# Application to enter into a Section 106 Agreement or Conservation Covenant to create a Registered Habitat Bank for Biodiversity Net Gain (BNG) or Nutrient Migration Site (NMS)

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**Application no. (office use only)**

## Site details

1. **Address of site:**
2. **Grid reference of site:**
3. **Area of the site (hectares):**
4. **Existing use of the site and length of time it has been in use. Do you have farm records etc.to evidence this?**
5. **Does any part of the site fall within a SSSI or SAC? Provide details:**
6. **Is any part of the site common land or subject to other designations/licenses/legal agreements?**
7. **Is the land under a tenancy agreement or has it been under a tenancy agreement in the last 6 months. How will the proposals affect existing tenancy agreements?**
8. **Is any part of the site under a current agri-culture scheme? Provide details:**
9. **Is the site complying with all current regulations?**
10. **Are there any known constraints that may affect use of the site for biodiversity offsetting and/or nutrient migration e.g. public access, sporting rights**
11. **Confirm that it is acceptable for Council officers or their appointed representatives to visit site by arrangement.**

**Provide contact details to arrange access**

1. **Indicate time frame for land availability/project commencement/implementation allowing for any existing leases or other commitments:**
2. **Details of any other dependencies for progressing the project:**
3. **Type of s.106/Conservation Covenant applied for**

Biodiversity Net Gain

Nutrient Neutrality

Or both

1. **Do you intend to stack Biodiversity Net Gain Credits, Nutrient Neutrality Credits or any other ecosystem service credits on land within the site. Please give details**

## Applicant details

1. **Applicant name**
2. **Applicant address**
3. **Applicant phone number**
4. **Applicant email**

## If you are seeking a site agreement providing credits for BNG please provide the following information with this application (please check the boxes)

1. Digital spatial data for the site boundary (i.e. the boundary of all land included in the biodiversity metric)[[1]](#footnote-1) in QGIS-compatible format such as .shp or .gpkg.
2. An Ecological baseline survey of the proposed BNG site completed by a suitably qualified and experienced ecologist.
3. Fully completed biodiversity metric spreadsheet, in .xlsx form.
4. A plan that follows the [UK Habitat Classification](https://ukhab.org/) showing the spatial locations of the habitats represented in the baseline tabs of the biodiversity metric.
5. A plan that follows the UK Habitat Classification showing the spatial locations of the habitats represented in the enhancement and/or creation tabs of the biodiversity metric (i.e. the target habitats).

1. The georeferenced spatial data used to create both of the above plans in either .shp or .gpkg format.
2. A Habitat Management and Monitoring Plan (HMMP).

## If you are seeking a site agreement providing credits for Nutrient Neutrality, provide the following information with this application (please check the boxes)

1. A Nutrient Neutrality report setting out the existing land use(s) on the site and existing phosphorous loads (kg/yr), including any existing drainage discharges to ground or watercourses from septic tanks, PTPs etc.
2. Details of the proposed nutrient mitigation solution and the total phosphorous offset (kg/yr) that can be delivered.
3. A plan showing the area of land being proposed and the existing land use(s). Land uses shall be based on either Farmscoper land classifications or those set out in the Natural England Nutrient Budget Calculator.
4. A plan showing the proposed nutrient mitigation solution/land use change.
5. The georeferenced spatial data used to create both of the above plans in either .shp or .gpkg format.
6. Completed Natural England Nutrient Budget Calculator spreadsheets for both the existing land use and proposed future land use (in MS-Excel format).
7. A detailed Management Plan setting out details of how the site will be monitored and maintained for a minimum of 80 years, ensuring that the calculated P offset will be achieved year on year. This should include responsibilities of all relevant parties, especially if a third-party consultant/contractor is to be used.

## In all cases please provide:

* 1. **Ownership Confirmation**. Evidence of land ownership/tenancy, with land registry title deed(s) and plan(s)
  2. A signed statement of landowner agreement

## Statement of Achievability

Please provide a summary describing how achievable your proposals are. This should identify potential barriers to delivery and how they will be managed:

## Applicant signature

## Date of application

## Application fee

Before the application can be considered, please pay the following fee:

[Application fees for freestanding mitigation sites](https://www.westmorlandandfurness.gov.uk/media/5449)

**The fee should be paid into the following account:**

**Sort code: 01-04-66**

**Account number: 37971956**

**Reference to quote: ‘Environmental Mitigation Fees’**

**Please confirm the fee has been *paid by bank transfer* signing below:**

## Submitting your application

The application and accompanying information should be submitted by email to [planning2@westmorlandandfurness.gov.uk](mailto:planning2@westmorlandandfurness.gov.uk)

