

TOPIC PAPER

Justification for Higher Biodiversity Net Gain Topic Paper Addendum

Joint Local Plan



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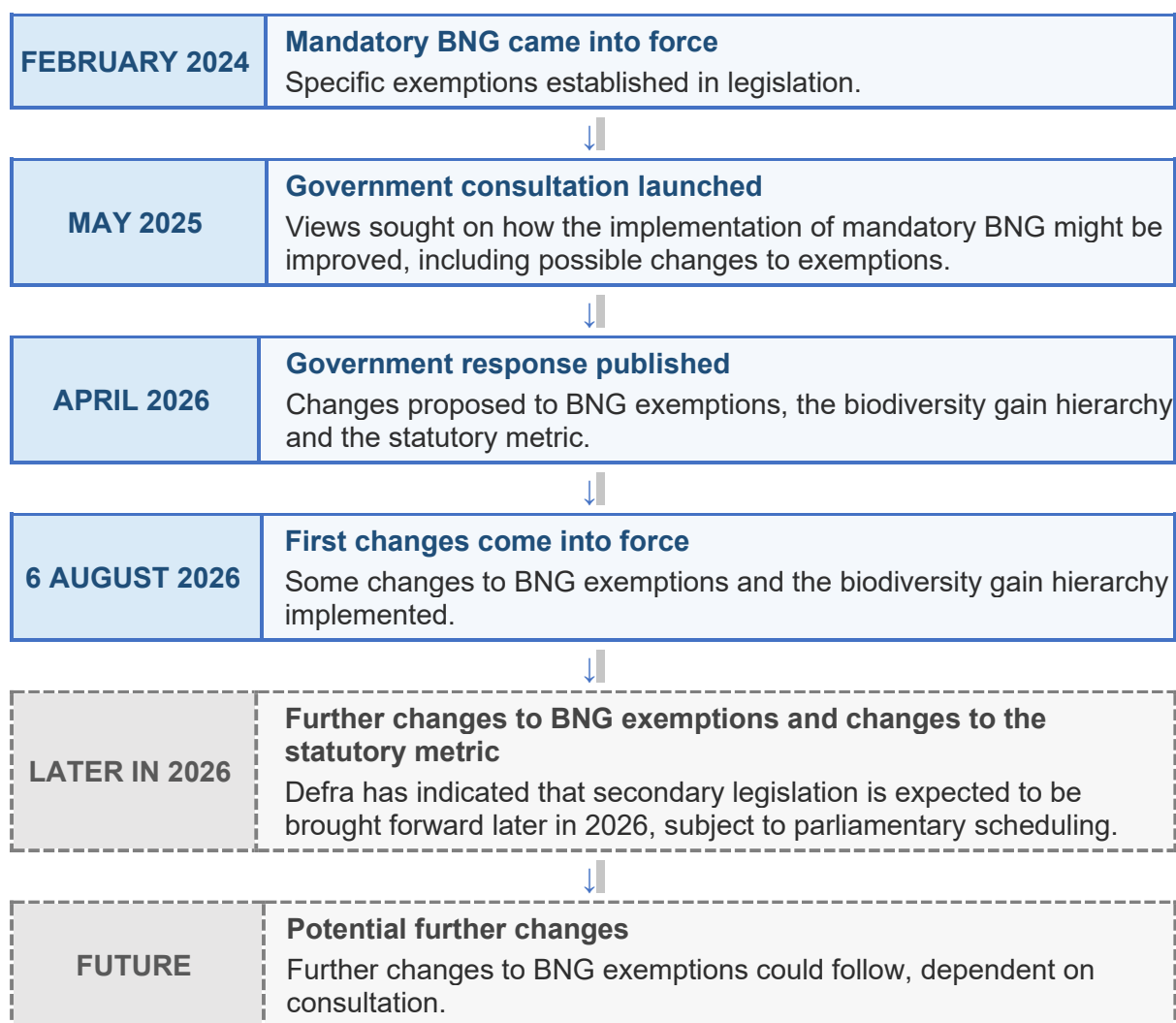
1 Overview

