Biodiversity Net Gain: Exemption Statement

The Water Tower, Blagdens, Green Side, Huddersfield

This statement is submitted in support of an application for planning permission at the above site. It sets out, for the purposes of article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), the applicant's position that the biodiversity gain condition imposed by paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 **does not apply** to any permission granted on this application.

The exemption relied upon is the small site exemption at **regulation 7A of the Biodiversity Gain Requirements (Exemptions) Regulations 2024** (S.I. 2024/47), inserted by regulation 3 of the Biodiversity Gain (Town and Country Planning) (Amendments and Transitional Provisions) (England) Regulations 2026 (S.I. 2026/790), which took effect for applications made on or after 6 August 2026. Both statutory conditions are met, as demonstrated in Sections 3 and 4 below.

1. Site and application details

Site	The Water Tower, Blagdens, Green Side, Huddersfield
Local planning authority	Kirklees Council
Application red line area	Less than 1,500 m² (0.15 ha)
Statutory threshold (reg. 7A)	2,000 m² (0.2 ha)
Onsite priority habitat	None present; none impacted
Exemption relied upon	Regulation 7A, S.I. 2024/47 (as inserted by S.I. 2026/790)

The red line boundary comprises the existing water tower compound and the length of existing private access track serving it from Green Side Road, as shown on the submitted location plan (Figure 2) and block plans (Figure 3). The description of development is set out on the application form; it is not material to the operation of regulation 7A, which turns solely on site area and on whether onsite priority habitat is impacted.

2. The legislative test

Section 98 of and Schedule 14 to the Environment Act 2021 inserted Schedule 7A into the Town and Country Planning Act 1990. Paragraph 13 of Schedule 7A provides that every planning permission granted for the development of land in England is deemed to have been granted subject to the biodiversity gain condition, *except* in circumstances prescribed by the Secretary of State. Those prescribed circumstances are contained in the Biodiversity Gain Requirements (Exemptions) Regulations 2024.

Regulation 7A of those Regulations, as inserted with effect from 6 August 2026, disapplies the biodiversity gain planning condition in relation to planning permission for development which meets two cumulative conditions:

> **First condition —** the development does not impact an onsite priority habitat.
>
> **Second condition —** the development is carried out on a site which has an area no larger than 0.2 hectares.

Two definitional points are relevant to the assessment that follows:

- **"Priority habitat"** carries the meaning given in regulation 4 of the 2024 Regulations, namely a habitat included in the list of habitats of principal importance for the conservation of biodiversity in England published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006. Hedgerows, deciduous woodland, lowland meadows and lowland fens are among the habitats on that list.
- **"Impact"** is defined for these purposes as habitat being lost or degraded such that there is a decrease in the biodiversity value of that habitat.

The first condition is expressly directed at *onsite* priority habitat — that is, priority habitat falling within the application site. The presence of priority habitat beyond the red line boundary, however close, is not a bar to the exemption; the statutory question is whether priority habitat within the site is lost or degraded by the development.

Because this application is not a householder application and the site falls below 0.2 hectares, regulation 7A is the appropriate exemption to rely on. Government guidance confirms that where more than one exemption might be engaged there is no requirement to evidence each of them; the most appropriate exemption should be identified. No reliance is therefore placed on the de minimis exemption at regulation 7.

3. First condition: no impact on onsite priority habitat

3.1 Desk study

A search of the Priority Habitat Inventory (England) was undertaken for the application site and a surrounding search radius. The search returned three records, all of the same habitat type, and all lying outside the red line boundary:

DATASET / HABITAT TYPE	PROXIMITY TO SITE	WITHIN RED LINE?
Priority Habitat Inventory — Deciduous Woodland (England)	Within 500 m	No
Priority Habitat Inventory — Deciduous Woodland (England)	Within 500 m	No
Priority Habitat Inventory — Deciduous Woodland (England)	Within 500 m	No

The three parcels correspond to the blocks of woodland shown in purple on Figure 1: Storthes Hall Moor Wood to the north-east of the site, and Clough Wood, Brown Knoll Wood and Shrogg Wood to the south-east. Each is separated from the application site by intervening agricultural land and the local highway network. None of the three parcels intersects, adjoins, or lies within the red line boundary, and no part of the development would be carried out within any of them.

