

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Mr Josh Downes	Full planning application for 3no. industrial units, B2/B8 use class with first floor offices, associated parking & service areas Sapphire Court, Isidore Road, Bromsgrove Technology Park, Bromsgrove, Worcestershire B60 3ET	12.12.2024	24/00708/FUL

RECOMMENDATION: That planning permission be **GRANTED**

Consultations

Worcestershire Highways - Bromsgrove

The development will have minimal impact on traffic, with most vehicles accessing the site via an existing roundabout. Adequate parking and a travel plan have been provided. The Highway Authority has concluded that the development will not significantly impact the local road network and therefore does not warrant objection.

North Worcestershire Water Management

The site falls within flood zone 1 (low risk of fluvial flooding from a watercourse), with parts of the site (access road) susceptible to surface water flooding. The location of the units appears to be outside of a flood risk area. A flood risk assessment and drainage strategy have been provided and therefore no objection is raised subject to condition.

WRS - Contaminated Land

No objection subject to condition.

WRS - Noise

No Comments Received

WRS - Air Quality

No objection subject to condition

WRS- Light Pollution

No Comments Received

Arboricultural Officer

No Objection.

It is considered that installing the boundary path line around the building using a No-Dig method of construction would likely not affect the stability of the Leylandii hedge group, given the minimal incursion into the Root Protection Area (RPA) of H2. However, I would appreciate a detailed specification of the proposed No-Dig construction method be submitted by condition. I have no objection to the removal of the specified sections from groups G1 and G2, as these trees are generally of lower quality and provide minimal screening value.

Active Travel England

No Comment

Thomson Environmental Consultants (Ecology)

The applicant has submitted The Biodiversity Metric Report which covers the existing habitats on site and demonstrates it is not feasible to achieve the require 10% net gain of Biodiversity Net Gain onsite. This can be achieved offsite via eh purchase of credits and the applicant has demonstrated that this can be accomplished. No objection subject to condition.

Publicity

132 letters were sent on 24th July 2024 (expired on 17th August 2024)

Site notice displayed 29 July 2024 (expired 22 August 2024)

Press Notice published 2 August 2024 (expired 19 August 2024)

One objection has been received and raised the following comments:

- **Traffic congestion:** Aston Road, Railway Walk, and the Newton Road/Sherwood Road junction are already congested during peak hours, particularly when people leave work from local businesses.
- **Artic lorry parking:** Artic lorries parked on Aston Road significantly worsen the traffic situation, reducing the road to a single lane and causing delays.
- **Insufficient road capacity:** The current road infrastructure cannot accommodate the additional traffic generated by the proposed 60 new parking spaces and associated trade traffic.
- **Proposed solution:** Implementing a no-parking zone for artic lorries on Aston Road and finding alternative overnight parking solutions is necessary to alleviate the traffic congestion.

Relevant Policies

Bromsgrove District Plan

BDP1 Sustainable Development Principles

BDP2 Settlement Hierarchy

BDP3 Future Housing and Employment Development

BDP6 Infrastructure Contributions

BDP13 New Employment Development

BDP14 Designated Employment

BDP19 High Quality Design

BDP21 Natural Environment

BDP22 Climate Change

BDP24 Green Infrastructure

Others

NPPF National Planning Policy Framework (2023)

NPPG National Planning Practice Guidance

Relevant Planning History

B/2002/1014

Major mixed use redevelopment for

Granted

24.11.2003

	residential development and ancillary uses and employment uses within use class B1 and B2 - Outline Consent.		
B/2005/0161	Construction of spine road - Approval of Reserved Matters under previous application B/2002/1014 (as augmented by drainage strategy received by the Council on 5.4.05)	Granted	11.08.2005
B/2005/0092	Residential development of 1, 2, 3 and 4 bed dwellings, associated roads, driveways and infrastructure -Approval of Reserved Matters under previous application B/2002/1014 (as amended by plans and letters received 31.3.05 and 18.4.05)	Granted	27.04.2005

Assessment of Proposal

The proposal is for the construction of 3no. industrial units, B2/B8 use class with a combined area of approx. 6,420sq.m (GEA) with first floor offices, associated parking & service areas.

The proposed development is located within Bromsgrove Enterprise Park, roughly 1.2 miles south of Bromsgrove Town Centre. It sits south-west of the Bromsgrove Railway Station and is accessible through a private road named Isidore Road. This road runs north to south and acts as the main entry point for the development. Units 1 and 2 already have vehicular access constructed.