- 1.1 This is an addendum to the councils' Justification for Higher Biodiversity Net Gain (BNG) Topic Paper ([examination library reference TOP04.1](#)). It has been produced in response to the Inspectors' post stage two hearings letter ([examination library reference ID28](#)) which, at paragraph 18, asks the councils to consider whether any update to the Justification for Higher BNG Topic Paper is necessary in light of recent and proposed changes to the types of development that the statutory biodiversity net gain (BNG) metric will apply to.
- 1.2 This addendum sets out the recent and proposed changes to BNG exemptions and reflects on if/how they might affect the justification for a higher BNG requirement in the Joint Local Plan (JLP). This addendum also notes other relevant changes to statutory BNG processes and considers if any modifications to the JLP may be required.
- 1.3 The addendum concludes that there is an overall widening of BNG exemptions and, whilst many of the changes are likely to have a relatively modest impact in South Oxfordshire and Vale of White Horse, the new exemption for small sites (no larger than 0.2 hectares) is likely to mean that more development will be placing pressure on the districts' natural environment without contributing to nature recovery. This adds weight to the need for a higher BNG requirement in the JLP in order to achieve the plan's objectives and to contribute towards nature recovery.
- 1.4 The addendum also finds that no modifications to the JLP are required in response to recent or proposed changes to BNG exemptions, however it is considered necessary to propose a modification to part three of Policy NH2 due to changes to the biodiversity gain hierarchy.

2 Summary of changes to BNG exemptions

- 2.1 Legislation sets out that some specific types of development are exempt from mandatory BNG. These exemptions have evolved, and may continue to evolve, over time as set out in Figure 1.

Figure 1: Timeline of key changes



Note: Solid blue stages show changes that have occurred. Grey dashed stages show expected or potential future changes.

2.2 The BNG exemptions and known/potential future changes are summarised in Table 1.

Table 1: Changes to BNG exemptions over time			
Development type	Exempt from 12 Feb 2024	Exempt from 6 Aug 2026	Future change indicated
Householder development	✓	✓	-
Self-build and custom development ¹	✓	✗	-
Development subject to permitted development rights	✓	✓	-
De minimis development ²	✓	✓	Changes possible, pending government response to the consultation on a targeted exemption for residential brownfield development.
Urgent crown development	✓	✓	-
Development of a biodiversity gain site	✓	✓	-
Development related to the high-speed railway transport network	✓	✓	-
Development no larger than 0.2 hectares, if no priority habitats are affected	✗	✓	-
Temporary development that is permitted for a period of 5 years or less ³	✗	✓	-
Development whose primary objective is to conserve or enhance biodiversity	✗	✗	Defra has indicated that this exemption may be implemented later in 2026.
Targeted development that enhances parks, playing fields and public gardens	✗	✗	Defra has indicated that this exemption may be implemented later in 2026.
Targeted exemption for residential brownfield development	✗	✗	Possible new exemption. Defra undertook consultation from 15 April to 10 June 2026.

¹ If no more than nine dwellings, on a site no larger than 0.5 hectares, that is exclusively self-build or custom development.

² Must not impact any on-site priority habitat and if there is an impact on other on-site habitat it must be on less than 25sqm of onsite habitat and 5m of linear habitat.

³ If no priority habitats are affected, all works are completed and habitats are reinstated within this timeframe, the whole development is temporary, and it is not extending an existing temporary permission beyond 5 years.

