Do you need to comply with the Biodiversity Net Gain requirement?

Hogan Lovells

Are you applying for Planning Permission?

NO → There's nothing for you to do at this stage but you may want to consider how to strategically manage your portfolio for any future Biodiversity Net Gain requirements or in order to take advantage of the market for biodiversity units

Don't forget – if you are relying on permitted development rights (including applying for prior approval) you don't need to factor a 10% Biodiversity Net Gain into your development

YES → Will your development impact a habitat* of an area below 25m² or a linear habitat of below 5m?

NO → Are you applying to "vary" a previous permission by way of a s73 application?

NO → Does your development consist of urgent Crown development or irreplaceable habitats (like ancient woodland or salt marshes)?

NO → Is it a householder application or for small scale self-build or custom-build housing?

YES → Your application is exempt from the Biodiversity Net Gain requirement but you may need to confirm this by way of a statement

YES → Was the original permission granted before the Biodiversity Net Gain regulations came into force

NO → Does your development consist of urgent Crown development or irreplaceable habitats (like ancient woodland or salt marshes)?

Important – the Secretary of State can set out further exemptions in regulations

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NO → You will need to submit, among other things, a completed metric calculation at the application stage, and you may be subject to a pre-commencement planning condition which will require the approval of a Biodiversity Gain Plan

There are some nuances to the process which we think are helpful to be aware of…

Is your development phased? → Additional information may be required to be submitted including an Overall Biodiversity Gain Plan and a Phase Biodiversity Gain Plan

Is some of the application land a "sealed surface"*? → You will not need to provide any Biodiversity Net Gain in relation to this area

Are you applying for temporary planning permission? → Depending on the temporary period you may not need to provide any Biodiversity Net Gain

Important Information
The "habitat" includes areas of vegetation or bare earth, and will be broken down by type as listed in the metric. Sealed surfaces include surfaces such as concrete, asphalt or existing structures