

The Biodiversity Gain Requirements (Exemptions) Regulations 2024

M62_J19_VCN BNGEx_P02

Biodiversity Net Gain (BNG) Exemption Statement

For:

This BNG Exemption Statement is in support of an application for the Variation of condition 2 and 5 of planning permission 25/01061/FUL.

Planning Permission 25/01061/FUL was granted with statement confirming that the Approved Development qualifies as one of the statutory exemptions set out in The Biodiversity Gain Requirements (Exemptions) Regulations 2024, specifically that the development would be below the de-minimis threshold.

Permission 25/01061/FUL was exempt from the biodiversity gain condition such that permission 25/01061/FUL did NOT require the approval of a biodiversity gain plan before development is begun.

The Proposed Variation seeks to allow for vary the drainage design from the use of a sewage package treatment plant to a mains sewer connection, and to allow for a revised site layout plan to facilitate the use of an extended area of existing hard standing for storage and laydown.

Planning Reference:

Application to vary condition 2 and 5 of planning permission 25/01061/FUL to vary the drainage scheme and site layout, hereto referred to as the Proposed Variation

At:

Heywood Interchange, Lane End, Heywood, Rochdale, Greater Manchester, England, OL10 2LG, United Kingdom

OSGR- SD 86514 08804

W3W- desire.slang.faces

Completed By:

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Date of Exemption Statement Completion:

02/07/2026

The Biodiversity Gain Requirements (Exemptions) Regulations 2024

M62_J19_VCN BNGEx_P02

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 (Exemption 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 meters of onsite habitat that has a biodiversity value greater than zero; and less than 5 meters in length of onsite linear habitat.

For the reasons set out below, the Applicant considers that the proposed development meets Conditions 1 and 2 of Regulation 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024.

6. State how this application meets the exemption criterion stated above
Refer next page

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

The Biodiversity Gain Requirements (Exemptions) Regulations 2024

M62_J19_VCN BNGEx_P02

Application Site

Planning Permission 25/01061/FUL has been granted for the *“Temporary use of existing hard standing and utility infrastructure on land adjacent to M62 Junction 19 as a construction compound including the siting and use of office and welfare cabins and other associated development to support the construction of the M60/M62/M66 Simister Island Interchange Scheme for a temporary period of up to 5 years”*, hereafter referred to as the Approved Development. This Approved Development was confirmed to be exempt from the biodiversity gain condition on the basis of the de-minimis exemption.

The Approved Development was supported by a Preliminary Ecological Appraisal and UK Habitats Classification Survey Report (PEA/Habs Survey) [HE548642-JAC-EBD-SII_MLT-RP-LE0029 Rev P01]. This report is advised to have an 18-month validity period, so can be considered to be appropriate to use in this assessment.

The Application Site was previously used by National Highways as a site compound for the National Highways M62 J20-25 Safety Enhancements Scheme and although the office cabins were moved off site in February 2024, all the other infrastructure remained in situ. The majority of the Application Site therefore consists of urban land with both sealed and unsealed surfaces. Under the UK Habitat Classification, the site consists of a mix of habitats classified under, as detailed in the Statutory Biodiversity Metric User Guide (2024), as follows:

- Urban - Developed land; sealed surface (“impermeable hardscape”)
- Urban - Artificial unvegetated, unsealed surface (“permeable hardscape”)
- Urban – Sparsely vegetated land
- Grassland – Modified grassland
- Grassland – Other neutral grassland (secondary classification as seasonally wet and sustainable drainage system)

The Application Site and associated habitats is shown in figure 1 in response to paragraph 7.

Condition 1

The Application 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>.

Therefore, condition 1 of Regulation 4 of the Exemption Regulations 2024 is met.

Condition 2

The part of the Application Site to be used for the temporary compound already comprises hard standing surfaces (which is a mix of tarmac, gravel, and concrete). The rest of the Application Site comprises modified grassland which has self-established on the topsoil bunds created during the construction of the Safety Enhancement Scheme compound, and one drainage basin and ditch also constructed for the Safety Enhancement Scheme compound. The de minimis criteria is justified on the basis that none of the habitats described above would be disturbed by the development over an area greater than 25sqm.

The proposed variation to revise the drainage scheme would result in some limited temporary excavation to lay the varied and new sections of pipe. Based on a 600m trench, the work to install the new drainage pipes would affect 3.6sqm (0.6 x 6m) of habitat type u1c: Artificial Unvegetated, Unsealed Surface which has a habitat value of zero, 90sqm (0.6 x 150m) of habitat u: Urban with a habitat value of zero, and 21sqm (0.6m x 35m) of habitat type u1f: Sparsely Vegetated Urban Land which has a habitat value of 2. The total habitat affected with a value greater than zero is less than 25sqm and therefore can be confirmed to meet the requirements of Condition 2 of Regulation 4 of the Exemption Regulations 2024.

The Biodiversity Gain Requirements (Exemptions) Regulations 2024

M62_J19_VCN BNEx_P02

The proposed variation to revise the site layout to allow for the use of an extended area of existing hardscaping classified as habitat type u: Urban, without physical alteration, would not result in habitat loss.

