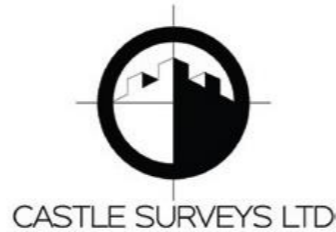


Biodiversity Net Gain Update and changes to the Nature Laws

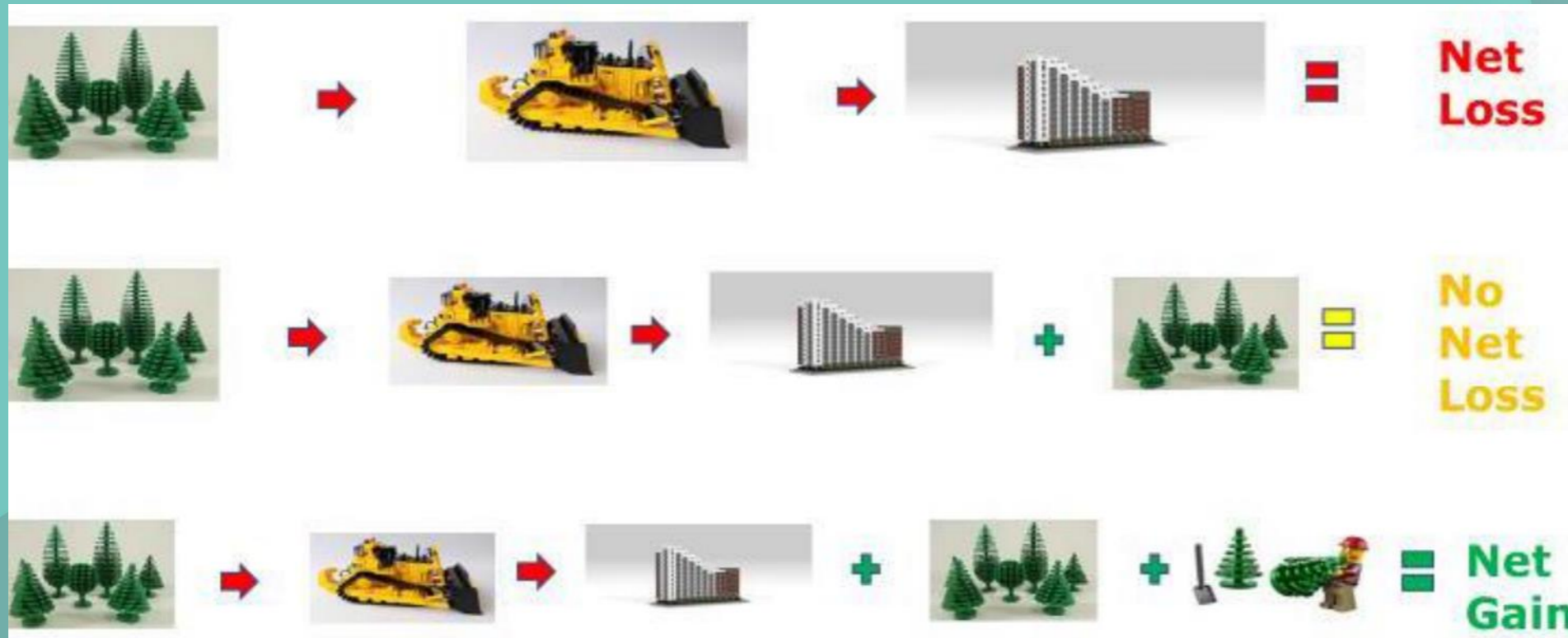
15 May 2025



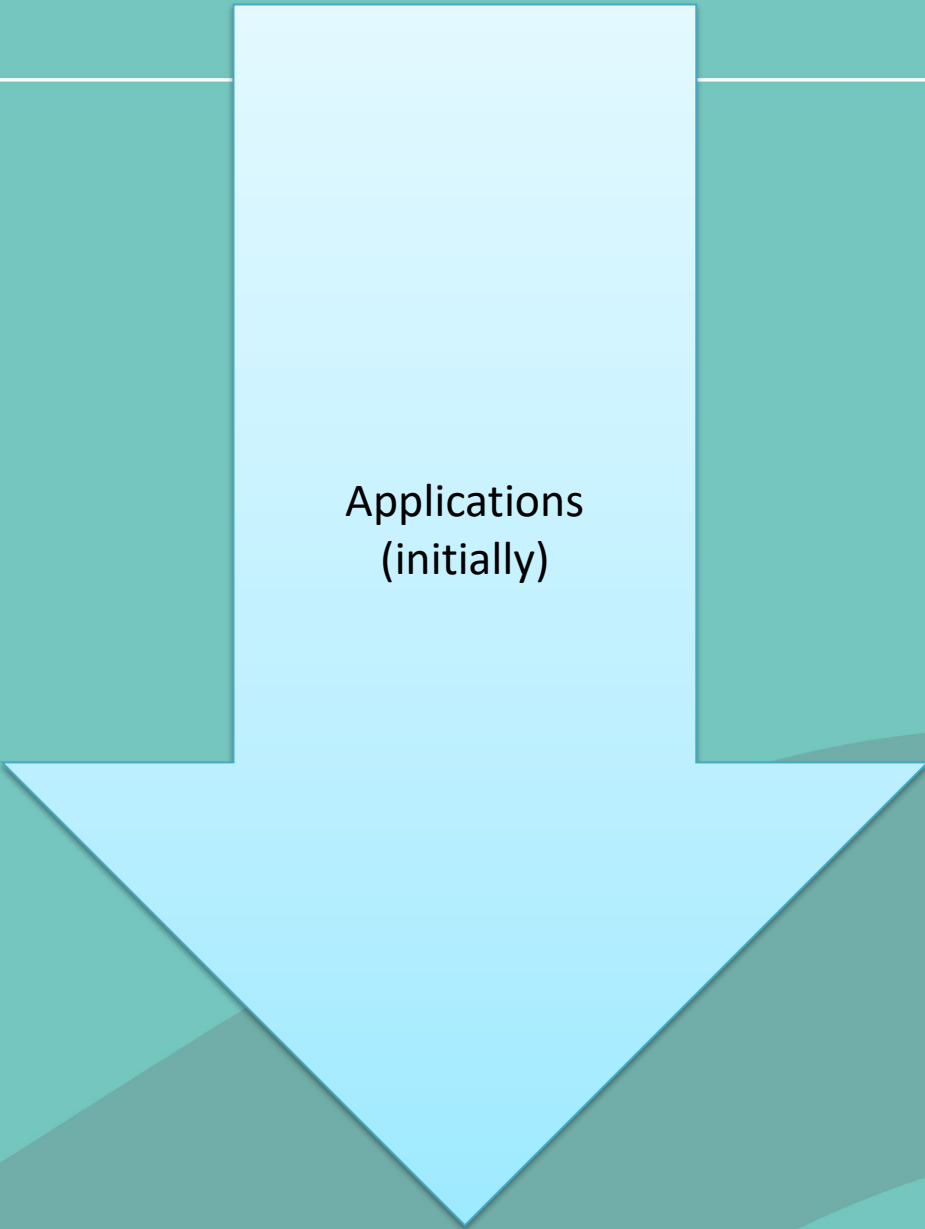
John Bristow
Senior Nature Conservation Officer
Leicester City Council

Biodiversity Net Gain Recap


Net gain is an approach to development that aims to leave the natural environment in a measurably better state than it was beforehand.







