Isles of Scilly

TR21 0JD

[Planning@scilly.gov.uk](mailto:Planning@scilly.gov.uk)



## Contents

1. Habitat Banks .....	4
2. Legislative Background .....	4
3. Creating Local Habitat Banks on Scilly .....	6
4. Legal Agreement .....	7
5. Monitoring Costs .....	7
6. Submission Documents .....	8
7. The Process .....	8
8. Delivery .....	10
9. Registered Habitat Banks within the Isles of Scilly .....	10
10. Links .....	11



# 1. Habitat Banks

- 1.1 Biodiversity Net Gain (BNG) is a legal requirement of the national planning system which has applied to most proposals for major development since February 2024 and most proposals for smaller developments since April 2024. It requires developers to deliver a minimum 10% uplift in biodiversity (wildlife) value over and above what was present on site prior to development. In very simple terms, it is no longer just a requirement for development to minimise or mitigate its impact on wildlife; it must now, by law, bring about an improvement – a minimum 10% net increase in biodiversity habitat which is calculated, measured and monitored using a complex biodiversity metric set out in national guidance.
- 1.2 To achieve 10% BNG, development proposals are required to deliver as much of it as possible on the site that is being developed. Where it is not possible to achieve all the necessary BNG on-site, developers can create the necessary habitat off-site either on other land they control (which would be tied through a legal agreement on the grant of planning permission) or by purchasing 'biodiversity units' from a 'Habitat Bank' – i.e. an area of land where a wildlife habitat has been created or enhanced, in advance, maintained by third-party landowners for the purposes of BNG, and where units can be sold to developers on the open market. In the rare cases where on-site or off-site BNG provision is not possible, developers must – as a last resort – buy statutory biodiversity credits from the Government.
- 1.3 To set up a Habitat Bank and lawfully enter the market for selling biodiversity units to developers, a landowner must register their site with Natural England – which first requires them to either enter into a legal agreement with the local authority or a 'conservation covenant' with another responsible body recognised by Natural England. In doing so, the local authority (or other responsible body) takes on a responsibility to monitor and enforce the obligations set out in any legal agreement.

## 2. Legislative Background

- 2.1 In England, biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). This statutory framework is referred to as 'biodiversity net gain' in Planning Practice Guidance to distinguish it from other or more general biodiversity gains. The six sets of BNG implementing regulations are as follows:
  - The Biodiversity Gain (Town and Country Planning) (Consequential Amendments) Regulations 2024 (SI 2024/49) -were made on 17 January 2024 and make further consequential amendments to primary legislation, including the definition of a planning authority under Schedule 7A to the Town and Country Planning Act 1990 (TCPA 1990) that sets out the BNG framework.



- The Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024 (SI 2024/48), made on 17 January 2024, modify the application of the BNG requirement for onsite habitats that meet the definition of "irreplaceable habitat." They set out the alternative arrangements that must be made to minimise the adverse effect of a development on the biodiversity of the irreplaceable habitat onsite.
- The Biodiversity Gain Requirements (Exemptions) Regulations 2024 (SI 2024/47), made on 17 January 2024, exempt certain developments from meeting the BNG requirement and apply to development with no impact on priority habitat and where impacts fall below the specified "de minimis" threshold, to householder applications, to the high-speed railway network, to off-site gain developments and certain self-build and custom build developments. They also applied temporarily for small developments where a planning application was made or granted before 2 April 2024.
- The Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 (SI2024/50), made on 17 January 2024, set out provisions for information about BNG for applications for planning permission and decision notices, the contents of biodiversity gain plans and the procedure for their submission to the LPA, the eight week timescale for the LPA determining whether to approve a plan (unless an alternative period is agreed), what LPAs must consider when making a determination, the appeal process and modified arrangements for phased developments.
- The Biodiversity Gain Site Register Regulations 2024 (SI 2024/45), made on 17 January 2024, require Natural England (NE) to establish and maintain the new biodiversity gain site register, deal with registration applications and make sure that information in the register is publicly accessible.
- The Biodiversity Gain Site Register (Financial Penalties and Fees) Regulations 2024 (SI 2024/46), made on 18 January 2024, allow for fees to be charged for applications to register land in the biodiversity gain site register and allows the register operator, NE, to issue financial penalties where false or misleading information is provided.

