

2026



Legal Mechanism Guidance Section

**for the proposed 4-bedroom
detached family home at the
rear of 65 West Street,
Warminster.**

To ensure the project at the **Rear of 65 West Street, Warminster** is legally robust and compliant with **BS 8683:2021 (Process for designing and implementing Biodiversity Net Gain)** and **Natural England's Statutory Guidance**, the following Legal Mechanism Guidance must be followed.

Since the development relies on on-site enhancements to meet the mandatory 10% gain, these enhancements must be secured for a **minimum of 30 years**.

1. Securing the 30-Year Commitment

For a small-scale development of this nature, the primary legal tools available to Wiltshire Council are:

- **Planning Conditions:** Used for the implementation of the Landscape and Ecological Management Plan (LEMP).
- **Section 106 (S106) Agreement:** A deed between the landowner and the Local Planning Authority (LPA). This is the preferred statutory "biodiversity gain site" mechanism. It "runs with the land," meaning if the house is sold, the 30-year management obligation transfers to the new owner.

2. Compliance with BS 8683:2021

To meet the British Standard (BS 8683), the project must follow the "Good Practice Principles." The legal documentation must reflect the following:

- **Principle of Additionality:** The 10% gain must be over and above any existing legal requirements (e.g., standard landscaping conditions or statutory species mitigation).
- **Transparency:** All metric calculations and management plans must be made publicly available via the planning portal.
- **Financial Assurance:** The landowner must demonstrate the ability to fund the 30-year maintenance of the native hedgerow and urban trees.

3. Natural England Statutory Guidance: Key Legal Requirements

According to Natural England's guidance for the **Statutory Biodiversity Metric**, the following legal definitions must be adhered to:

3.1 The Biodiversity Gain Plan (BGP)

Before development begins, a "Biodiversity Gain Plan" must be submitted and approved. This is a separate statutory document that confirms:

- How the "mitigation hierarchy" was followed (Avoidance of habitat loss was prioritized).
- The pre-development and post-development unit values.
- That the **"Trading Rules"** were satisfied (e.g., the loss of Modified Grassland was replaced with a habitat of equal or higher distinctiveness).

3.2 Registration on the Gains Site Register

While this project focuses on *on-site* gains, if the developer were to use *off-site* units, those units must be legally registered on the **National Biodiversity Gain Site Register**. For this site (65 West Street), the on-site gains are registered via the planning permission itself.

4. S106 Clauses & Obligations

A typical S106 agreement for this site should include:

1. **Management Obligation:** To manage the "Created Habitats" (25m Hedgerow and 3 Urban Trees) in accordance with the LEMP for 30 years.
2. **Monitoring Obligation:** To submit a "Condition Monitoring Report" to the Council in **Years 2, 5, 10, 20, and 30**.
3. **Step-in Rights:** Allowing the Council to enter the land and perform maintenance if the habitats are neglected, with costs recovered from the landowner.
4. **Notification of Successor:** A requirement to notify the Council of any change in land ownership to ensure the BNG obligations are tracked.

5. Summary Table: Legal Compliance Checklist

Requirement	Statutory Basis		Document Reference
30-Year Security	Environment	Act	S106 Agreement / Planning Condition
Habitat Monitoring	Natural	England	HMMP (Habitat Management & Monitoring Plan)
	Guidance		

Metric Accuracy	Statutory Rules	Metric	SSSM Tool v1.2.2 (Verified)
Process Standard	BS 8683:2021		BNG Report Section 7

Next Steps for the Applicant

1. **Instruct Solicitors:** Ensure the S106 draft includes the specific "Moderate Condition" targets for the hedgerow.
2. **Discharge Conditions:** Submit the CEMP and LEMP as part of a "Discharge of Conditions" application prior to any site clearance.
3. **Final Submission:** Ensure the BNG Report, Metric, and HMMP are submitted as a unified package to Wiltshire Council to avoid delays in the "Gain Plan" approval process.