Given that the approval of the Proposed Variation would amount to a fresh permission for the whole development, it is appropriate to reiterate that the wider re-establishment of the temporary compound would only require above ground activity on previously developed land. As noted within the assessment of the Approved Development whilst maintenance works may be undertaken to maintain the onsite ditch and drainage basin, there would be no resulting loss of these habitats, and the works are restricted to ensuring these features are in optimal condition to maximise functionality for management of surface water within the Application Site. The area of modified grassland which has self-seeded on top of the bunds, although within the Application Site, would only be used to enable the restoration of the site to agriculture and is accepted to be lost with or without permission for the Approved Development or Approved Variation. All these habitats are therefore discounted from the calculation.

In total the implementation of the Proposed Variation to the original Approved Development would result in the temporary excavation and therefore loss of an area of 21sqm of habitat type u1f. This can be classed as de-minimis as it falls below the 25sqm threshold. Therefore, Condition 2 of Regulation 4 of the Exemption Regulations 2024 is met.

Conclusion

The proposed development is exempt from biodiversity net gain requirements and planning conditions as it meets the criteria of condition 1 and condition 2 of Regulation 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024.

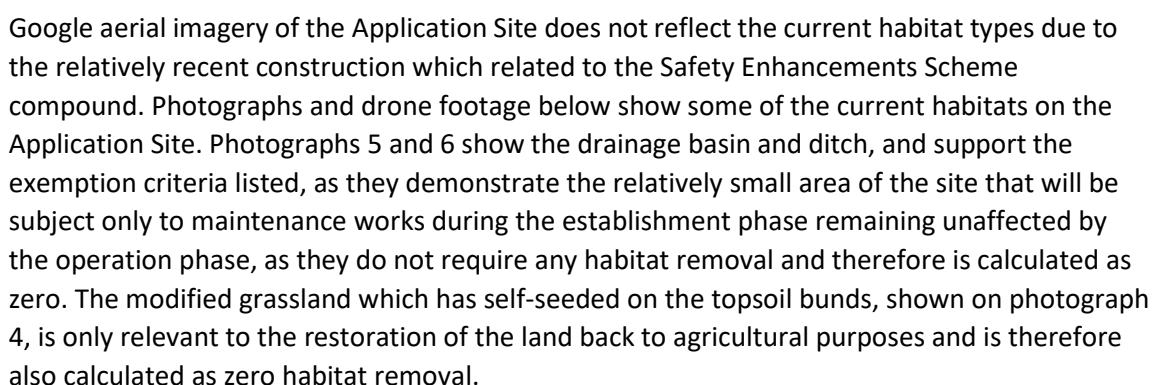
The Biodiversity Gain Requirements (Exemptions) Regulations 2024

M62_J19_VCN BNGEx_P02

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.

M62 J19_VCN_BNGEx_P02

Figure 1: UK Habitat Classification map of the Application Site



The Biodiversity Gain Requirements (Exemptions) Regulations 2024

M62_J19_VCN BNGEx_P02

Photograph 1: Photo taken from a drone showing full extent of the extent of the compound previously operated from the site (August 2023). With the exceptions of the removal of the office/welfare cabins, presence of cars and traffic management storage in the yard, all other infrastructure remains in place.



Photograph 2: Photo taken from Point A on Photograph 1, from the west side of the car park area looking east. Refer point A on Photograph 1 (July 2025).



The Biodiversity Gain Requirements (Exemptions) Regulations 2024

M62_J19_VCN BNGEx_P02

Photograph 3: Photo taken from Point B on Photograph 1 the northwest extent of the layout area/perimeter access road looking south-east (July 2025)



Photograph 4: Photo taken from Point C on Photograph 1 the topsoil bund on the eastern boundary looking south (Drone footage, August 2023)



The Biodiversity Gain Requirements (Exemptions) Regulations 2024

M62_J19_VCN BNGEx_P02

Photograph 5: The drainage basin/attenuation pond as of August 2025 with some perennial vegetation.



Photograph 6: The onsite ditch (pictured in August 2025) that was created under previous development for drainage. Maintenance works will not involve any habitat loss and will restore greater functionality to the feature.



The Biodiversity Gain Requirements (Exemptions) Regulations 2024

M62_J19_VCN BNGEx_P02

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:

As set out in Section 6 of this form, there would be less than 25sqm temporary loss of habitat to support the Proposed Variation.

The Applicant has considered opportunities for other net gains for nature conservation within the application site boundary during the temporary 5 year to be applied for. There are no trees within the red line boundary so bat and bird boxes could not be provided.

The land is intended to be restored back to its original agricultural use on the cessation of the temporary operations. This restoration would remove the urbanising impact of the land providing habitat benefit.

Because the land needs to be restored back to its original use, provision of other enhancements, such as hibernacula, would not be feasible as they would only be able to be secured on a temporary basis as they would need to be disturbed at the cessation of the temporary operations.

The Biodiversity Gain Requirements (Exemptions) Regulations 2024

M62_J19_VCN BNGEx_P02

THIS RESPONSE HAS FOLLOWED THE MODEL TEMPLATE AS DESCRIBED BELOW

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.

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.

The Biodiversity Gain Requirements (Exemptions) Regulations 2024

M62_J19_VCN BNEx_P02

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.

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