Applications
(initially)

- 
- Pre-applications
 - Consultation
 - Document handling
 - Support/training with Planning Team

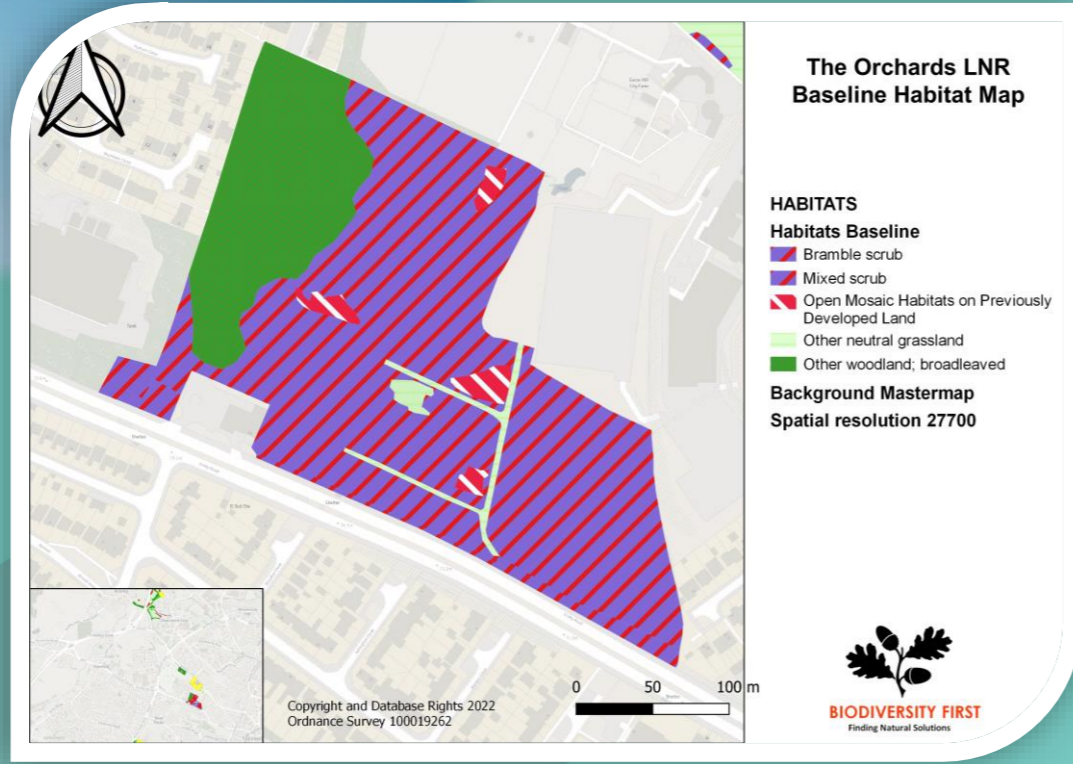
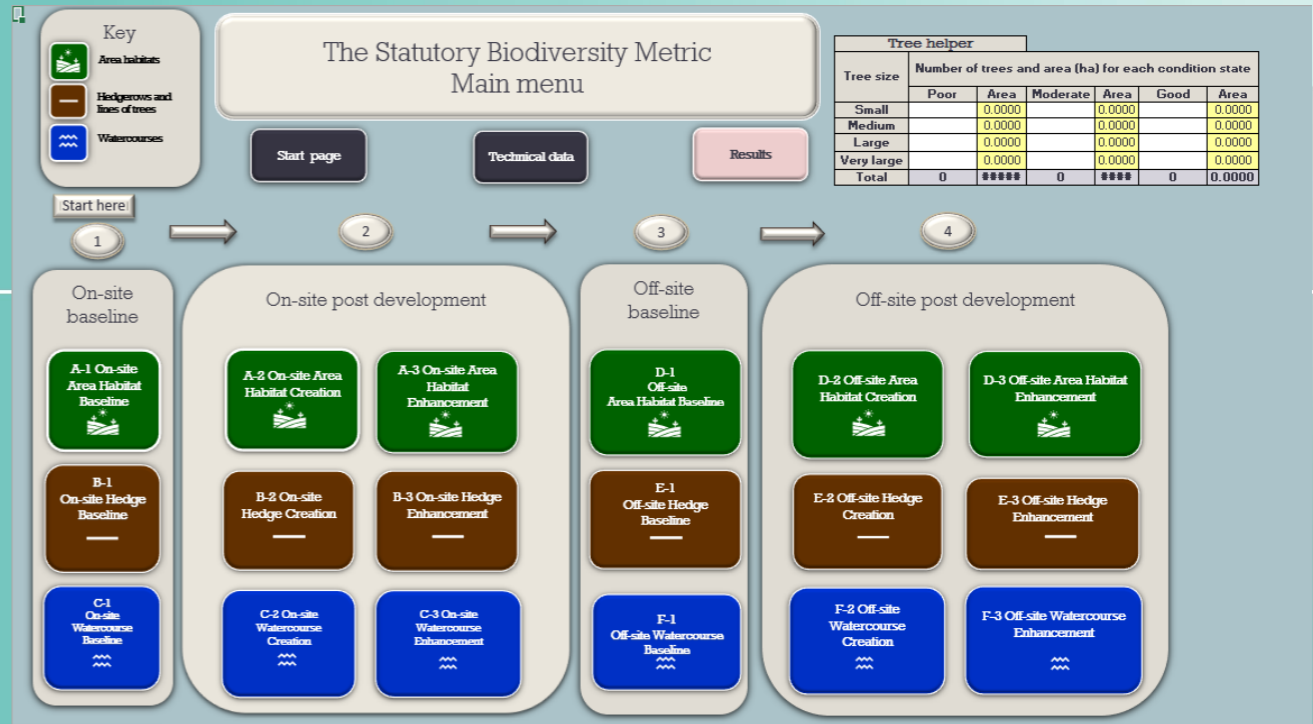


Chartered
Institute of
Ecology and
Environmental
Management

GUIDELINES FOR PRELIMINARY ECOLOGICAL APPRAISAL

Second Edition

December 2017





Onsite

(In full, or where this isn't possible in combination)

Delivered via habitat creation/enhancement via landscaping/green infrastructure



Offsite

Delivered through new habitat creation/enhancement on land holdings or via habitat banks



Statutory Credits

Only as a last resort

Delivered through landscape-scale strategic habitat creation delivering nature-based solutions



Biodiversity gain plan

Submit a biodiversity gain plan to show how your development will achieve biodiversity net gain.

When to use this form

A biodiversity gain plan shows how a development will achieve 10% biodiversity net gain (BNG). Submit this form to your local planning authority after they approve your planning application.

Unless your development is exempt, you cannot start the development until the LPA approves your biodiversity gain plan and biodiversity metric calculation tool.

1. Submission details

1.1 Date

For example, 3/11/2023

1.2 Planning application reference number

1.3 Local planning authority (LPA)

1.4 Development site address

If the site does not have an address, enter the OS grid reference.

1.5 Describe the development

Tell us about the proposed development and any changes of use (250 words).

2. Developer details

2.1 Applicant name

2.2 Company name

Habitat Management and Monitoring Plan

Site Name:

Date:

Click or tap to enter a date.

Version:

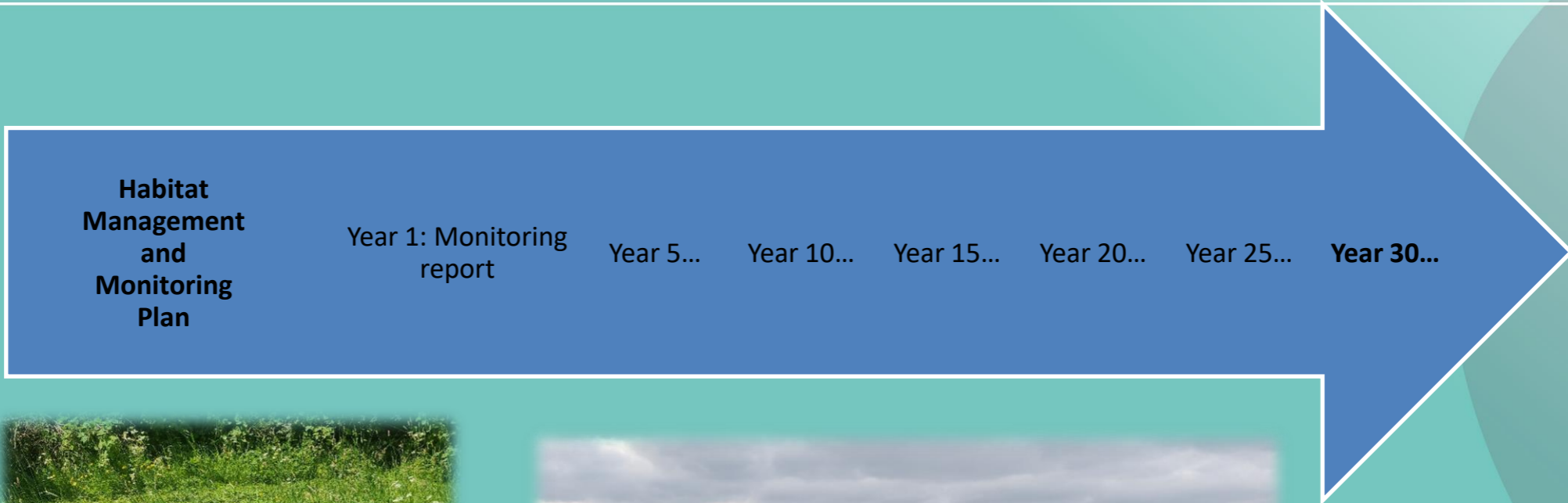
Author:

Client:

BNG exempt?



