

The Biodiversity Gain Requirements (Exemptions) Regulations 2024

Biodiversity Net Gain (BNG) Exemption Statement

For:

The development is the installation of a CAUK banking cabin within the Morrisons supermarket car park at 1 Dawson Street, Heywood, OL10 4ND. The proposed cabin location is around 105m from the car park entrance by road and around 67m from the store entrance on foot. The area is a tarmac car park, broadly level, firm and lit, with no stated height, weight, parking, congestion, red route or delivery restrictions.

The survey notes nearby drainage, manhole covers and visible underground services, with a CAT survey still to be completed before breaking ground. Delivery/lifting works are expected to take place out of hours after the store closes on Sunday at 16:00. Welfare facilities, first aid, staff lockers, fire alarm information and access arrangements are available within the host store, although the lift was inoperative at the time of survey. Overall, the site appears operationally suitable, subject to pre-start service checks and normal construction/delivery controls.

Planning Reference:

N/A

At:

1 Dawson Street Heywood England OL10 4ND United Kingdom (53.59438728479843, -2.223602311561112)

Completed By:

Oliver Lewis CBE, Founder Joe's Blooms Ltd

Date of Exemption Statement Completion:

2 June 2026

The Biodiversity Gain Requirements (Exemptions) Regulations 2024

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1. Article 7 ('General requirements: applications for planning permission including outline planning permission') of Part 3 of The Town and Country Planning (Development Management Procedure) (England) Order 2015, as amended by Regulation 5 of Part 4 of The Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 has introduced national validation prerequisites for planning applications relating to Biodiversity Net Gain (BNG).
2. Schedule 14 of the Environment Act 2021 introduced the concept of BNG into planning legislation, stating that "the biodiversity gain objective is met in relation to development for which planning permission is granted if the biodiversity value attributable to the development exceeds the pre-development biodiversity value of the onsite habitat by at least [10%]".
3. Schedule 14 of the Environment Act 2021 additionally mandates that biodiversity gain objectives will be achieved through the imposition of planning conditions, thus constituting a post-permission process.
4. However, certain types of development for which planning permission is required are exempt from biodiversity net gain requirements and planning conditions. These are outlined in The Biodiversity Gain Requirements (Exemptions) Regulations 2024¹
5. The development proposals for this application meets the following exemption criterion from the Regulations (reference wording from the Regulations):

Regulation 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024 states:

"The biodiversity gain planning condition does not apply in relation to planning permission for development which meets the first and second conditions. (2) The first condition is that the development does not impact an onsite priority habitat. (3) The second condition is that the development impacts— (a)less than 25 square metres of onsite habitat that has biodiversity value(1) greater than zero; and (b)less than 5 metres in length of onsite linear habitat.

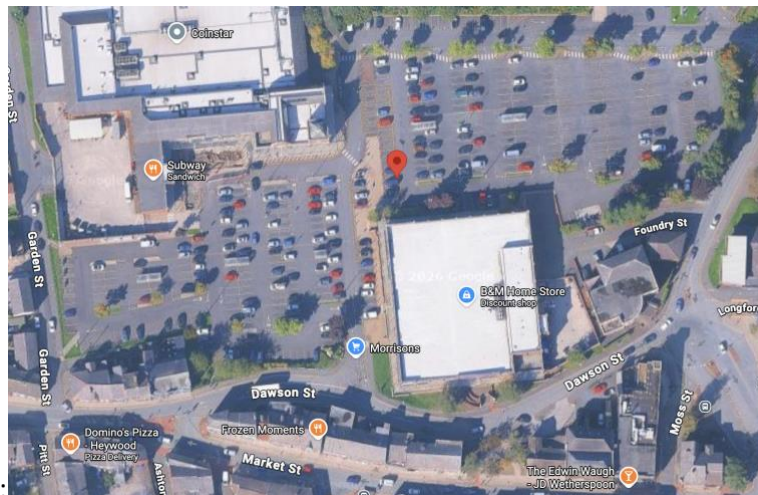
¹ The Biodiversity Gain Requirements (Exemptions) Regulations 2024:
<https://www.legislation.gov.uk/uksi/2024/47/made/data.pdf>

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6. State how this application meets the exemption criterion stated above (see worked example for reference):

Entire development takes place in a carpark with (1) no priority habitat (2) only zero rated habitat being impacted and (3) no linear habitat being impacted

7. Provide aerial imagery / photographs (or alternative sources), plans and captions to evidence your statement. For example, you may wish annotate images to show how the proposed development sits within the existing site/habitats, and how the proposals accord with the exemption claim. Add more photographs, plans or imagery of proposals if necessary.