The search returned no other priority habitat records — no priority grassland, heathland, wetland, hedgerow or other section 41 habitat — and no irreplaceable habitat, within the search area.

3.2 Onsite habitats

The land within the red line boundary comprises the existing water tower structure and its associated hardstanding compound, together with an existing surfaced private access track and its immediate margins. There is no woodland, no watercourse, no pond, no priority grassland and no other habitat of principal importance within the site.

In particular, and for the avoidance of doubt, **there is no hedgerow within the red line boundary**. Hedgerows are a habitat of principal importance under section 41 of the 2006 Act and are therefore capable of constituting onsite priority habitat for the purposes of regulation 7A; no hedgerow is present on this site, and consequently none can be lost or degraded by the development.

> ✓ **First condition satisfied.** No priority habitat is present within the application site. It follows that the development cannot cause any onsite priority habitat to be lost or degraded, and therefore does not impact an onsite priority habitat within the meaning of regulation 7A. The three Deciduous Woodland parcels identified by the desk study lie wholly outside the red line boundary and are not affected by the proposals.

4. Second condition: site area no larger than 0.2 hectares

Government guidance confirms that, for the purposes of this exemption, the relevant site area is the area within the red line boundary shown on the location plan submitted with the application under article 7 of the Development Management Procedure Order.

The red line boundary for this application, as shown on the submitted location plan reproduced at Figure 2, encloses an area of **less than 1,500 m² (0.15 ha)**. That is comfortably below — by more than a quarter — the statutory threshold of 0.2 hectares (2,000 m²).

MEASURE	VALUE
Statutory threshold (regulation 7A, second condition)	0.2 ha (2,000 m²)
Red line site area, this application	Less than 0.15 ha (1,500 m²)
Margin below threshold	More than 500 m²

> ✓ **Second condition satisfied.** The development is to be carried out on a site with an area no larger than 0.2 hectares.

5. Conclusion

Both conditions in regulation 7A of the Biodiversity Gain Requirements (Exemptions) Regulations 2024 are met:

1. The development does not impact an onsite priority habitat. No habitat of principal importance under section 41 of the Natural Environment and Rural Communities Act 2006 is present within the red line boundary — there is no woodland, no hedgerow and no watercourse on site. The nearest mapped priority habitat consists of three parcels of Deciduous Woodland recorded within 500 m of the site, all of which lie wholly outside the application site and none of which would be lost or degraded by the proposals.
2. The site has an area no larger than 0.2 hectares. The red line boundary encloses less than 1,500 m², against a threshold of 2,000 m².

Accordingly, the biodiversity gain condition at paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 does not apply to any planning permission granted pursuant to this application. No biodiversity gain plan is required to be submitted or approved, and no statutory biodiversity metric calculation is required to discharge a pre-commencement condition, because no such condition arises.

This position is without prejudice to the general biodiversity duty under section 40 of the Natural Environment and Rural Communities Act 2006, to policies of the development plan relating to biodiversity and landscaping, or to the separate protection afforded to protected species and to trees, each of which is addressed as appropriate elsewhere in the application submission.

Suggested wording for the article 7 statement

> *Statement under article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015:*
>
> The applicant believes that the biodiversity gain condition at paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 **does not apply** to this application.
>
> The reason for that belief is that the development falls within the exemption at regulation 7A of the Biodiversity Gain Requirements (Exemptions) Regulations 2024 (as inserted by S.I. 2026/790). The application site, as shown within the red line boundary on the submitted location plan, has an area of less than 1,500 m², which is no larger than 0.2 hectares; and the development does not impact an onsite priority habitat, there being no habitat of principal importance under section 41 of the Natural Environment and Rural Communities Act 2006 within the site. Full supporting evidence is provided in the accompanying Biodiversity Net Gain Exemption Statement.