The Future

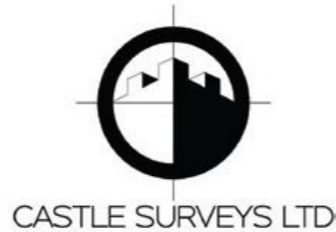


The Future?

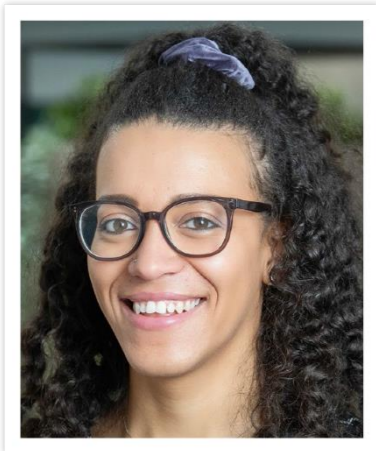


Biodiversity Net Gain Update and changes to the Nature Laws

15 May 2025



Our journey with Biodiversity Net Gain



**Simone
Codrington**

Sustainability
Manager
Willmott Dixon



WILLMOTT DIXON

SINCE 1852

Top tips for adherence - reminder

- ✓ Early engagement
- ✓ Aim for onsite solution with landscaping – mitigation hierarchy
 1. Avoid – avoid impacting
 2. Minimise – minimise duration, intensity and extent of impact
 3. Mitigate – rehabilitate/restore – improve degraded or removed ecosystems
 4. Offset
- ✓ Allow suitable budget
- ✓ Know your portfolio and land ownership, then maintain
- ✓ Link up with local landowners for on/offsite solutions



Lessons Learned from **BNG** so far



BNG IN ACTION

Case study: onsite BNG (completed)

Customer: Nottingham City Council

Project: Green Heart – Broad Marsh

Creating flagship “Green Heart” in the city centre

- ✓ Planting additional native trees, wildflowers, grassland and pond (marsh)

438%
habitat net gain



WILLMOTT DIXON
SINCE 1852

BNG IN ACTION

Case study: onsite BNG (under construction)

Customer: Lincolnshire County Council

Project: Sleaford Secure Children's Home

Aiming to be net-zero carbon in operation

- ✓ Planting additional trees, wildflowers, grassland and hedgerow



57%
habitat
net gain

50%
hedgerow
net gain

10%
river net
gain

BNG IN ACTION

Case study: BNG statutory credits (Preconstruction)

Customer: South Holland District Council

Project: South Holland Health and Wellbeing Hub

An energy efficient mixed-use facility for the local community



-0.1%
habitat net
gain

12%
hedgerow
net gain



Moving from **BNG** to **ENG**



The importance of **engaging specialists early**

The contractor

We can add value during the early stages and feasibility of a scheme by:

Developing the BNG plan to ensure the planning process **runs smoothly**

Helping your team **understand BNG**

Finding ways to incorporate BNG on site, and suggesting the **best solutions for your budget**, programme, building users and environment

Identifying potential challenges – stopping them from becoming a problem

Opening possibilities to extend BNG to Environmental Net Gain – providing natural cooling, shade, flood protection, and improved air and water quality

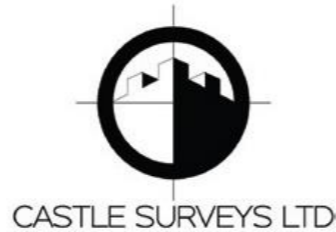
Assisting with **partnerships** with local wildlife bodies and landowners for off-site solutions

Introducing you to **suitable** ecologists



Biodiversity Net Gain Update and changes to the Nature Laws

15 May 2025



BNG – A Consultants Perspective

1 Year

On

Emelye Kenyon

Director – Head of Environmental Services



**PICK
EVERARD**

Deliver better together.

Enhancing Biodiversity - Habitat Creation - Retrofitting Green Infrastructure



Case Study - Friar Park

Brownfield Land

- Former foundry and sewage works
- Vacant 20 years
- Self set open mosaic
- Watercourse

Remediation

- Remediation Strategy requires site clearance

BNG Options

- Government credits - £ 12 million
- Watercourse credit - £ 125 k
- Local Offsetting
- Retention of some trees
- Some habitat creation





Case Study – St Neots

Outline Planning

- Commercial Centre Development

Reserved Matters – Temporary application

- Temporary access - 2 years
- Fully reinstated after access
- Drainage Ditch to be crossed / culverted
- BNG assessment required

Case Study - Rotherham

4No. Residential schemes

- Previously developed land
- High tree Count

BNG Options

- Replacement ration for trees is high
- Some on site
- Local habitat offsetting

BNG Issues

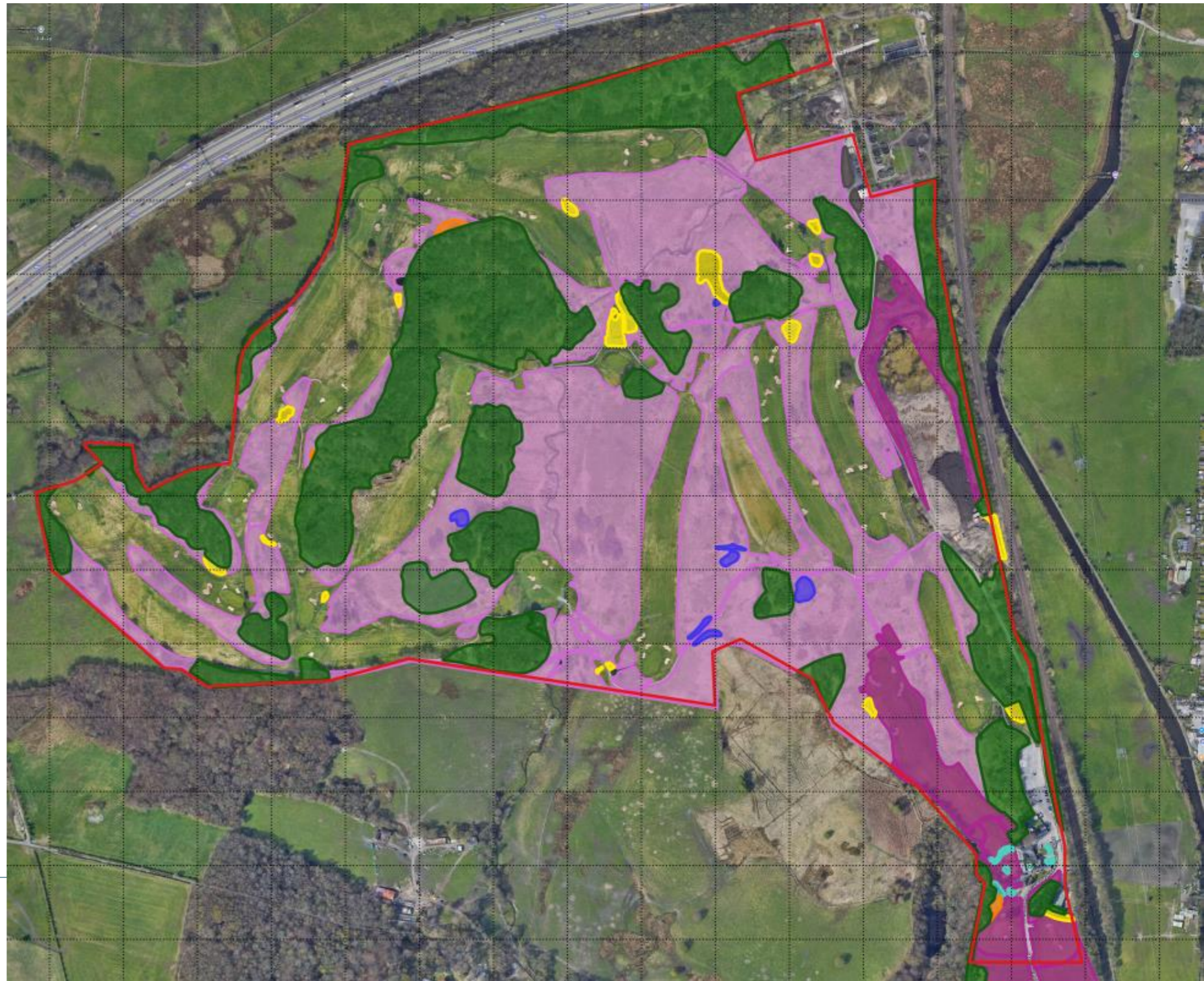
- Reliance upon 3rd party information
- Recommission Ecology / BNG surveys



Case Study – Manchester Golf Course

Habitat Creation for Offsetting

- Establish baseline habitats
- Habitat management company
- Funding options
- Stakeholder engagement
- Education
- Habitat creation / design
- Management Planning



BNG Take Aways



Place the environment at the centre of the scheme from the outset



Ecology and Landscape Architecture - hand in hand



DO NOT CLEAR LAND – Open Mosaic Habitat!!