2.2 For the purposes of Biodiversity Net Gain, planning obligations (through a legal agreement, known as a Section 106 Agreement) are one of the mechanisms under paragraph 9 of Schedule 7A of the Town and Country Planning Act 1990, necessary to secure the maintenance of significant onsite habitat enhancements for at least 30 years. They are also required to register sites for offsite gains (unless conservation covenants are used).

2.3 The purpose of planning obligations is to make development acceptable in planning terms. The Planning Advisory Service (PAS) has produced legal agreement templates (linked below) which are now available for applicants to use. The power to enter into a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) is a function reserved for Council, delegated to the Chief Planning Officer.

2.4 The Local Government Act 2003<sup>i</sup>, includes a general power for local authorities to charge for discretionary services, providing it is a service the Council can provide and the income from the charges does not exceed the cost of providing the service (after taking into account all costs associated with the provision) and the recipient of the service agrees to pay for it. In this case a recognised monitoring tool calculator



has been used to established costs as a defensible charge for this service and would ensure it operates on a cost recovery basis only.

- 2.5 Powers are delegated to the Chief Planning Officer under section 4 (The Council's Scheme of Delegation<sup>ii</sup>). Paragraph 4.1 states that each Chief Officer and Strategic Director has delegated to them the power to act on behalf of the Council in relation to any matters within the service areas for which they are responsible, including spending decisions, subject to the following overriding provision. Any action by a Chief Officer or Strategic Director under delegated powers shall be in accordance with a) the overall policies approved by the Council or a committee; b) Standing Orders; c) Financial Regulations; d) Contract Procedure Rules; e) personnel policies and procedures; f) approved capital and revenue budget estimates where expenditure or a reduction in income is involved; and g) the requirements of the relevant legislation.

### 3. Creating Local Habitat Banks on Scilly

- 3.1 Biodiversity net gain (BNG) has created new opportunities for landowners to contribute to nature's recovery, diversify income streams, and safeguard businesses. Land which currently is unused, unproductive, or generally unsuitable for other purposes could be turned into a habitat bank to yield new income for landowners.
- 3.2 Under BNG, developers wanting planning permission need to show that their proposal will deliver at least a 10% uplift in biodiversity value.
- 3.3 It will not always be possible for developers to achieve this on-site, so there will be a demand for off-site solutions. The purchase of biodiversity units from a habitat bank is one such off-site solution, particularly where the developer has no additional land themselves.
- 3.4 Habitat banks are areas of land where habitat creation or enhancement has achieved an uplift in biodiversity value. This uplift can be sold to developers and allocated to their proposal, to meet BNG requirements.
- 3.5 To set up a habitat bank, landowners secure the creation and enhancements of habitats on their land through a legal agreement with the Council. Once agreed, the habitat bank must be registered with the national [Biodiversity Gains Site Register](#)<sup>iii</sup>.
- 3.6 The Council wants to work proactively with landowners to deliver habitat banks and the flow chart below aims to provide some guidance on the process.
- 3.7 Details of how to submit your proposal and the documents required to accompany your submission, are listed below:





## 4. Legal Agreement

- 4.1 The Council of the Isles of Scilly currently require applicants to use the PAS Section 106 (S.106) agreement template. Please see the link below for the latest version.