3 Implications of changes to BNG exemptions

- 3.1 The implications of each of the changes to the BNG exemptions is considered below:

Self-build and custom-build

- 3.2 The self-build and custom-build BNG exemption no longer applies to planning applications submitted from 6 August 2026 onwards.
- 3.3 On average, South Oxfordshire District Council grants planning permission for around 45 self-build or custom-build dwellings per year and Vale of White Horse District Council grants planning permission for around 25 self-build or custom-build dwellings per year. These dwellings tend to be part of smaller schemes of no more than 10 homes and most applications tend to be for single dwellings.
- 3.4 JLP Policy HOU6 is supportive of proposals for self-build and custom-build housing, including encouraging neighbourhood plans to consider the local need for this type of development and, where appropriate, to allocate sites. It is therefore expected that planning permissions for self-build and custom-build development will continue to contribute to housing supply over the plan period.
- 3.5 Many self-build and custom-build developments in the districts may have benefitted from the previous exemption. These applications will now be subject to mandatory BNG and would also fall within the scope of the JLP's proposed 20% BNG requirement. However, the effects are likely to be modest given the typical number of self-build and custom-build planning applications received and the fact that many schemes are for single dwellings which may benefit from the new BNG exemption for small sites. Nevertheless, the 20% BNG requirement is justified for smaller self-build and custom-build developments in the districts, where it applies, given:
- i. the local need for a higher BNG requirement as set out in the Justification for Higher BNG Topic Paper ([examination library reference TOP4.1](#)) - it is appropriate that all qualifying developments play a proportionate role in supporting nature recovery;
 - ii. the local opportunities to deliver a higher BNG requirement - the Assessment of Sites' BNG Potential ([examination library reference LPA65](#)) considered the potential for smaller brownfield and greenfield residential developments to deliver on-site BNG and there are also sufficient local habitat banks available to provide off-site habitat units where needed as set out in the Justification for Higher BNG Topic Paper ([examination library reference TOP4.1](#)); and
 - iii. the impacts on development viability - the JLP Viability Report ([examination library reference ITV04](#)) assessed the cumulative impact of

JLP policy requirements (including 20% BNG) on the viability of smaller scale residential development typologies in the districts. Tables 8.2, 8.3, 8.4, 8.9 and 8.10 of the JLP Viability Report show the assessment findings, with the majority of the smaller scale residential development typologies being viable.

- 3.6 Therefore, the removal of the self-build and custom-build exemption does not undermine or materially alter the justification for the JLP's proposed 20% BNG requirement set out in the Justification for Higher BNG Topic Paper ([examination library reference TOP4.1](#)).

De minimis development

- 3.7 The Government has indicated that changes may be made to the de minimis exemption but has not yet published details of expected thresholds or qualifying criteria. As the scope of changes to the de minimis exemption are not yet known, it is too early to suggest how they might affect development in South Oxfordshire and Vale of White Horse. Nevertheless, given the limited biodiversity impacts associated with development currently captured by de minimis provisions, any future amendment would not be expected to undermine or materially alter the justification for the JLP's proposed 20% BNG requirement set out in the Justification for Higher BNG Topic Paper ([examination library reference TOP4.1](#)).

Temporary Development

- 3.8 A new BNG exemption for temporary development permitted for a period of five years or less applies to planning applications submitted from 6 August 2026 onwards.
- 3.9 Whilst this new exemption widens the scope of applications not subject to mandatory BNG, the effects in South Oxfordshire and Vale of White Horse likely to be modest because:
- a) in total, South Oxfordshire and Vale of White Horse District Councils receive an average of 30 planning applications per year for temporary developments; and
 - b) many of these applications are likely to have already benefitted from the fact that the statutory biodiversity metric does not record habitat loss where there is a temporary impact and the affected area can be restored to both its baseline habitat type and baseline condition within two years of the initial impact.
- 3.10 Therefore, this change does not undermine or materially alter the justification for the JLP's proposed 20% BNG requirement set out in the Justification for Higher BNG Topic Paper ([examination library reference TOP4.1](#)).

Development whose primary objective is to conserve or enhance biodiversity

- 3.11 This is viewed as a positive change in terms of supporting nature recovery, as it may remove limitations to the delivery of significant biodiversity enhancements in some circumstances. This could support the justification for the JLP's proposed 20% BNG requirement set out in the Justification for Higher BNG Topic Paper ([examination library reference TOP4.1](#)) by increasing off-site opportunities to deliver BNG in the districts.