The right Ecologist –

FISC level 4 minimum
MoRPh accredited for watercourses



If cost allows experiment – BNG still requires ecologist opinion



Government credits – Last resort



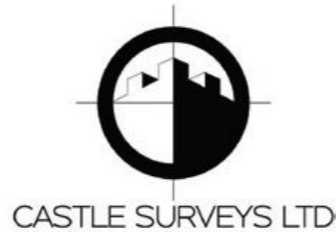
PICK
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Biodiversity Net Gain Update and changes to the Nature Laws

15 May 2025



Biodiversity Net Gain: A Year of Mandatory Implementation



A Year (and a few months...) of BNG

12 Feb 2024 – BNG becomes mandatory for major developments (unless exempt).

18 March 2024 - first successful registration of a Biodiversity Gain Site.

02 April 2024 – BNG becomes mandatory for non-major development.

17 July 2024 – King’s Speech indicates planning submissions slower than previous years.

December 2024 - 37 sites listed on the official BNG register¹

Jan 2025 - ~3,000 planning applications subject to mandatory BNG (~ 6.9%)²

Feb 2025 - 4 local authorities adopting policies requiring >10% net gain (Guildford BC, Maidstone BC, Mole Valley Council & Worthing BC) .

Feb 2025 – 680+ ha secured for BNG off-site delivery across 15 authorities³

May 2025 – NE has received £255,504 over the last 9 months from purchase of statutory credits⁴

¹ <https://www.endsreport.com/article/1900720/mapped-37-sites-listed-official-bng-register>

² https://www.linkedin.com/posts/angusdmwalker_bng-activity-7267186671769595904-ELMi/

³ Wildlife & Countryside Link: https://wcl.org.uk/docs/Net_Gain_One_Year_On1.pdf

⁴ https://www.linkedin.com/posts/angusdmwalker_bng-activity

Key Messages

- Biodiversity Net Gain is an outcome, not just a number in a Metric: development that aims to “leave the environment in a better state than it was before development”.
- BNG does not replace or override wildlife legislation/species protections.
- Follow the Mitigation hierarchy – provide evidence.
- Avoid irreplaceable habitat and very high distinctiveness habitats as a priority.
- Understand BNG within the Planning Process.
- Deliver benefits for wildlife and people – inclusively and equitably.
- Identify enhancement opportunities early - work with technical disciplines to understand constraints.
- Be realistic about impacts, targets and programme.



Factor BNG into Development Lifecycle

Feasibility & Optioneering

- Desk-based metric to identify key avoidance, retention & enhancement.
- Review of existing ecological data for potential species constraints & opportunities.
- Consideration of other constraints e.g. underground services, access, hydrology, ground conditions.
- Early consultation with design team/technical disciplines.

Design & Planning

- Detailed Metric calculations following site survey.
- Iterative design process; consultation with technical teams.
- Metric re-runs as design & construction information emerges.
- Identifying off-site or third-party solutions.
- Preparation of Metric and documents for planning submission.
- Identify units in market.

Construction

- Discharge BNG planning condition prior to works.
- Purchase of third-party units, if applicable.
- Submit final iteration of metric based on fixed landscape plans & programme.
- 'Live metrics' for large-scale phased developments.
- Implementation of habitat creation.

Operation

- Management & Monitoring in accordance with HMMP.
- On-going adaptive management to be reviewed against target conditions.

BNG Challenges

- Meeting Trading Rules?
- Availability of units in the private market?
- Lack of consistency across LPAs?
- Prohibitive costs of off-setting for smaller developments?
- Time delays and additional costs of planning process for developers?
- Impact for insurers?
- Losing sight of wider ecological requirements?
- Illegal version of the Metric being circulated?
- Communication & understanding the terminology...

Baseline habitat distinctiveness	Area	Hedgerow	Watercourse
Very high	Priority should be given to replacing losses with area habitat units of the same habitat type (see below notes on trading)	Losses must be replaced with hedgerow units of the same habitat type	Priority should be given to replacing losses with watercourse units of the same habitat type (see below notes on trading)
High	Losses must be replaced with area habitat units of the same habitat type	Losses must be replaced with hedgerow units of the same habitat type or of a higher band	Losses must be replaced with watercourse units of the same habitat type
Medium	Losses must be replaced by area habitat units of either medium band habitats within the same broad habitat type or, any habitat from a higher band from any broad habitat type	Losses must be replaced with hedgerow units of the same or of a higher band	Losses must be replaced with watercourse units of the same habitat type
Low	Losses must be replaced with area habitat units of the same or higher band	Losses must be replaced with hedgerow units of the same or of a higher band	Losses must be replaced with watercourse units of a higher band
Very low	Not applicable	Losses must be replaced with hedgerow units of the same or of a higher band	Not applicable

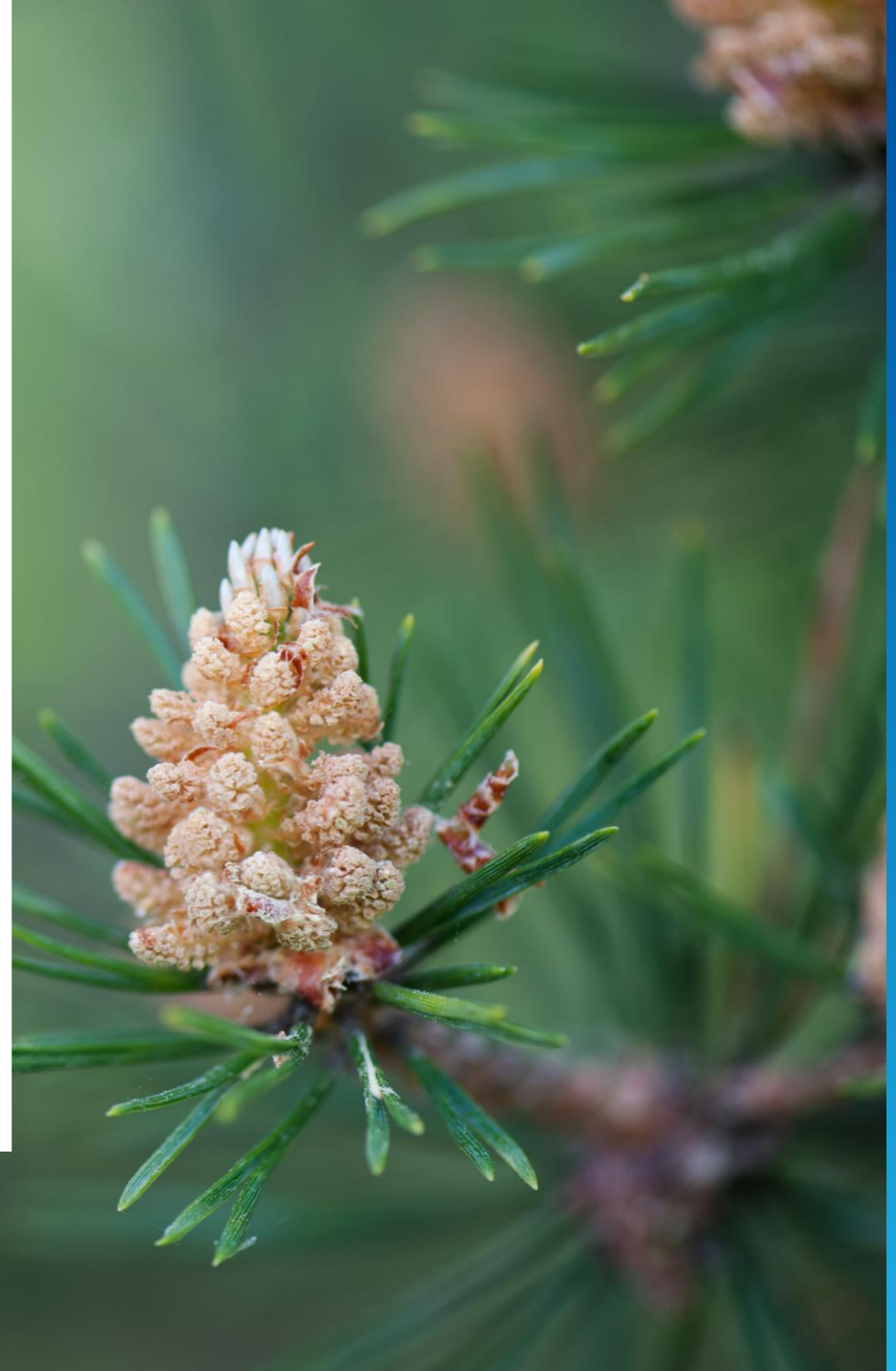
BNG Terminology

- Metric Rules
- BNG Principles
- Mitigation Hierarchy
- Habitat Distinctiveness
- Irreplaceable Habitat
- Condition Criteria
- Strategic Significance
- Trading Rules
- Time to Target Condition
- Advance/Delayed creation
- Spatial Risk Multiplier
- Temporary Habitat Impacts
- Unit deficits
- On-site vs off-site delivery
- Third party Biodiversity Units
- Statutory Credits
- Biodiversity Gain Plan
- Habitat Management & Monitoring Plan
- S106 Agreement
- Conservation Covenants

Positive Outcomes

A Consultants Perspective:

- Having clear legislative backing to deliver positive outcomes for biodiversity.
- Quantitative approach to measuring biodiversity facilitates more transparent communication.
- Habitats will be maintained in perpetuity (minimum 30 years).
- Long-term management of habitats will be monitored against clear criteria to prevent degradation.
- Greater financial investment in re-wilding and nature management.
- Increasing guidance, evidence and case studies becoming available.