[Link to PAS S.106 Agreement Templates<sup>iv</sup>](#) 

## 5. Monitoring Costs

- 5.1 As noted above the local authority has power to charge for discretionary services on a cost recovery basis. To cover the 30-year monitoring period the Council will use a monitoring calculation tool (such as that provided by Verna<sup>v</sup>) to establish an appropriate monitoring fee for habitat banks. Each habitat bank proposed will have its own monitoring calculation but as a guide we've set out the base-line costs for current year, at the time of publication, as an example.



### Example 2025 Habitat Bank Monitoring Costs

Site Area	Monitoring Years	Total Costs *inc VAT
Small sites 2ha or less	2, 5, 10, 15, 20, 25 & 30	£14,481
Large Sites Over 2ha<10ha	2, 5, 10, 15, 20, 25 & 30	£22,146.00
Sites over 10ha	Bespoke Calculation – Please contact the Planning Service for further details	

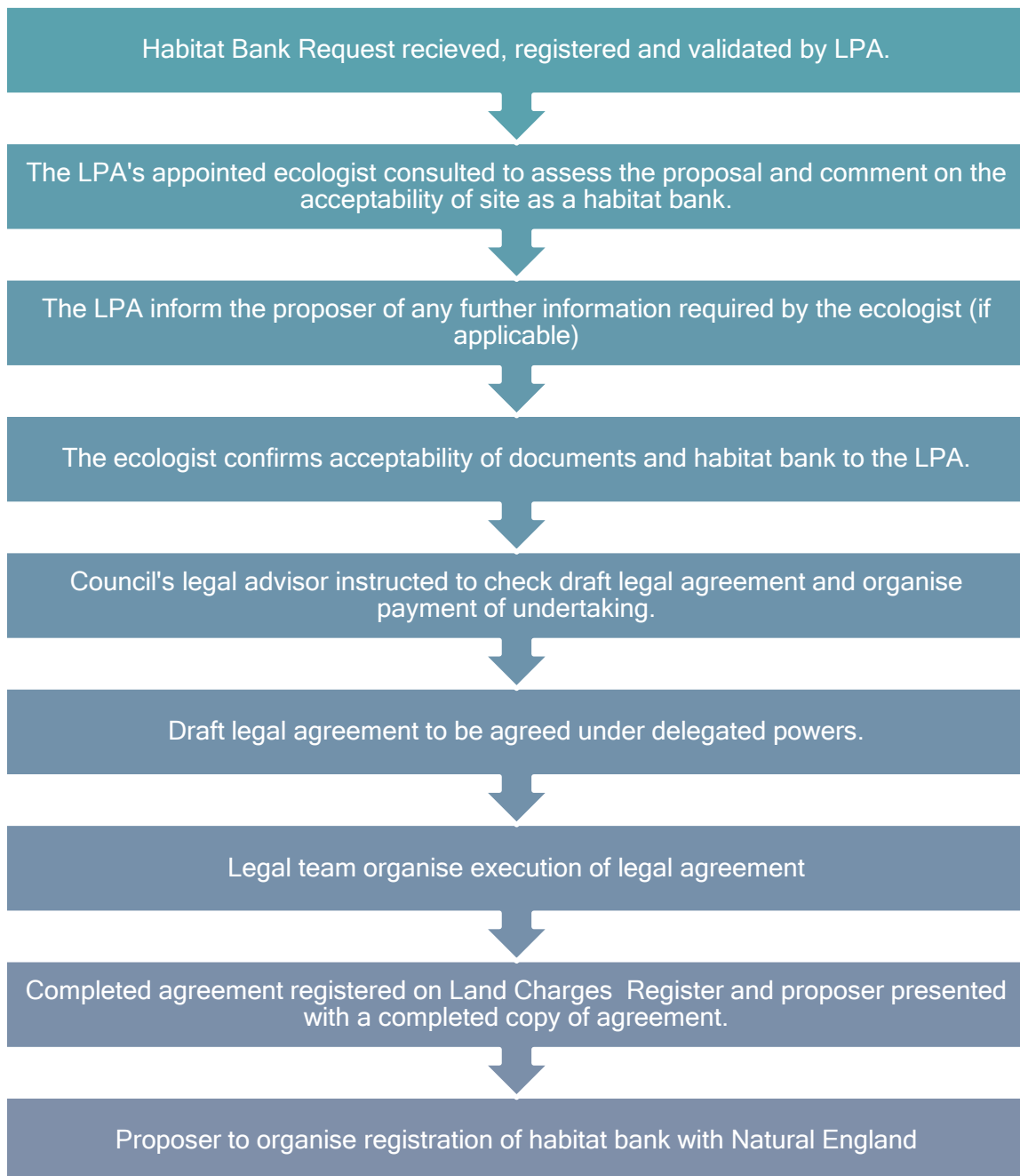
## 6. Submission Documents

- 6.1 All submissions should be e-mailed to [planning@scilly.gov.uk](mailto:planning@scilly.gov.uk). Please ensure all documents are submitted in PDF format, unless stipulated otherwise on the requirements below.
- 6.2 To help make your submission as timely and smooth as possible, please ensure your application is accompanied by the following documents:
- Draft S.106 Agreement (PAS version) ☐
  - Ownership details (Land Registry deed and title plan for the land) ☐
  - Site Plan mapping the entirety of the proposed Habitat Bank site, to an appropriate scale, and showing North ☐
  - Provide digital mappable data such as a Shapefile (Plan) of the proposed BNG Scheme boundary ☐
  - Signed Undertaking to pay the associated legal/ecology consultation fees ☐
  - Written authorisation from landowner or leaseholder if you are applying on their behalf ☐
  - Habitat Management & Monitoring Plan (HMMP) ☐
  - Statutory Biodiversity Metric - Tool Calculation ☐
  - Financial Business Plan ☐
  - Impact statements / information ☐
  - Administrative payment of £590 (payable at the time of submission). ☐