Aerial imagery:



Photograph

The Biodiversity Gain Requirements (Exemptions) Regulations 2024

8. Whilst the development may be exempt from statutory Biodiversity Net Gain (BNG) requirements, the application for planning permission will deliver measurable net gains for nature conservation which are proportional and locally appropriate, in the following ways:

Existing trees and landscaped car park islands are visible in the survey photographs and appear capable of being retained and avoided during the works. The proposal therefore appears to minimise ecological disturbance by using previously developed hardstanding and avoiding existing vegetated features.

Example response:

Section 5: The exemption criterion claimed:

Section 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024, also known as the “de minimis exemption”, states the following: The biodiversity gain planning condition does not apply in relation to planning permission for development which: (Condition 1) does not impact an onsite priority habitat, and (Condition 2) impacts less than 25 square metres of onsite habitat that has a biodiversity value greater than zero; and less than 5 metres in length of onsite linear habitat.

The proposed development meets Conditions 1 and 2 of Section 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024.

The Biodiversity Gain Requirements (Exemptions) Regulations 2024

Section 6: Statement

The site does not contain any priority habitats listed under the Government's List of priority habitats and species in England ('Section 41 habitats and species') for public bodies, landowners and funders to use for biodiversity conservation, a copy of which can be found at the following website: <https://www.gov.uk/government/publications/habitats-and-species-of-principal-importance-in-england>

The proposed dwelling house will be constructed on land currently occupied by outbuildings and hardstanding surfaces, consisting of a mix of resin, stones, and concrete.

Consequently, the area to be developed can be described as consisting of a mix of habitats classified under the UK Habitat Classification, as detailed in Appendix 2 of The Small Sites Metric (Statutory Biodiversity Metric) User Guide (2024), as follows:

- Urban - Un-vegetated garden
- Urban - Developed land; sealed surface ("Impermeable Hardscape")
- Urban - Artificial unvegetated, unsealed surface ("Permeable Hardscape")

None of the habitat classifications within the red line boundary have a biodiversity value exceeding zero, as can be verified in the Government's Small Sites Metric (Statutory Biodiversity Metric) User Guide and Calculation Tools (2024). Consequently, the proposed development would impact less than 25 square metres of onsite habitat that has a biodiversity value greater than zero, thereby meeting Condition 2 of Section 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024.

As a result, the proposed development is exempt from biodiversity net gain requirements and planning conditions under the de minimis rule of Section 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024.

Section 7: Evidence

Provide aerial images / photos and plans of the site, marked up to show existing and proposed development areas, and how that accords with the exemption criteria claimed above, together with photographs of the current site conditions, to provide the context.

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Section 8: Measurable Net Gains for Nature Conservation

- A biodiverse green roof with features for invertebrates including log piles and a varied substrate
- Soft landscape schedule comprised of native plant species
- Provision of 2 bird boxes and 1 bat box
- Creation of a wildlife pond
- Hedgehog highways in gravel boards of boundary fence

**ELIGIBILITY OF A SMALL DEVELOPMENT APPLICATION FOR AN EXEMPTION
FROM THE SCHEDULE 7A GENERAL BIODIVERSITY GAIN CONDITION UNDER
THE *DE MINIMIS* CRITERIA**

A Report by Joe's Blooms Ltd.

Introduction

1. This report by Joe's Blooms Ltd sets out why an application for planning permission is eligible for an exemption from the general biodiversity gain condition ("mandatory biodiversity gain objective" or "objective"). Joe's Blooms is a company that specialises in helping developments comply with the mandatory biodiversity gain objective.
2. Throughout this document, the mandatory biodiversity gain objective is as set out in paragraph 13 ("general condition of planning permission") of Schedule 7A of The Town and Country Planning Act 1990 (as amended).
3. This report should be accompanied by a set of reasons for why the applicant believes they are exempt - this reason will have been generated based on the results of an assessment made by the applicant using Joe's Blooms' "Exemption Checker" service. Based on the information provided by the applicant (summarised in the Annex), **their application should be exempt from the general biodiversity gain condition by virtue of its compliance with Regulation 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024.**

Background on the application and the mandatory biodiversity gain objective

4. The development is located in England. Under the relevant regulations, every application for planning permission, which is first made after 12 February 2024 for major sites and 2 April 2024 for minor sites, for the development of land in England has to be granted subject to the development's compliance with the mandatory biodiversity gain objective.¹
5. The only exemptions that are permitted are those that are set out directly in paragraph 17 of Schedule 7A of The Town and Country Planning Act 1990 (as amended) or regulations that are produced by the Secretary of State under that paragraph. Government documentation states that applicants who believe they are eligible for an exemption for Biodiversity Net Gain should provide reasons (and, where appropriate, evidence) for the exemption, enabling the local planning authority to consider whether the proposal is

¹ See (i) paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended); (ii) Regulation 3 of the Biodiversity Gain Requirements (Exemptions) Regulations 2024; and (iii) Regulation 2 of The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024.

genuinely exempt at the validation stage. This report is intended to serve as evidence to support the reasons given by the applicant.