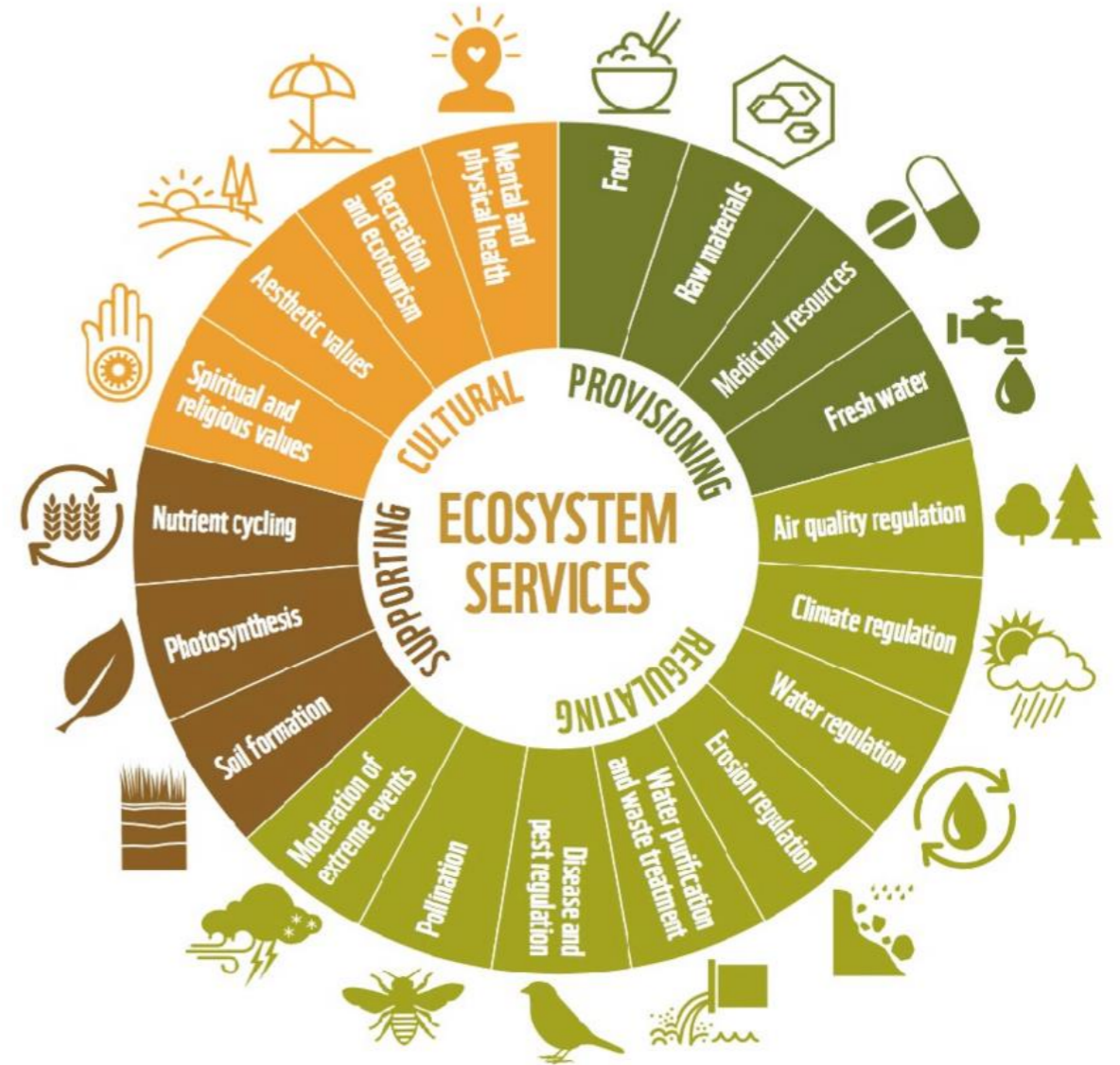
Positive Outcomes

A Developers perspective:

- BNG Metric results provide clear messaging for stakeholders.
- BNG encourages early ecological assessment to identify potential constraints/risks.
- Mandatory BNG has encouraged greater engagement with LPAs.
- Provides a lever for embedding biodiversity in developments.
- Greater understanding of BNG planning requirements is making the process easier.
- BNG delivery contributing to internal environmental goals.

Wider Benefits of BNG Delivery

- Contribution to multiple 'Ecosystem Services'.
- Health & wellbeing benefits for Site users.
- Cost saving benefits of healthy environments.
- Increased property value.
- Reduced climate risk.
- Aspiration of the 25-Year Environment Plan for Government to explore potential wider 'Environmental Net Gain' approach.
- Biodiversity restoration underpins any wider Ecosystem Service Delivery.



Vicky Newlove

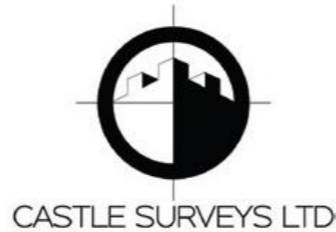
BNG and Natural Capital Lead

Vicky.newlove@luciongroup.com

07887 635 170

Biodiversity Net Gain Update and changes to the Nature Laws

15 May 2025



FREETHS

Changes to Nature Laws: Part 3 Planning & Infrastructure Bill

Penny Simpson, Head of Environmental Law
Planning & Environment Team
Freeths LLP
15 May 2025

AN OVERVIEW OF PART 3 OF THE BILL: DEVELOPMENT AND NATURE RECOVERY

01

Previously...

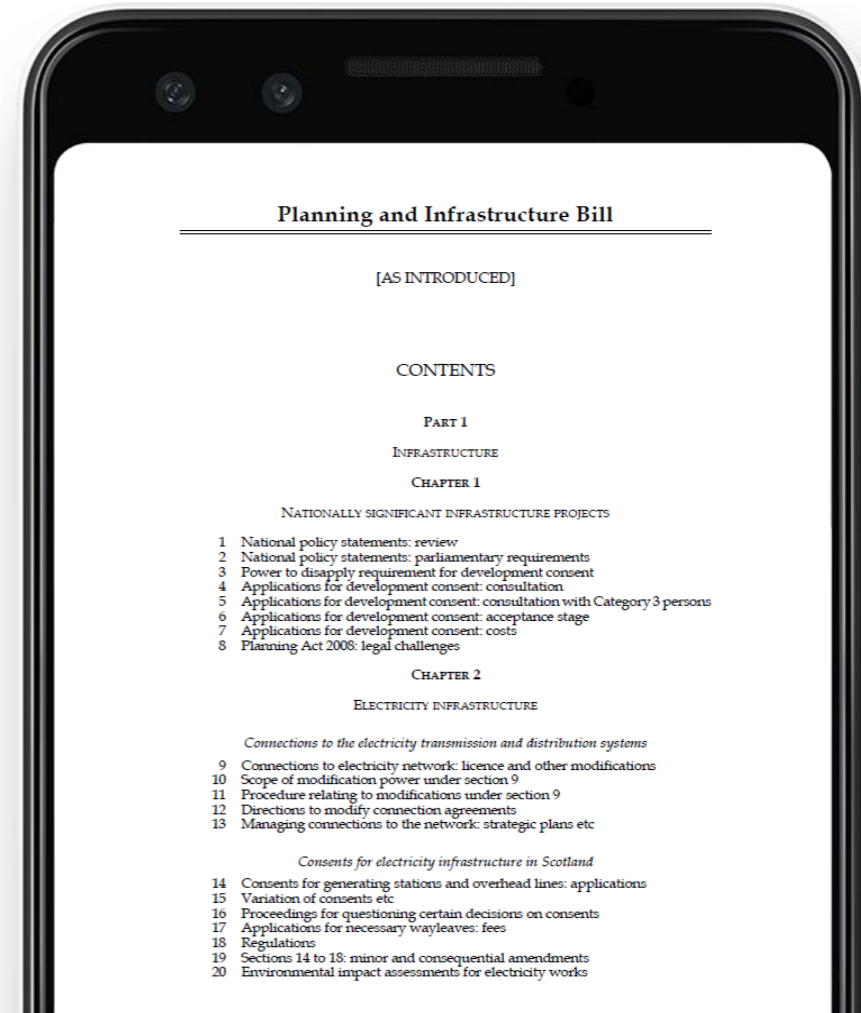
- Planning Reform Working Paper on Development and Nature Recovery published on 15 December 2024

.....followed by.....