## Note 1: Biodiversity Habitat Banks

1. Habitat banks are areas of land where habitats have been created or enhanced, in advance, to provide an uplift of biodiversity units. Surplus biodiversity units can be sold to developers to meet their BNG requirements. The sale of surplus biodiversity units will give landowners a return on their investment in creating or enhancing habitats.
2. Habitat banks can qualify as ‘registered off-site biodiversity gain’ and surplus biodiversity units sold to developers to help meet BNG requirements. Under the Environment Act 2021, to qualify as registered off-site biodiversity gain, habitat banks must:
3. Have the creation/enhancement and maintenance of habitats secured with a [legal agreement](https://www.gov.uk/guidance/legal-agreements-to-secure-your-biodiversity-net-gain) (planning obligation) for a minimum period of 30 years;
4. Have surplus biodiversity units formally recorded in the [statutory biodiversity gain site register](https://www.gov.uk/guidance/sell-biodiversity-units-as-a-land-manager#register-your-gain-site) operated by Natural England.
5. Legal agreements will oblige landowners to implement an approved Habitat Management and Monitoring Plan (HMMP) and record the habitat bank on the statutory register. Habitat banks within Westmorland and Furness will be secured with legal agreements permitted under section 106 of the TCPA, also known as planning obligations.
6. The GOV.UK website has further [guidance on BNG for land managers](https://www.gov.uk/guidance/meet-your-bng-requirements-steps-to-take-for-land-managers).

## Note 2: Nutrient Neutrality Mitigation Sites

Mitigation sites are areas of land where actions have been undertaken, in advance, to reduce the amount of phosphorus reaching protected river catchments. Information on Individual catchments, including maps, and links to Natural England nutrient calculators for working out phosphorus loads and mitigation requirements for each development, can be found;

[Natural England: Nutrient Neutrality Catchments (England) map](https://naturalengland-defra.opendata.arcgis.com/datasets/Defra::nutrient-neutrality-catchments-england/explore?location=54.570334%2C-3.001181%2C19.84)

[GOV.UK: Tools and resources for calculating for proposed developments](https://www.gov.uk/government/collections/tools-and-resources-for-calculating-nutrient-neutrality)

1. Surplus biodiversity phosphorus credits can be sold to developers, where their development is downstream of the mitigation site, to meet their nutrient mitigation requirements. The sale of surplus credits will give landowners a return on their investment in creating mitigation sites.
2. Mitigation Sites must have the creation/enhancement and maintenance of the site secured with a [legal agreement](https://www.gov.uk/guidance/legal-agreements-to-secure-your-biodiversity-net-gain) (planning obligation) for a minimum period of 80 years.

## Note 3: Process

1. Officers will acknowledge the submission, provide a timescale for response, review the application and confirm whether the work towards the development of the legal agreement can be triggered.
2. Proposals are reviewed by a panel of officers within the council using a standardised approach. Decisions on whether to approve applications will be made by a panel of senior officers. Based on the following criteria explained in the documents below

[Biodiversity Net Gain Freestanding Habitat Banks Criteria](Biodiversity%20Net%20Gain%20Freestanding%20Habitat%20Banks%20Criteria.pdf)

[Nutrient Neutrality Mitigation Sites Criteria](Nutrient%20Neutrality%20Mitigation%20Sites%20Criteria.pdf)

1. It is important to note that agreeing to habitat banks is not a statutory requirement of the council. There is no framework that governs this discretionary process, unlike considering planning applications. As such, the council cannot be held to any specific deadlines or timings, process or decision-making protocol. The council will endeavour to deal with communications, submissions and proposals in a timely manner, but in periods of high workload this may take some time.
2. The application fee helps to cover the cost of the assessment of the application.
3. If, after initial assessment by the Council officers, it is determined that there is inadequate information to come to a decision the application will be rejected. The applicant can choose to resubmit with additional information and further fees will be charged.
4. Applicant are encouraged to undertake pre application discussions with the officers prior to submitting the application to ensure that a full application will be submitted first time.

[Information about our pre-planning consultation service, including costs](https://www.westmorlandandfurness.gov.uk/planning-and-building-control/planning/get-advice-council-applying-planning-permission)

1. It should be noted that if the application is accepted the legal costs related to any s106 agreement or conservation covenant will need to be covered by the applicant.
2. There will be an ongoing requirement for monitoring and review of the agreed site plans which will be the subject of fees for monitoring by the Council.

[Current level of monitoring fees](Freestanding%20Mitigation%20Sites%20-%20Fees.pdf)

1. On receipt of the application the Council will consider whether the proposed plans require planning permission. If so, the applicant will be informed and signposted to that that route.
2. Applications for Nutrient Neutrality will be the subject of consultation with Natural England. They are also a statutory consultee where applications may more generally affect sites designated under The Conservation of Habitats and Species Regulations 2017 (as amended) or Sites of Special Scientific Interest. Applications will be referred to Natural England for their views.

1. The area of the boundary must match the area reported by the metric [↑](#footnote-ref-1)