Eligibility for a "De Minimis" exemption under Regulation 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024

6. Paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) includes provisions for exemptions from the mandatory biodiversity gain objective, which provides for exemptions for "development of such... description as the Secretary of State may by regulations specify." Such regulations were issued under The Biodiversity Gain Requirements (Exemptions) Regulations 2024.

7. Regulation 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024 gave effect to this intent, stating:

"The biodiversity gain planning condition does not apply in relation to planning permission for development which meets the first and second conditions. (2) The first condition is that the development does not impact an onsite priority habitat. (3) The second condition is that the development impacts— (a)less than 25 square metres of onsite habitat that has biodiversity value(1) greater than zero; and (b)less than 5 metres in length of onsite linear habitat.

8. Furthermore, Government guidance published on www.gov.uk provides the exact same set of tests.² The wording is as follows:

"A development that does not impact a priority habitat and impacts less than: 25 square metres (5m by 5m) of on-site habitat 5 metres of on-site linear habitats such as hedgerows A development 'impacts' a habitat if it decreases the biodiversity value."

9. The applicant was asked to provide relevant information about their development, including whether they fall outside the definition of a major development, and to confirm that the application for planning permission was first made (or granted) before 2nd April 2024.

10. Based on this information, and on the information provided by the applicant, it is the opinion of Joe's Blooms Ltd. that the development is exempt from the mandatory

² See <https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments> (Accessed May 2024)

biodiversity gain objective under Regulation 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024:

- a) The development does not impact any priority habitat (there is no evidence of any priority habitat within 500m of the site);
 - b) The development does not impact more than 25m² of non-zero rated habitat
 - c) The development does not impact more than 5m of linear habitat.
11. It is our further assessment that no further reason or evidence is required to demonstrate the applicant's eligibility for an exemption for the mandatory biodiversity gain objective set out in Schedule 7A of The Town and Country Planning Act 1990.

Disclaimer

12. This report is provided as a supplementary source of information to accompany a set of reasons for an exemption from the BNG objective. That set of reasons was based on an assessment of the information provided by the applicant and is predicated on that information being complete and accurate.
13. This report only considers the development's eligibility for an exemption from mandatory Biodiversity Net Gain as set out under Schedule 7A of the Town and Country Planning Act 1990 (as amended). It does not consider other requirements beyond the mandatory Biodiversity Net Gain, which the development may or may not need to comply with, including requirements that may, notwithstanding the provisions of paragraph 17 of Schedule 7A, require the development to comply with elements of a different biodiversity net gain regime.
14. Joe's Blooms Ltd makes no warranty on the truthfulness or otherwise of the information that was provided by the applicant. Joe's Blooms Ltd are happy to discuss the contents of this report and the judgement reached in it. Questions can be sent to exemptionqueries@joesblooms.com and will be replied to within five working days.

JOES BLOOMS LTD.

Annexe: Specific Circumstances of the Development

General Eligibility for the General Biodiversity Net Gain Condition	
Is the application for planning permission for development exempt by virtue of being located in England?	No
Is the application exempt because it was first made after 12 February 2024 (2 April 2024 for minor sites)?	No
Specific exemptions from the General Biodiversity Net Gain Condition	
Is the application eligible for an exemption as it meets the criteria set out in Regulation 8 of the Biodiversity Gain Requirements (Exemptions) Regulations 2024 and all dwellings meet the criteria set out in section 1(A1) of the Self-build and Custom Housebuilding Act 2015.	No
Is the application eligible for an exemption as it meets the criteria set out in Regulation 7 of the Biodiversity Gain Requirements (Exemptions) Regulations 2024?	No
Is the application for planning permission a development that aligns with the sort of development described in section 1(2) of The High Speed Rail (Preparation) Act 2013?	No
Is the application for planning permission a householder application within the meaning of Article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015?	No
Eligibility for an exemption under De Minimis Regulation	
Does the application for planning permission fall within the definition of the so-called “de minimis” test as set out in Regulation 4 of the Biodiversity Gain Requirements (Exemptions) Regulations 2024.	Yes

Please note that only one exemption has to be classed as “Yes” in order for the application to be exempt from the general Biodiversity Gain Condition.