Figures

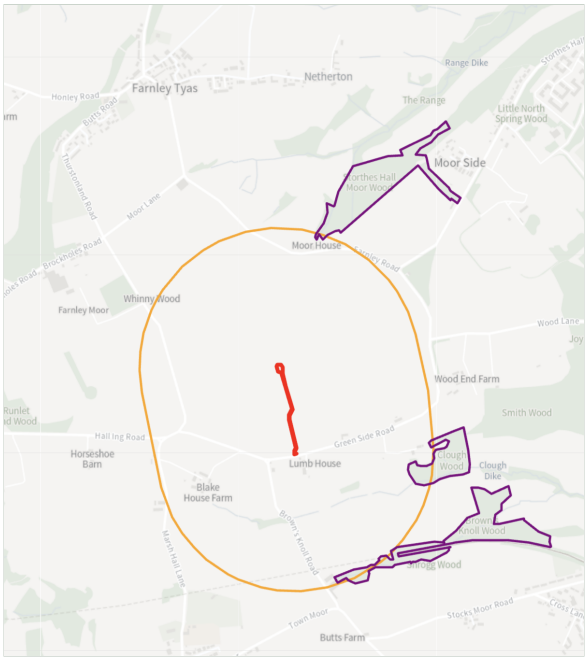


Figure 1 — Priority habitat constraints. Application site shown in red; 500 m search radius shown in orange; Priority Habitat Inventory (Deciduous Woodland) parcels shown in purple. All three mapped parcels lie wholly outside the red line boundary.



Figure 2 — Site location plan. The red line boundary encloses the existing water tower compound and the private access track serving it from Green Side Road. The enclosed area is less than 1,500 m² (0.15 ha).

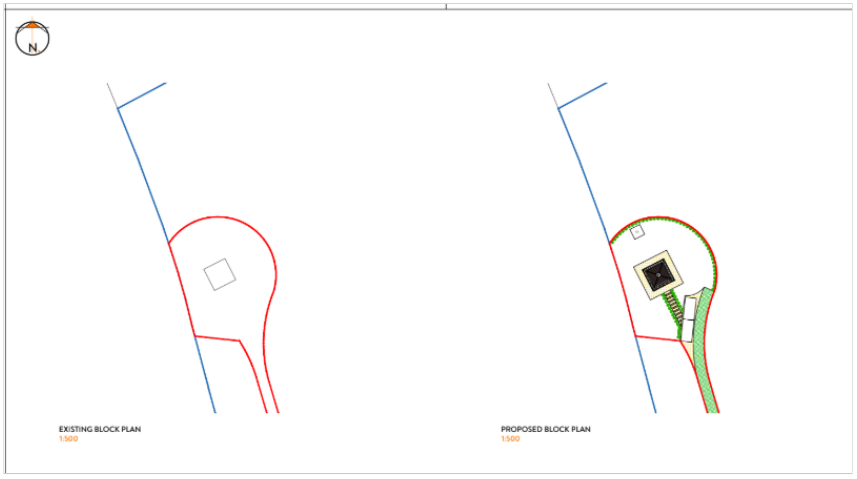


Figure 3 — Existing and proposed block plans (1:500). The developable extent of the site is confined to the existing compound and hardstanding. No woodland, hedgerow or watercourse is present within the red line boundary.

Sources: The Biodiversity Gain Requirements (Exemptions) Regulations 2024 (S.I. 2024/47); The Biodiversity Gain (Town and Country Planning) (Amendments and Transitional Provisions) (England) Regulations 2026 (S.I. 2026/790); Town and Country Planning Act 1990, Schedule 7A; Natural Environment and Rural Communities Act 2006, section 41; Defra/MHCLG guidance "Biodiversity net gain: exempt developments" (GOV.UK); Natural England Priority Habitat Inventory (England).