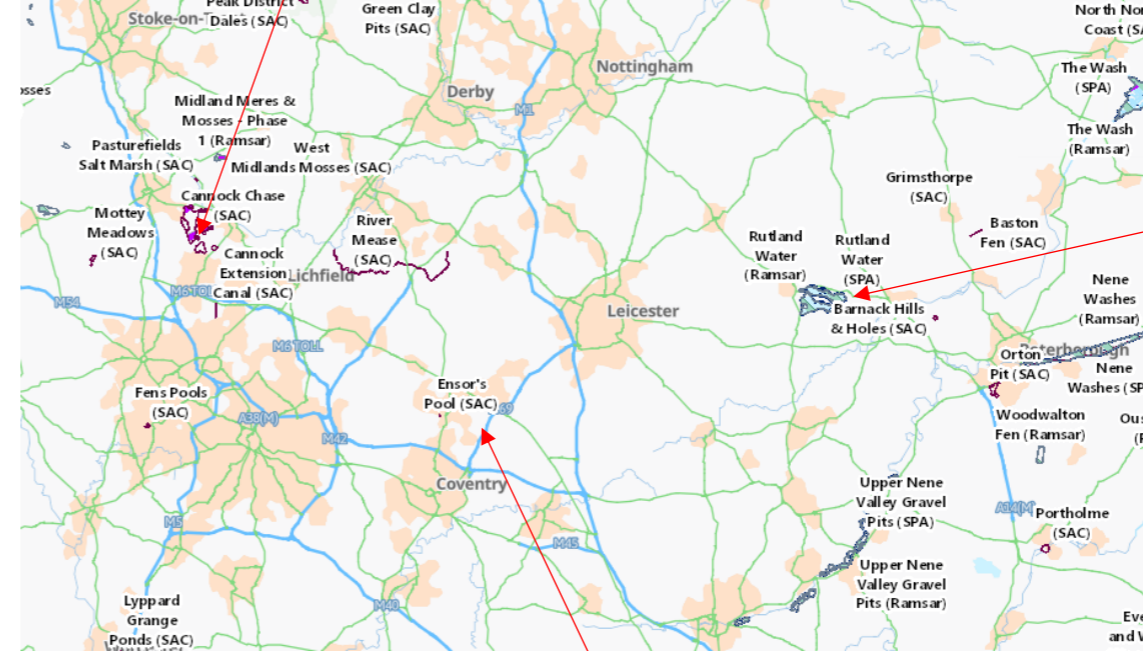
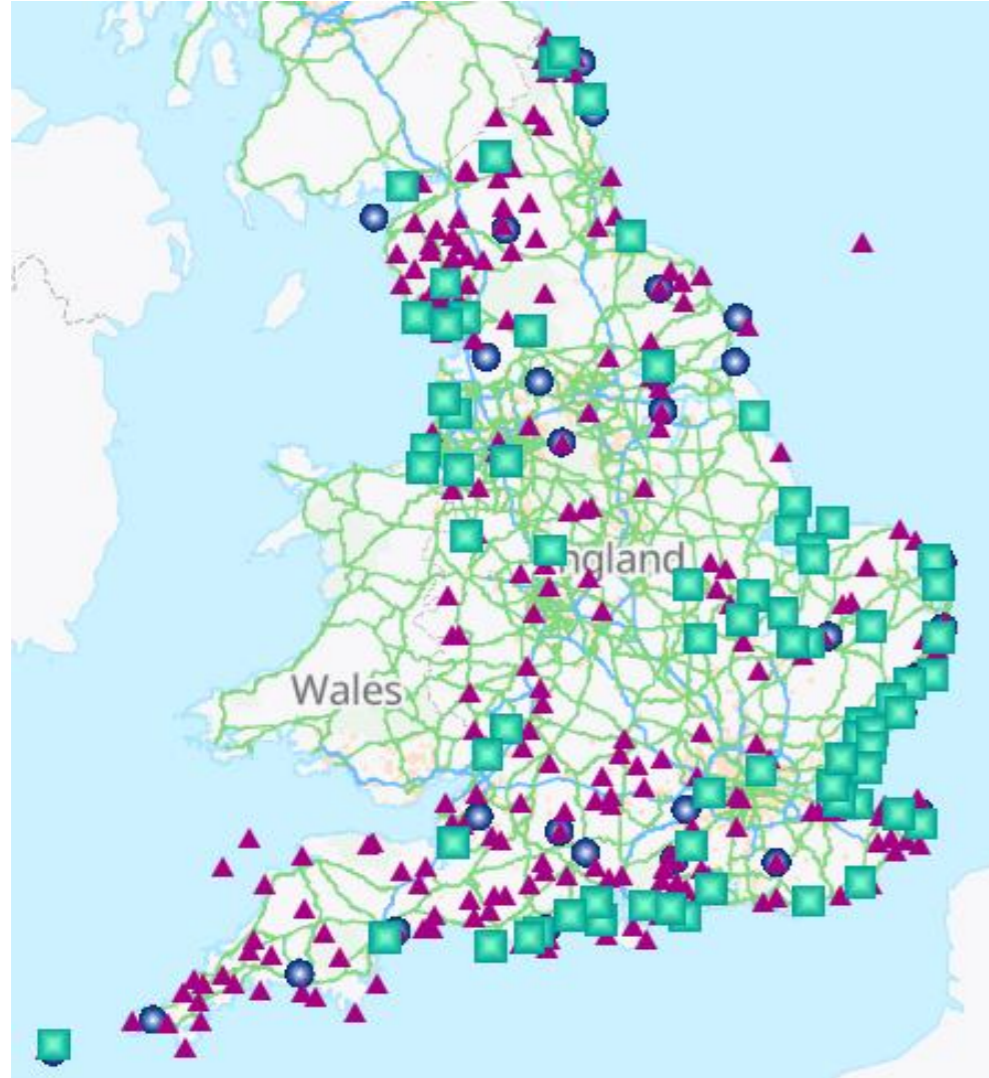
- Part 3 of the Planning and Infrastructure Bill 2025 (11 March 2025)
- The most significant changes to nature law in England for decades
- **The Big Question:** Will this lead to a better system...
 - For the environment?
 - For developers?
 - For Government / Natural England?

Part 3 Planning & Infrastructure Bill

- Published on 11 March 2025
- Sponsored by the Ministry of Housing, Communities and Local Government (“MHCLG”)
- A new Natural England-led system for identifying and addressing development impacts in England on certain “environmental features”:
 - European sites & Ramsar sites
 - SSSIs
 - Protected species:
 - European protected species (e.g. bats, great crested newts) (Habitats Regulations 2017)
 - Badgers (Badgers Act 1992)
 - Wild birds; reptiles; water voles and other protected species (Wildlife & Countryside Act 1981)