Targeted development that enhances parks, playing fields and public gardens

- 3.12 This is a highly focused exemption that will only apply in very specific circumstances. This change does not undermine or materially alter the justification for the JLP's proposed 20% BNG requirement set out in the Justification for Higher BNG Topic Paper ([examination library reference TOP4.1](#)).

Development on sites no larger than 0.2 hectares

- 3.13 A new BNG exemption for development on sites no larger than 0.2 hectares applies to planning applications submitted from 6 August 2026 onwards.
- 3.14 This change is expected to affect more developments in South Oxfordshire and Vale of White Horse than the other exemption changes. Analysis by Defra produced to support the introduction of the new exemption⁴ concluded that the 0.2 hectare exemption would see 51% of previously BNG liable planning applications now being exempt. It also found that this would result in a notable reduction in the offsite habitat market, reducing off-site habitat unit purchase transactions by 42%.
- 3.15 Whilst more developments will now be exempt from statutory BNG, these developments still place pressure on the natural environment, both individually and cumulatively, further endorsing the JLP's 20% BNG requirement which is necessary to achieve the plan vision and objectives.

Targeted exemption for residential brownfield development

- 3.16 The government consulted on a possible new targeted BNG exemption for residential brownfield development from 15 April to 10 June 2026. The findings of that consultation and the government's response have not yet been published. However, whichever thresholds or qualifying criteria are chosen for a new exemption, it is unlikely to affect the justification for the JLP's 20% BNG requirement set out in Justification for Higher BNG Topic Paper ([examination library reference TOP4.1](#)). This is because the evidence underpinning our

⁴ Defra: Biodiversity net gain (BNG) area-based exemption evidence annex. [Available online](#).

justification for a 20% BNG requirement considered the implications for residential brownfield development in the districts of a range of scales.

- 3.17 Specifically, the Assessment of Sites' BNG Potential ([examination library reference LPA65](#)) considered on-site opportunities to deliver BNG on typical small, medium and large scale brownfield sites in the districts. In many cases it was found that there was greater potential for these sites to achieve higher BNG on-site due to their lower baseline values, even without modifying development design (e.g. through a typical on-site green infrastructure scheme). For example, the small brownfield typology site tested achieved a 30% net gain in area habitat units and a 103% gain in hedgerow units even though the site was designed prior to mandatory BNG coming into force.
- 3.18 The JLP Viability Report ([examination library reference ITV04](#)) assessed the cumulative impact of JLP policy requirements (including 20% BNG) on a range of brownfield development typologies in the districts. Tables 8.9 - 8.14 the JLP Viability Report show the assessment findings. It is noted that a 20% BNG requirement is unlikely to be a significant factor affecting the viability of these sites due to the typically low baseline biodiversity value of brownfield sites which means that gains can often be achieved on-site through typical green infrastructure schemes and if off-site units are needed the costs are likely to be relatively low.

4 Are modifications to the Joint Local Plan needed in light of changes to the BNG exemptions?

- 4.1 No modifications to the JLP are needed in response to changes to the BNG exemptions. Policy NH2 (Nature Recovery) is flexibly worded, stating:

*“Development in South Oxfordshire and Vale of White Horse must deliver at least a 20% biodiversity net gain, **unless the development is not subject to the statutory framework for biodiversity net gain.**”*

- 4.2 As Policy NH2 refers to the statutory BNG regime, rather than to specific exemption categories, any amendments to BNG exemptions will automatically flow through to the operation of Policy NH2 without requiring modifications to the JLP.
- 4.3 Supporting paragraph 12.18 also explicitly refers to BNG exemptions “(e.g. *householder developments and those under the minimum impact threshold*)”. This wording is sufficiently flexible should the minimum impact threshold change in the future as indicated by Defra (as set out in Table 1 above).
- 4.4 Part 2 of Policy NH2 requires that where development is not subject to the statutory BNG framework, a net loss of biodiversity must be avoided and opportunities to achieve biodiversity gains are encouraged. This becomes even

more important in light of recent and proposed changes to BNG exemptions as more developments will be exempt from mandatory BNG and it is important to ensure that efforts to support nature recovery are not undermined.