The surrounding areas include Sapphire Court Business Park to the north, George Road to the east, and additional industrial units to the west. A roundabout connects George Road, Isidore Road, and Aston Road to the south. The development itself is divided by the site access Road/Isidore Road, with Units 1 and 2 on the west side and Unit 3 on the east.

Unit 1	GF GIA 1,346sqm	FF Office 135sqm	Total 1,481sqm
Unit 2	GF GIA 2,323sqm	FF Office 198sqm	Total 2,521sqm
Unit 3	GF GIA 1,546sqm	FF Office 155sqm	Total 1,701sqm

The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories known as 'Use Classes'. Use Class B comprises:

- **B2 General industrial** - Use for industrial process other than one falling within class E(g) (*previously class B1*) (excluding incineration purposes, chemical treatment or landfill or hazardous waste)
- **B8 Storage or distribution** - This class includes open air storage.

The application site is located within Bromsgrove Enterprise Park, a designated employment land area as outlined in the Bromsgrove District Plan. The site is currently undeveloped and has existing outline planning permission (reference B/2002/1014). The site benefits from partial access.

Principle of development

Policy BDP14 sets out that designated employment areas 'are expected to make a significant contribution towards creating jobs across Bromsgrove and meeting the employment targets identified in Policy BDP3. Policy BDP14.1 states that 'The regeneration of the District will continue through maintaining and promoting existing employment provision in sustainable, accessible and appropriate locations (as identified on the Policies Map)'.

Bromsgrove Enterprise Park is an existing commercial park situated on land designated for employment purposes. The use of the site for B2 and B8 uses has also been established on site following the granting of outline planning permission (B/2002/1014). As such the principle of commercial development on this site is acceptable.

Character

The site, roughly triangular in shape, spans approximately 1.59 hectares (3.94 acres). It is bordered by Aston Road and George Road to the east and is intersected by Isidore Road. The site is generally level, sloping gently towards the south-eastern and south-western boundaries. Currently unused and redundant, it is characterised by grassy areas and spoil mounds.

The western boundary is defined by an existing fence separating the development plot from the neighbouring Silver Birches Business Park. Overgrown shrubs and trees line this boundary. Low-level hooped barriers have been erected along the Aston Road and George Road boundaries.

The proposed buildings are linear in form and provide ample space within the site for manoeuvring, parking and landscaping as expected with such a commercial use. The new buildings will have a simple, consistent design using high-quality materials. The proposed buildings are similar in height to the neighbouring buildings. Their size and shape are appropriate for their intended use and reflect the general scale and layout found locally. The proposed development is considered appropriate to this location and will reflect the existing character found locally.

Highways

The proposed development consists of three industrial units occupying a 6,029 square metre site. Each unit will integrate first-floor office space, culminating in a total of 5,703 square meters of new employment space. While Units 1 and 2 will leverage existing access points, Unit 3 necessitates a newly constructed priority junction equipped with a pedestrian crossing. The development has been designed to accommodate Heavy Goods Vehicles (HGVs), with adequate visibility splays and manoeuvrability space.

To prioritise highway safety, the installation of new road markings and signage is imperative at the junction connecting to the main road, this matter has been conditioned. A comprehensive Travel Plan has been submitted, and upon planning approval, the applicant is obligated to register on the Modeshift STARS platform to develop a suitable plan.

Parking has been provided in full accordance with WCC parking standards:

- minimum 3 motorcycle parking spaces in total recommended, the applicant has provided 3 motorcycle parking spaces.
- minimum 42 car parking spaces are recommended; the applicant has provided 59 car parking spaces.
- minimum 18 cycle parking spaces are recommended; the applicant has provided 38 cycle parking spaces.
- minimum 3 disable parking spaces are recommended; the applicant has provided 3 parking spaces.

A traffic impact assessment, conducted using the industry-standard TRICS software, reveals a modest traffic generation. The majority of traffic is anticipated to utilise the Sherwood Road/Stoke Road roundabout. The projected increase in peak hour traffic is deemed insignificant. A thorough review of the collision history within the vicinity has not identified any notable accident patterns.

The applicants have also submitted a Construction Environmental Management Plan (CEMP) which outlines full details of construction including phasing, logistics and monitoring and has been found acceptable. The CEMP is conditioned under condition 2 of this recommendation.

Based on a comprehensive analysis, the Highway Authority concludes that the proposed development will not have a detrimental impact on the highway network and, consequently, does not warrant objection.

Trees

The mature Silver Birch trees in the southeast corner, bordering Aston Road, are in good condition and contribute to the site's visual appeal. It is recommended that these trees be retained.

