

Biodiversity Net Gain – considering a targeted exemption for brownfield development Consultation Response – June 2026

The UK Green Building Council represents the voice of the UK's sustainable built environment industry. We are a charity powered by more than 500 members from banks, large estate owners, housebuilders, and manufacturers to innovative startups, universities, local councils and government departments - all working to transform the built environment in the face of the climate, nature and cost-of-living crises.

Biodiversity Net Gain is one of the most significant environmental reforms introduced in recent years, helping to ensure that development leaves nature in a measurably better state than before. At a time when the UK remains one of the most nature-depleted countries in the world, maintaining the integrity of BNG is essential to restoring biodiversity, creating healthier places and providing greater certainty for industry and communities alike.

Brownfield regeneration has an essential role to play in delivering homes and economic growth, but weakening BNG requirements risks creating a false choice between development and nature recovery. Government should continue to support brownfield development, while ensuring all new development contributes positively to the restoration of nature and the creation of better places.

Section 1: Definition of brownfield residential development

Question 6: Do you support the proposed regulatory definition of residential brownfield development?

UKGBC does not support a definition that risks exempting sites solely because they are brownfield in planning terms rather than because they are demonstrably low in biodiversity value. Some brownfield sites support high ecological value, so any exemption should be based on ecological evidence, not land-use history alone. If the government proceeds, the definition should be tightly constrained and paired with a requirement to demonstrate low biodiversity value through the metric and site survey evidence.

Question 7: Do you agree that the proportion of the land within the planning application boundary should be $\geq 75\%$ Previously Developed Land (PDL) to qualify?

No

Please provide any evidence or rationale supporting your preferred threshold, for example case studies, data, or experience.

UKGBC does not support a fixed PDL percentage threshold as the basis for exemption. A land-use threshold is not a reliable proxy for biodiversity value,

and could exclude ecologically important brownfield sites. If any threshold is used, it should be secondary to site-specific ecological evidence, not a standalone test.

UKGBC's view is that exemption should only apply where there is clear evidence that the site is of low biodiversity value and where the exemption will not undermine the integrity of BNG delivery.

Question 8: To what extent do you agree that the proposed regulatory definition aligns with current interpretations of 'Previously Developed Land' under the NPPF glossary for planning decisions?

Disagree

If you disagree or strongly disagree, please identify the circumstances where you consider divergence between the definitions would occur:

UKGBC disagrees that the proposed regulatory definition can simply mirror the NPPF concept of PDL without risk. In planning policy, PDL is a material consideration; in this consultation it is being used as a route to exemption from a statutory biodiversity requirement. That is a material divergence and creates a risk that biodiversity-rich brownfield sites are not properly assessed.

The divergence matters most where brownfield sites have become ecologically important over time, or where the ecological value of the site is not obvious from its development history alone.

Question 9: Overall, do you consider the proposed definition and evidential requirements to be proportionate and workable for applicants and local planning authorities?

Neither agree or disagree

Applicant: The proposed approach can create additional administrative burdens without providing the ecological evidence required to determine whether an exemption is justified. It also burdens applicants to gather complex evidence on land-use history and PDL status, with LPAs facing disputes and delays in verifying claims. The use of Biodiversity Metric or Small Sites Metric (SSM) assessment and habitat plan can prove to be effective. As it will directly measure biodiversity value and provide a clearer and consistent basis for decision-making.

Section 2: Considering a targeted BNG exemption

Question 10: What impact do you think the introduction of a mandatory BNG requirement has had on brownfield residential schemes of less than 2.5 hectares?

Positive impact

Please provide evidence if possible:

BNG has helped identify and protect biodiversity value on brownfield sites that might otherwise have been overlooked. Evidence also suggests that the modest compliance costs have not created a barrier to development. The policy encourages better site design, habitat creation, and greener developments while

delivering benefits for local communities and nature recovery. However, challenges related to implementation and capacity issues exists but not related to BNG requirement. Further, it ensures that it applies to “most” developments, as intended by BNG.

Question 11: Do you support a targeted area-based exemption for residential brownfield development?

No

Please specify:

UKGBC does not support a targeted area-based exemption for residential brownfield development. The case for exemption is not demonstrated by site area alone, and a blanket or semi-blanket exemption risks removing biodiversity gains from sites that may still have material ecological value. Any departures from BNG should be limited, evidence-led, and tightly justified.

Question 12: If you support a targeted area-based exemption for residential brownfield development, which exemption threshold for a residential brownfield development do you support?

Not applicable, as UKGBC does not support a targeted area-based exemption. If government proceeds regardless, any threshold should be the minimum possible and accompanied by additional ecological safeguards, but UKGBC would not endorse a specific threshold.

Question 13: Do you think there is a case for an area-based exemption for residential brownfield development that is greater than 2.5 hectares?

No

Please specify:

Larger brownfield sites can contain substantial biodiversity interest, and granting exemption at that scale would significantly weaken BNG’s coverage and undermine nature recovery objectives.

Question 14: Do you foresee any unintended consequences arising from a targeted exemption for brownfield residential development?

Yes

If yes, please outline the types of risks or unintended consequences you consider most likely e.g., ecological, administrative, market based or behavioural:

The exemption of these sites risks creating social inequality with deprived communities having less access to greener surroundings. The concentration of brownfield sites in proximity to poor communities can create a systematic hierarchy in developing brownfield sites in deprived and in wealthy communities. England’s twenty-two most deprived authorities rank among the top places claiming exemption under de minimis rule. These authorities are home to around 6.5 million people, including 1.25 million children and 1.31 million older residents.

The ecological risk arising due to the exemption is the loss of habitat for mobile species like bumblebees and can delay the local nature recovery process. This risk emanates from using the wrong metric i.e. land use used for assessing the biodiversity of an area. The exemption will negatively impact the with probability of applicants trying to claim exemption. It must be noted that 56 percent of applicants claimed the de minimis exemption for BNG in small spaces, highlighting a clear misuse. The proposed exemptions would mean that most of these developments would no longer need to contribute to biodiversity improvements.

Question 15: How easy or difficult do you think it would be for applicants and LPAs to apply this exemption in practice?

Difficult

Please indicate any specific areas where clarity or further guidance would be required:

It would likely be difficult in practice. Applicants would need to evidence both land status and compliance with the exemption criteria, while LPAs would need to verify claims and resolve disputes over site boundaries, historic land use, and ecological value. That creates scope for inconsistency, delay, and avoidable administrative burden.

Question 16: Do you think any additional measures are needed to ensure that the exemption is appropriately targeted in relation to potential ecological impacts?

Yes

If yes, please outline what additional measures you consider necessary:

If the exemption is taken forward, it should be subject to strong ecological safeguards, including a requirement to demonstrate low biodiversity value, clear national guidance, and a mechanism for LPAs to refuse exemption where ecological evidence indicates the site is important. UKGBC would also support monitoring of how many sites are exempted and what biodiversity outcomes are being lost or retained. The exemption should not be allowed to undermine the overall integrity of BNG.

Section 3: The potential impact of a targeted BNG exemption for residential brownfield development

Question 17: If you have any further evidence about the administrative, viability, biodiversity or nature market impacts for this exemption that you have not provided in previous responses, please provide it below.

UKGBC would emphasise that brownfield land should not be treated as inherently low value for biodiversity purposes. The policy risk is that a land-use label is substituted for ecological assessment, even though the two are not equivalent. Any exemption should therefore be narrow, evidence-led, and designed to avoid creating an unintended route around statutory BNG.