## 7. The Process

- 7.1 Applications to register a Habitat Bank with the Local Authority are not governed by legislative timeframes. The guide below details the process that will be followed on receipt of your application.







## 8. Delivery

8.1 Following the completion of the s106 Legal agreement you will be expected to notify the local planning authority of commencement (NC) and again once the habitat bank is complete (PC). You will have an obligation to register the site with Natural England and report, to the Local Planning Authority, on the status/capacity of the site at each of the identified monitoring periods, which will also need to be registered with Natural England.

- Notification of Commencement (NC)
- Notification of Practical Completion (PC)
- Natural England Register: Register Site
- Capacity Monitoring Reporting (for each transaction)
- Natural England Register: Register each transaction.

## 9. Registered Habitat Banks within the Isles of Scilly

9.1 Details of Habitat Banks will be listed on the [planning pages of the Councils' website](#)<sup>vi</sup> once they have been [registered with Natural England](#)<sup>vii</sup>.

**Please note:** Land the subject of an application for a Habitat Bank should have no licences, permissions, consents or restoration plans on the land that could conflict with delivery of BNG.



## 10. Links

- <sup>i</sup> <https://assets.publishing.service.gov.uk/media/5a78eb9240f0b6324769b340/151291.pdf>
- <sup>ii</sup> <https://committees.scilly.gov.uk/mgCommitteeDetails.aspx?ID=295>
- <sup>iii</sup> <https://www.gov.uk/guidance/search-the-biodiversity-gain-sites-register>
- <sup>iv</sup> <https://www.local.gov.uk/pas/environment/biodiversity-net-gain-bng-local-planning-authorities/pas-biodiversity-net-gain-bng>
- <sup>v</sup> <https://verna.earth/news-item/free-tool-how-to-calculate-biodiversity-net-gain-monitoring-charges/>
- <sup>vi</sup> <https://www.scilly.gov.uk/planning/biodiversity-net-gain>
- <sup>vii</sup> <https://www.gov.uk/guidance/search-the-biodiversity-gain-sites-register>