The Leylandii conifers along the southern boundary, behind units 21 and 22, are well-established. The western boundary, adjacent to units 13-19, is defined by a steep bank with a mix of Willow and Silver Birch trees. The application proposes removing this tree line and replacing it with Gabions and a retaining wall. Given the proposed tree planting and Biodiversity Net Gain offset, this removal is acceptable. It is believed that a No-Dig method for installing the boundary path would minimise the impact on the Leylandii hedge. However, a detailed specification for this method should be submitted as a condition for approval.

Finally, the removal of the specified sections from groups G1 and G2 is acceptable, as these trees are of lower quality and offer limited screening benefits.

Biodiversity Net Gain/Ecology

Biodiversity Net Gain (BNG) is legislation that was put forward by Government. BNG is an approach to development. It makes sure that habitats for wildlife are left in a measurably better state than they were before the development. In England, BNG is mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Developers must deliver a BNG of 10%. This means a development will result in more or better-quality natural habitat than there was before development. This should ideally be provided onsite however a developer is able to purchase offsite credits for BNG elsewhere should it not be possible to provide onsite.

The Biodiversity Metric Report indicates that the proposed development cannot achieve the mandatory 10% net gain in habitat units on-site. Considering the site's pre-existing ecological assets, including boundary trees and vegetated land, and the proposed industrial development, it is acknowledged that a full net gain on-site is not attainable. Off-site compensation or a conversion offset payment is required. To achieve 10% BNG, a deficit of 5.37 habitat units must be compensated for. The minimum required compensation is 5.37 habitat units if provided within the Local Planning Authority (LPA) boundary or the same Natural Character Area (NCA). The maximum required compensation is 10.74 habitat units if provided outside the LPA or NCA. The applicants have indicated some land that would be available to them via the Environment Bank which would be finally agreed via informative.

Some limited habitat retention, enhancement and creation measures are proposed on site. Additional species enhancements should be provided on-site, to include bat and bird boxes, hedgehog houses and amphibian/reptile hibernacula. A Landscape and Ecological Management Plan is required to ensure that the on-site habitat proposals are created and maintained, in line with the landscaping proposals provided within the Biodiversity Metric Report. This can be controlled via a condition.

Drainage

The site is situated in Flood Zone 1, indicating a low risk of river flooding. However, parts of the site, particularly the access road, are susceptible to surface water flooding. A flood risk assessment and drainage strategy have been provided. While on-site attenuation is typically required, a compromise has been made to allow higher discharge rates from Unit 3 to prevent orifice blockage. Initial ground investigations reveal the presence of gravel, sandstone, and clay. Infiltration testing, as per BRE guidance, is necessary to finalise the drainage strategy. The 1:100+40% event model indicates potential on-site flooding. An exceedance routing plan is required to demonstrate safe above-ground accommodation of this water without impacting buildings. The Causeway model file should also be provided for review. A full water quality assessment using the simple index assessment is necessary to evaluate building roofs, parking areas, and yard areas. This matter has been conditioned.

Public Comments

One letter of objection was received which raised concerns regarding highways and existing issues with HGVs, parking and road capacity. As outlined in the Highways section, the applicant has over provided on parking within the site and provided

comprehensive data on the travel movements as a result of this development. The application site is also allocated for such a use and originally built for this purpose. Highways have reviewed the information submitted and confirmed that the proposal will not have a detrimental impact on the highway network.

Conclusion

It is determined that the proposed development is consistent with the applicable policies of the Bromsgrove District Plan and adheres to the principles of sustainable development as outlined in the NPPF. Accordingly, the application is recommended for approval.

RECOMMENDATION: That planning permission be **GRANTED**

Conditions:

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of the grant of this permission.