European / Ramsar sites



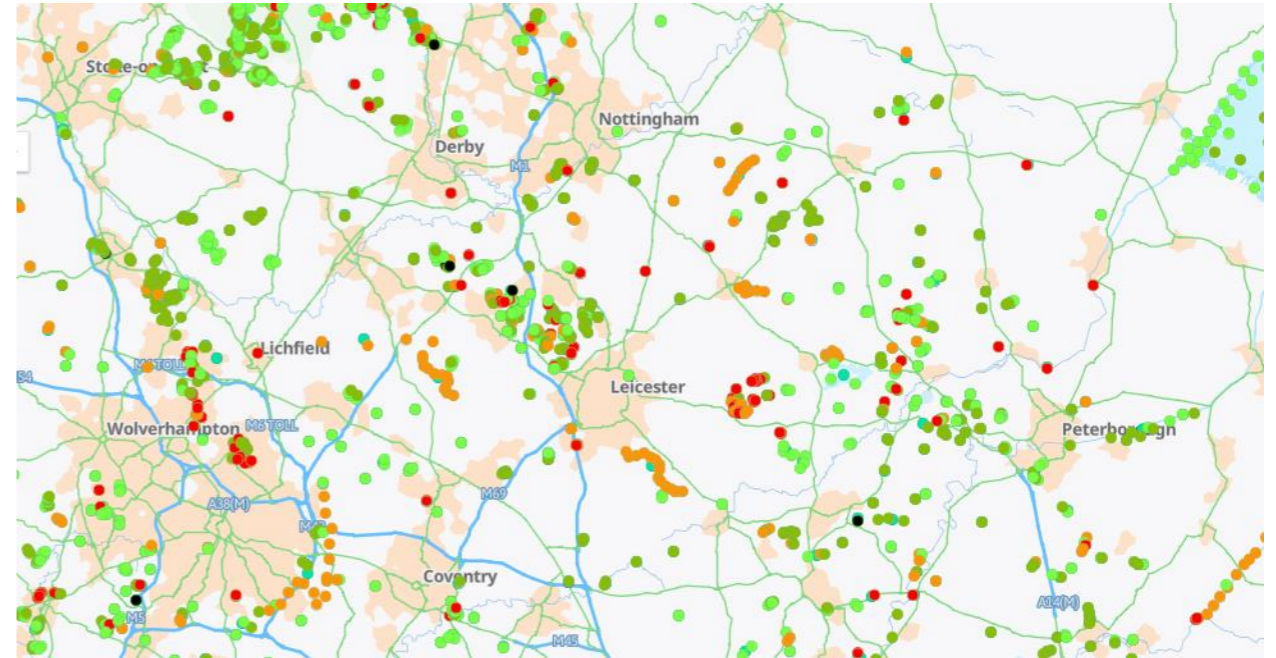
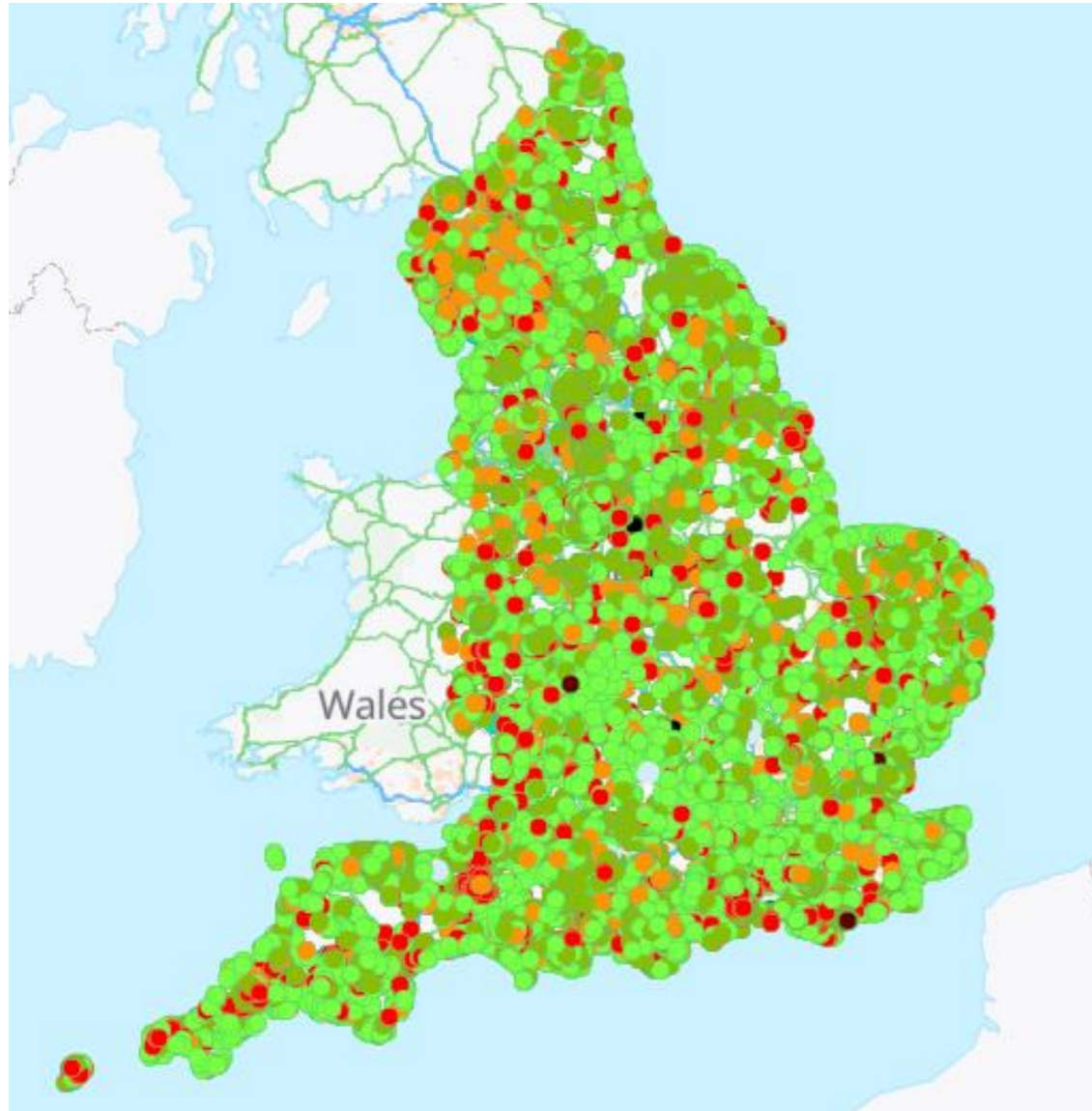
Cannock Chase SAC:
Protected for heathland

Rutland Water SPA
and Ramsar site:
Protected for
several bird species
including the
common coot

Ensor's Pool SAC: Protected
for White-clawed crayfish

- Ramsar Sites (England)
- Ramsar Sites (England) - points
- Special Areas of Conservation (England)
- Special Areas of Conservation (England) - points
- Special Protection Areas (England)
- Special Protection Areas (England) - points

Sites of Special Scientific Interest (SSSIs)



Sites of Special Scientific Interest Units (England) - points

- Favourable Condition
- Unfavourable Recovering
- Unfavourable no change
- Unfavourable Declining
- Part Destroyed
- Destroyed
- Not Assessed

Protected species



Part 3 Planning & Infrastructure Bill

- If this system is made available for a specific development impact, the developer “PAYS AND GOES”:
 - Pays a “**nature restoration levy**” (a tax) to the **Nature Restoration Fund** prior to commencement of development
 - Meaning that:
 - European sites / SSSIs: Existing protection laws are disregarded for that development impact
 - Protected species: a licence is treated as having been granted on terms (to be set out)

Part 3 Planning & Infrastructure Bill

- **Stage 1: Environmental Delivery Plans (EDPs)**
 - Specifies development (including the maximum amount of the development) in an area (could be large or small area)
 - Identifies one or more “environmental features” likely to be negatively affected by the development
 - Provides a baseline conservation status of each environmental feature (as at EDP start date)
 - Identifies one or more “environmental impacts” (i.e. impact mechanisms)