5 Other relevant changes to BNG regulations and are modifications to the Joint Local Plan needed?

Changes to the biodiversity gain hierarchy for minor development

- 5.1 The biodiversity gain hierarchy sets out a list of priority actions in delivering BNG. The changes to the biodiversity gain hierarchy implemented on 6 August 2026 introduced a new altered approach for minor applications, as set out in Table 2.

Table 2: Biodiversity Gain Hierarchy from 6 August 2026			
Minor development:		Non-minor development:	
1	Avoid adverse effects to on-site habitats of medium, high and very high distinctiveness and, if they cannot be avoided, mitigate the effects.	1	Avoid adverse effects to on-site habitats of medium, high and very high distinctiveness and, if they cannot be avoided, mitigate the effects.
2	For all on-site habitats adversely affected, compensate for the effect through any of the following (treated with the same level of preference): <ul style="list-style-type: none"> • Enhancement of on-site habitat. • Creation of on-site habitats. • Registered off-site gains. 	2	For all on-site habitats adversely affected, compensate for the effect through the enhancement of on-site habitats.
		3	If that is not fully possible, compensate for the effect through the creation new on-site habitats.
		4	If that is not fully possible, compensate for the effect through the allocation of registered off-site gains.
3	Finally, if that is not fully possible, compensate for the effect through the purchase of biodiversity credits.	5	Finally, if that is not fully possible, compensate for the effect through the purchase of biodiversity credits.

- 5.2 In light of this change of approach for minor development, it is considered necessary to propose a modification to Policy NH2 as follows:

~~“3) Biodiversity net gains should be delivered on-site where possible. Where the full biodiversity net gain requirement cannot be delivered on site~~ **Where development is subject to the statutory framework, biodiversity net gain should be delivered in accordance with the latest biodiversity gain hierarchy and the statutory metric. Where off-site delivery is proposed,** the following sequential approach must be used to direct the creation and enhancement of habitats off site...”

Changes to BNG metric spatial risk multiplier

- 5.3 The spatial risk multiplier is a mechanism within the statutory BNG metric that reduces the value of off-site habitat when it is delivered further away from the development causing the biodiversity loss. It incentivises off-site BNG to be delivered locally.
- 5.4 Currently the spatial risk multiplier applies when off-site units are delivered outside of the local planning authority and National Character Area boundaries. The government has indicated that it intends to amend the BNG metric so that spatial risk is based on Local Nature Recovery Strategy (LNRS) areas only. This change will mean developers are able to source off-site units from a larger area without the spatial risk multiplier applying. Defra has indicated that this change could come forward later in 2026 and would apply to all types of development.
- 5.5 The proposed change to the spatial risk multiplier affects the calculation of biodiversity units, rather than the operation of Policy NH2. The locally defined sequential approach set out in part 3 of Policy NH2 continues to prioritise biodiversity delivery within South Oxfordshire and Vale of White Horse and remains consistent with the JLP's objectives. No modification is therefore considered necessary.

6 Conclusions

- 6.1 There is an overall widening of BNG exemptions. Whilst many of the changes are likely to have a relatively modest impact in South Oxfordshire and Vale of White Horse, the new exemption for small sites no larger than 0.2 hectares is likely to mean that more development will be placing pressure on the districts' natural environment without contributing to nature recovery. This adds weight to the need for a higher BNG requirement in the JLP in order to achieve the plan's objectives and to contribute towards nature recovery.
- 6.2 No modifications to the JLP are required in response to the changes in BNG exemptions, however it considered necessary to propose a modification to part three of Policy NH2 due to changes to the biodiversity gain hierarchy (set out in para 5.2 above).

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