Reason: In accordance with the requirements of Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby approved shall be carried out in accordance with the following plans and drawings:
 - o 23032-HFR-AV-ZZ-DR-A-9001-P01 Location Plan
 - o 23032-HFR-AV-ZZ-DR-A-9002-P01 Existing SP & Topographical Survey
 - o 23032-HFR-AV-ZZ-DR-A-9003-P01 Existing Site Constraints
 - o 23032-HFR-AV-ZZ-DR-A-9004-P01 Proposed Site Plan
 - o 23032-HFR-AV-XX-DR-A-9005-P01 Unit 01, 02 & 03 Waste Compounds
 - o 23032-HFR-AV-XX-DR-A-9006-P01 Unit 01, 02 & 03 Cycle Shelters
 - o 23032-HFR-AV-ZZ-DR-A-9007-P01 Proposed Boundary Treatments
 - o 23023-HFR-V1-00-DR-A-9001-P01 Unit 1 - Proposed GF GA Plan
 - o 23023-HFR-V1-ZZ-DR-A-9002-P01 Unit 1 - Proposed Office GA Plans
 - o 23023-HFR-V1-R1-DR-A-9003-P01 Unit 1 - Proposed Roof Plan
 - o 23032-HFR-V1-XX-DR-A-9004-P01 Unit 1 - Proposed Elevations
 - o 23032-HFR-V1-XX-DR-A-9005-P01 Unit 1 - Proposed Sections
 - o 23023-HFR-V2-00-DR-A-9001-P01 Unit 2 - Proposed GF GA Plan
 - o 23023-HFR-V2-ZZ-DR-A-9002-P01 Unit 2 - Proposed Office GA Plans
 - o 23023-HFR-V2-R1-DR-A-9003-P01 Unit 2 - Proposed Roof Plan
 - o 23032-HFR-V2-XX-DR-A-9004-P01 Unit 2 - Proposed Elevations
 - o 23032-HFR-V2-XX-DR-A-9005-P01 Unit 2 - Proposed Sections
 - o 23023-HFR-V3-00-DR-A-9001-P01 Unit 3 - Proposed GF GA Plan
 - o 23023-HFR-V3-ZZ-DR-A-9002-P01 Unit 3 - Proposed Office GA Plans
 - o 23023-HFR-V3-R1-DR-A-9003-P01 Unit 3 - Proposed Roof Plan
 - o 23032-HFR-V3-XX-DR-A-9004-P01 Unit 3 - Proposed Elevations
 - o 23032-HFR-V3-XX-DR-A-9005-P01 Unit 3 - Proposed Sections
 - o 23032-HFR-AV-ZZ-RP-A-9002-P01 Planning Statement
 - o 23032-HFR-AV-XX-RP-A-9001-P02 Design and Access Statement
 - o 085043-CUR-XX-XX-T-TP-00002-P02 Framework Travel Plan

- o 085043-CUR-XX-XX-T-TP-00001-P02 Transport Statement
- o 85043-CUR-00-XX-DR-TP-75001-P01_AccessArrangement
- o 85043-CUR-00-XX-DR-TP-05001-P01_SPA16.5mArticulatedHGV
- o 85043-CUR-00-XX-DR-TP-05002-P01_SPALargeCar
- o 240307 Bromsgrove Phase 3 Construction Environment Management Plan
- o 85043-CUR-XX-XX-DR-C-91014_Unit 1 & 2 Site Sections
- o 4534 101A - Landscape Layout
- o 5023881-RDG-XX-00-D-E-906001_P2 External Lighting Units 1, 2 & 3

Reason: To provide certainty to the extent of the development hereby approved in the interests of proper planning.

- 3) Prior to their first installation, details of the form, colour and finish of the materials to be used externally on the walls and roofs shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

Reason: To ensure that the development is satisfactory in appearance, to safeguard the visual amenities of the area

- 4) The Development hereby permitted shall not be first occupied until sheltered, safe, secure and accessible cycle parking to comply with the Council's adopted highway design guide has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority and thereafter the approved cycle parking shall be kept available for the parking of bicycles only.

REASON: To comply with the Council's parking standards.

- 5) The Development hereby approved shall not be brought into use until the access, parking and turning facilities have been provided as shown on drawing 23032-HFR-AV ZZ-DR-A-9004 Rev P01 and 085043-CUR-XX-00-D-TP-75001 Rev P04.

Reason: To ensure conformity with submitted details.

- 6) The Development hereby approved shall not be brought into use until the visibility splays shown on drawing 085043-CUR-XX-00-D-TP-75001 P02 have been provided. The splays shall at all times be maintained free of level obstruction exceeding a height of 0.6m above adjacent carriageway.

REASON: In the interests of highway safety

- 7) The Development hereby approved shall not be brought into use until: Unit 1: 2 spaces, Unit 2 : 3 spaces and Unit 3: 2 spaces - have been provided in a location to be agreed in writing by the Local Planning Authority and thereafter shall be kept available for disabled users as approved.

REASON: To provide safe and suitable access for all

- 8) The Development hereby approved shall not be brought into use until 3 secure motorcycle parking spaces (1 per unit) have been provided in a location to be

agreed in writing by the Local Planning Authority and thereafter shall be kept available for motorcycle parking as approved.

REASON: To provide safe and suitable access for all.

- 9) The Development hereby approved shall not be brought into use until a Road Safety Audit has been submitted for highways consideration.

REASON: In the interests of highway safety.