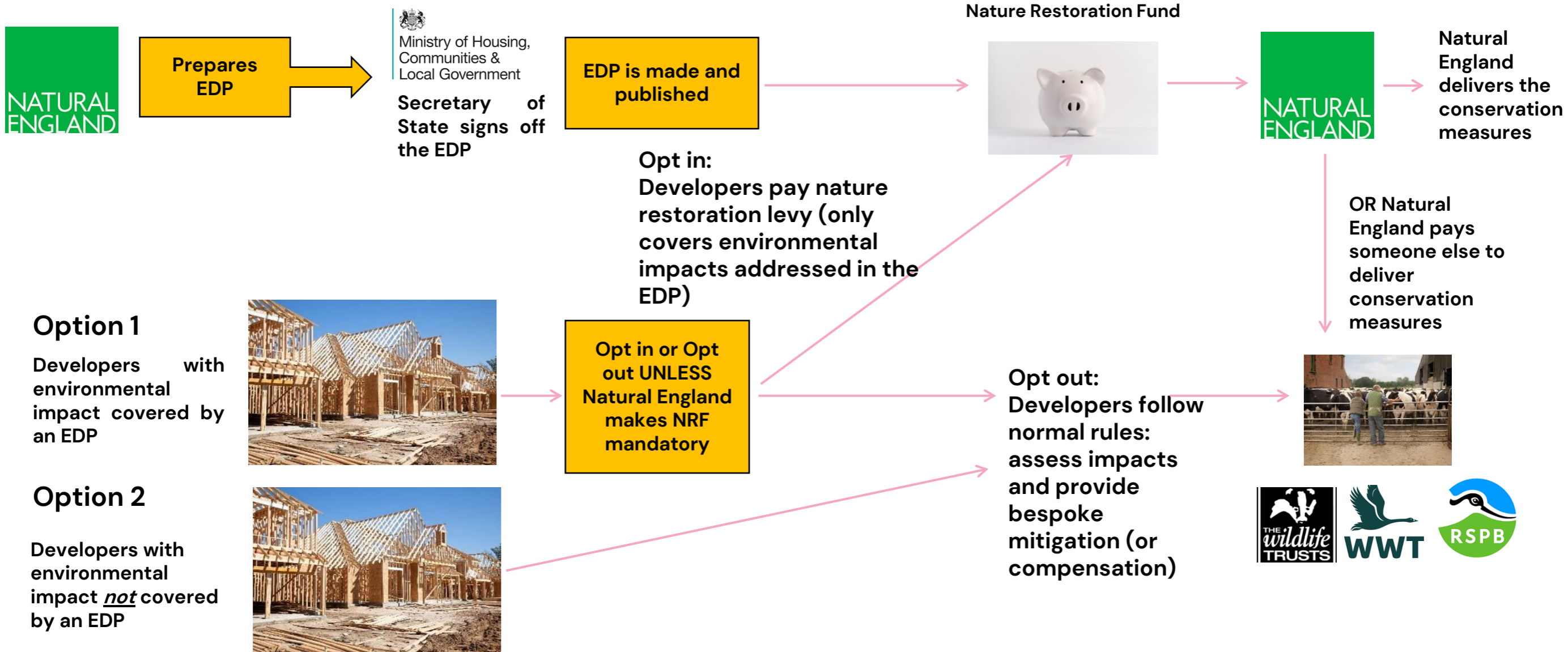
Part 3 Planning & Infrastructure Bill

- **Environmental Delivery Plans**
 - Identifies “conservation measures” to be taken by / on behalf of NE to:
 - address the environmental impact of the development on the environmental feature; and
 - contribute to an *overall improvement* in the conservation status of the identified environmental feature
 - NE sets out “nature restoration levy” payable by developers (in charging schedules – one for each environmental impact on each environmental feature)
 - NE sets out the terms of any protected species licence treated as granted
 - Explains how NE will monitor the effects of the EDP

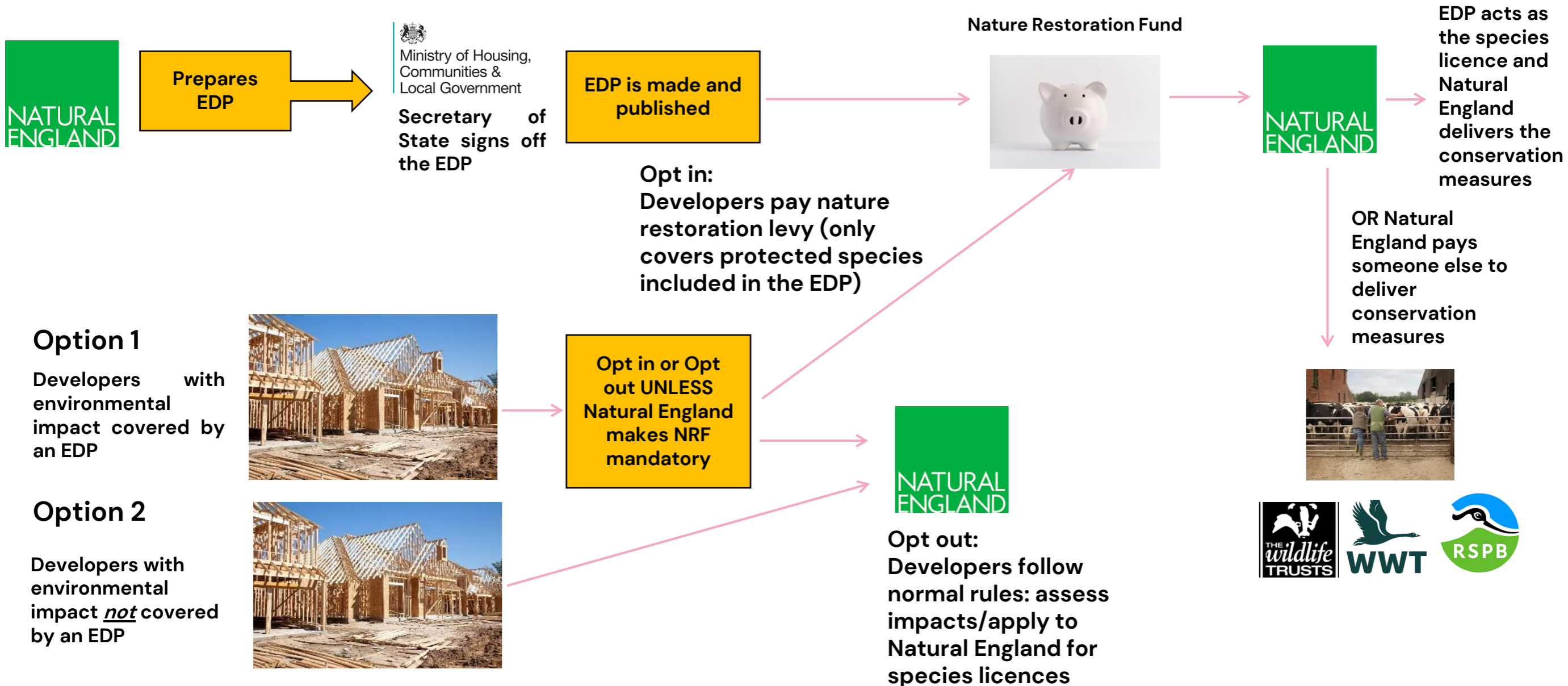
Part 3 Planning & Infrastructure Bill

- **Stage 2: NE consults on EDP**
- **Stage 3: Secretary of State makes / publishes the EDP**
 - Does the Secretary of State consider that the EDP passes the “overall improvement test”?
 - “Are the conservation measures *likely* to be sufficient to *outweigh* the negative effect, caused by the environmental impact of the development, on the conservation status of each identified environmental feature”?
- **Stage 4: Developers pay nature restoration levy charges**
- **Stage 5: Natural England delivers the conservation measures / pays someone else to deliver conservation measures**
 - E.g. compulsory purchase of land

Two options for impacts on HABITATS



Two options for impacts on SPECIES



OUR OBSERVATIONS

02

Will this work for the environment?

Part 3 Planning & Infrastructure Bill

- Based on present drafting, probably not!
- Respected barristers' opinions made public agree that, as currently drafted, the Bill is regressive
- Key issues:
 - No requirement for *assessment* of developer impacts
 - No focus on the ecological mitigation hierarchy / avoidance of impacts
 - No timing synergy between development impacts and environmental offsetting measures
 - No requirement for “in perpetuity” offsetting measures
 - The “likely outweighing” test is weak
 - Based on revalued baseline so past ecological losses are wiped away
 - Any levy set must not threaten the viability of development

Will this work for developers?

Part 3 Planning & Infrastructure Bill

- In the long term.... probably will streamline the process although query how expensive it will be
- In the meantime
 - Still have to comply with other legal regimes:
 - Environmental Impact Assessment
 - Biodiversity Net Gain
 - Water Framework Directive assessments
 - Local Planning Authorities will still expect compliance with Local Plans
 - How do you decide if you have the impact in the first place if you're not collecting site ecological data?
 - Complexity of what's in and what's outside the levy
 - Costs of levy payments unknown
 - Where does this leave developer's own mitigation solutions?

Will this work for Natural England and providers of nature restoration solutions?

Part 3 Planning & Infrastructure Bill

- Natural England:
 - has a huge amount to do
 - answering to the Ministry of Housing, Communities and Local Government
- Nature market providers:
 - Risk being squashed / removed / undercut by the new Levy
 - Delivering schemes for NE under the Levy are unlikely to be as profitable
 - Need these providers to incentivise voluntary nature impact offsetting
 - Can't achieve restoration of nature without these players!

Contacts

Penny Simpson

Partner

0845 017 1133

07918 767811

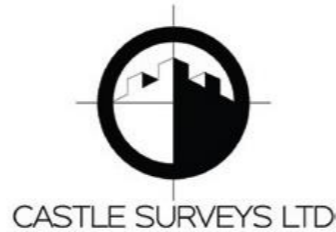
penny.simpson@freeths.co.uk



Thank you

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Q & A

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15 May 2025

