

# BIODIVERSITY NET GAIN STATEMENT

## Legislative Framework

Under the statutory framework for biodiversity net gain, [subject to some exceptions](#), every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met (“the biodiversity gain condition”). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits.

## Exemption for Retrospective Development

Planning Practice Guidance – Biodiversity Net Gain makes clear in paragraph 002 that : Biodiversity net gain does not apply to:

- retrospective planning permissions made under section 73A; and
- section 73 permissions where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024.

Section 73A of the Town and Country Planning Act 1990 states as follows:

*73A Planning permission for development already carried out.*

*(1) On an application made to a local planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application.*

*(2) Subsection (1) applies to development carried out—*

*(a) without planning permission;*

*(b) in accordance with planning permission granted for a limited period; or*

*(c) without complying with some condition subject to which planning permission was granted.*

*(3) Planning permission for such development may be granted so as to have effect from—*

*(a) the date on which the development was carried out; or*

*(b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.*

## **Discussion**

In this case, the change of use of land to use as a residential caravan site, including the associated operational development to provide a hardstanding has already taken place and, therefore, the current application is seeking retrospective planning permission under Section 73A of the Town and Country Planning Act, without complying with the personal occupancy condition subject to which planning permission was granted. As set out above, such applications are exempt from the statutory BNG requirements.

## **Exemption for De-Minimis Development**

Paragraph 003 of the PPG makes clear that a de-minimis exemption applies to development where: the development does not impact any on-site priority habitat; and, if there is an impact on other on-site habitat, that impact is less than 25 sq. metres of on-site habitat with a biodiversity value greater than zero and less than 5 metres of on-site linear habitat.

## **Discussion**

The proposed development does not involve any operational development: it simply facilitates a change of occupier. A change of occupier does not impact any on-site priority habitat or, impact on any other on-site habitat. The proposed development results in no loss of habitat value and, therefore falls within the de-minimis exemption.

Thus, the development applied for is exempt from the statutory BNG requirements: it is a retrospective application which has not yet been brought within the statutory regime.