- 10) Unless otherwise agreed by the Local Planning Authority development, other than that required to be carried out as part of an approved scheme of remediation, must not commence until conditions 1 to 5 have been complied with:

1. A preliminary risk assessment (a Phase I desk study) submitted to the Local Authority in support of the application has identified unacceptable risk(s) exist on the site as represented in the Conceptual Site Model. A scheme for detailed site investigation must be submitted to and approved in writing by the Local Planning Authority prior to being undertaken to address those unacceptable risks identified. The scheme must be designed to assess the nature and extent of any contamination and must be led by the findings of the preliminary risk assessment. The investigation and risk assessment scheme must be compiled by competent persons and must be designed in accordance with the Environment Agency's "Land Contamination: Risk Management" guidance.

2. The detailed site investigation and risk assessment must be undertaken in accordance with the approved Scheme and a written report of the findings produced. This report must be approved by the Local Planning Authority prior to any development taking place.

3. Where the site investigation identified remediation is required, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to identified receptors must be prepared and is subject to the approval of the Local Planning Authority in advance of undertaking. The remediation scheme must ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

4. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development, other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.

5. Following the completion of the measures identified in the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval of the Local Planning Authority prior to the occupation of any buildings.

6. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in

writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where necessary a remediation scheme must be prepared, these will be subject to the approval of the Local Planning Authority. Following the completion of any measures identified in the approved remediation scheme a validation report must be prepared, which is subject to the approval in writing of the Local Planning Authority prior to the occupation of any buildings.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 11) Details shall be submitted to and approved by the local planning authority prior to the first occupation of the development for the installation of Ultra-Low NOx boilers with maximum NOx Emissions less than 40 mg/kWh. The details as approved shall be implemented prior to the first occupation of the development and shall thereafter be permanently retained.

Reason: In the interests of the living conditions of occupiers of nearby properties and future occupiers of the site.

- 12) No works in connection with site drainage shall commence until a scheme for a surface water drainage strategy for the proposed development has been submitted to, and approved in writing by the Local Planning Authority. The strategy shall include details of surface water drainage measures, including for hardstanding areas, and shall include the results of an assessment into the potential of disposing of surface water by means of a sustainable drainage system (SuDS). If possible infiltration techniques are to be used and the plan shall include the details and results of field percolation tests. If a connection to a sewer system is proposed, then evidence shall be submitted of the in-principle approval of Severn Trent water for this connection. The scheme should include run off treatment proposals for surface water drainage. Where the scheme includes communal surface water drainage assets proposals for dealing with the future maintenance of these assets should be included. The scheme should include proposals for informing future homeowners or occupiers of the arrangements for maintenance of communal surface water drainage assets. The approved surface water drainage scheme shall be implemented prior to the first use of the development and thereafter maintained in accordance with the agreed scheme.

Reason: To ensure satisfactory drainage.

- 13) Prior to the construction of Unit 2 of the development hereby approved, a specification for the Method of No Dig Construction for the boundary path line adjacent to H2 in accordance with BS5837:2012 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.

Reason: In order to protect the trees which form an important part of the amenity and ecological value of the site.

- 14) A Landscape and Ecology Management Plan (LEMP) will be produced and be approved by the LPA prior to commencement of the works. This LEMP will include (though not be limited to) the following:
- o All on-site and off-site habitat proposals outlined within Biodiversity Metric Report reference 81-605-R2-3 (E3P, October 2024);
 - o On-site and off-site management measures covering a period of 30 years minimum post-construction;
 - o The number, types and locations of on-site ecological enhancement features, including bat and bird boxes, hedgehog houses and amphibian/reptile hibernacula.

REASON: To ensure the long-term management, maintenance, and monitoring of on-site habitats and ecological enhancement features.

Informative:

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition)” that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Bromsgrove District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below. Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

The permission which has been granted has the effect of requiring or permitting the development to proceed in phases. The modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 apply. In summary: Biodiversity gain plans are required to be submitted to, and approved by, the planning authority before development may be begun (the overall plan), and before each phase of development may be begun (phase plans).]

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.

2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
 - (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
 - 4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:
 - i) the application for planning permission was made before 2 April 2024;
 - ii) planning permission is granted which has effect before 2 April 2024; or
 - iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).
 - 4.2 Development below the de minimis threshold, meaning development which:
 - i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
 - ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).
 - 4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.
 - 4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).
 - 4.5 Self and Custom Build Development, meaning development which:
 - i) consists of no more than 9 dwellings;
 - ii) is carried out on a site which has an area no larger than 0.5 hectares; and

- iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

Plan reference

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