

Good Morning Mr Holmes

Further to your email. Your own evidence appears to relate to an aerial photograph circa 2021. My client lives locally and states that prior to his occupation the site had no fences etc and was used for general dumping of garden waste. He claims that he merely cleared this waste and the surface below was hard standing. The trees hanging over remain but are outside the plot.

You will be aware that I have zero prior knowledge of the site and when I submitted the application the site was fully hard surfaced. Hence my submission.

Regards

P. Fletcher

On Monday, August 12, 2024, 9:36 AM,

Dear Mr Fletcher

I write in reply to your email, copied below.

This application is for development for which biodiversity net gain is required under the statutory framework introduced by [Schedule 7A of the Town and Country Planning Act 1990 \(inserted by the Environment Act 2021\)](#).

To be exempt from BNG the development would need to be subject to the exemption(s) set out in [The Biodiversity Gain Requirements \(Exemptions\) Regulations 2024](#).

To benefit from the de minimis exemption it would need to be demonstrated that there was a base line biodiversity value of the part of the site the subject of the development of zero (or upon land that contained 25m² or less of habitat). Habitat essentially includes all soft landscaped area(s) including areas which have naturalised over time.

Whilst the works to the site may have taken place prior to the lease being taken on by the applicant, the key issue is whether the habitat was lost since 30th January 2020.

If there are further photographs / evidence which can be provided which sets out that the works to the site were undertaken before this date please can they be provided so that a view can be taken as to whether the de minimis exemption is applicable.

Having said that, it appears from aerial photography taken in 2021 that the site contained habitat within the areas for which permission is now being sought.

If there has been degradation and there is insufficient evidence about the biodiversity value of the onsite habitat immediately before the degradation, the pre-development biodiversity value of the onsite habitat must be taken to be the highest biodiversity value of the habitat which is reasonably supported by any available evidence relating to it. This requirement must be applied to the calculation of pre-development biodiversity value in the metric, and the Biodiversity Gain Plan template asks for information regarding whether there has been prior habitat degradation.

I appreciate that since April there has been an additional requirement introduced by BNG legislation, however it is set out in law and as such must be adhered to by the LPA.

Regards

John Holmes

Deputy Team Leader (West) – Development Management

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