

North Yorkshire Council
Community Development Services
Thirsk and Malton Planning Committee

20 February 2025

ZF24/01766/FL - Extension to and reinforcement of the existing seawall and addition of replacement rock armour at land south of Royal Parade, Filey, North Yorkshire on behalf of Mr Martin Lloyd of North Yorkshire Council (Mr Martin Lloyd)

Report of the Head of Development Management – Community Development Services

1.0 Purpose of the report

- 1.1 To determine planning application reference ZF24/01766/FL for the above development at the Land to the South of Royal Parade, Filey.
- 1.2 The application is in relation to a North Yorkshire Council-led development to extend and reinforce a section of the Seawall and therefore in accordance with the North Yorkshire Council Area Constituency Planning Committees Scheme of Delegation, the application falls to be determined by the Thirsk and Malton Planning Committee.

2.0 SUMMARY

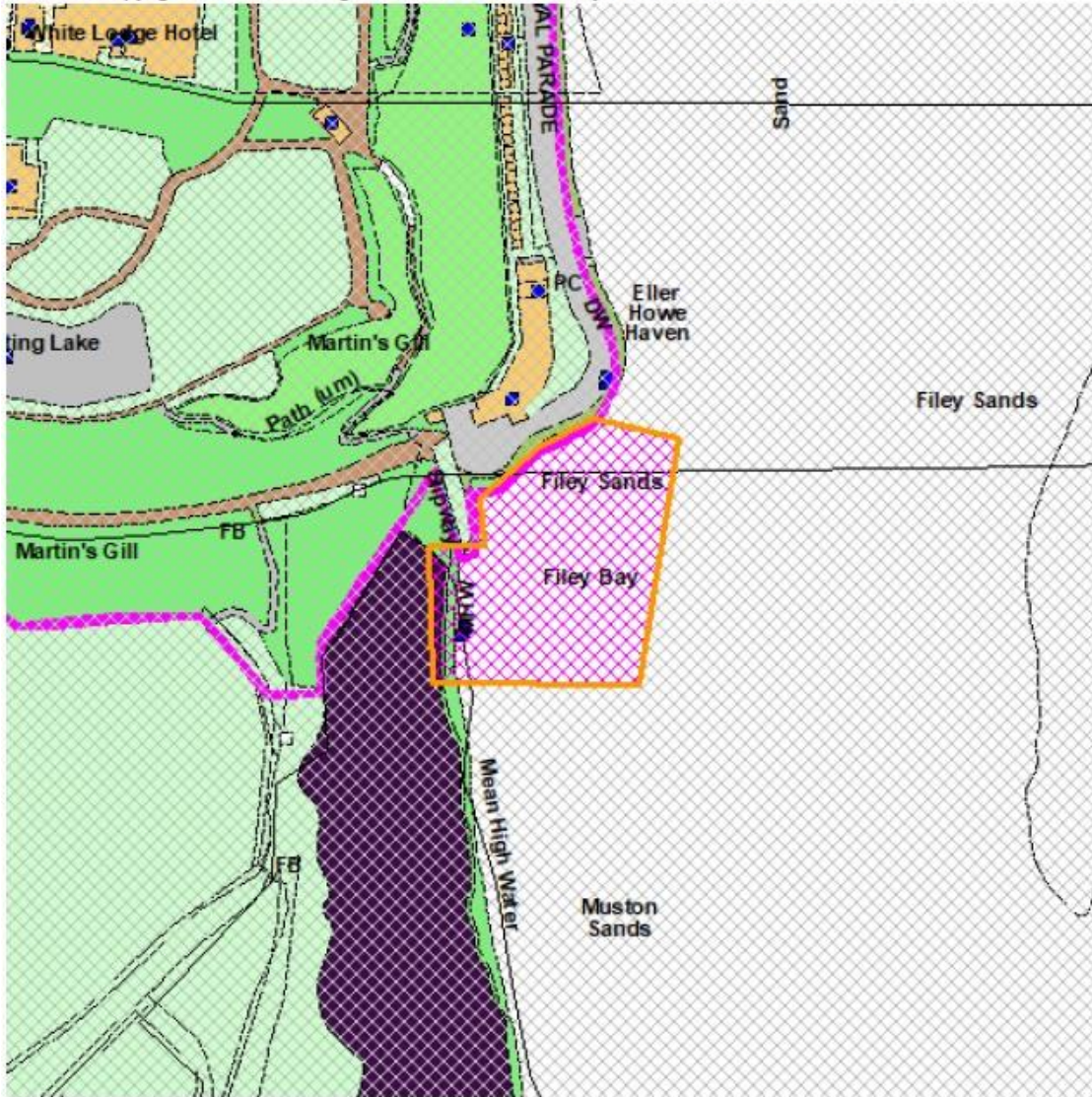
RECOMMENDATION:

- 2.1 Full planning permission is recommended to be granted for the development which seeks to reinforce and extend the seawall, with the aim of mitigating the risk of outflanking and coastal erosion. It is proposed to extend the seawall by 5 metres to the South, constructed from steel sheet piles with in-situ cast reinforced concrete. The dimensions of the extended seawall would match the existing - 750mm in height, with a depth of 450mm. The works also include the temporary removal and redistribution of rock armour and replacement of the gabion baskets in an area of 12m x 2m which lie immediately adjacent to the seawall.
- 2.2 The application resides in the countryside and is considered by your officers to be in line with Local Plan Policy ENV6: Development affecting the countryside in that it is location dependent for essential operational purposes. Additionally, the proposed development is in line with Local Plan Policy ENV3: Environmental Risk, which supports new development that seeks opportunities to help reduce the causes and impacts of flooding. The scheme also meets the minimum Biodiversity Net Gain (BNG) requirements, in line with local and national planning policies, with no other concerns raised in terms of amenity, highways safety, design or impacting on the conservation area. The proposed development is therefore considered by your officers to comply with relevant Local and National Planning Policies and is recommended to be permitted with conditions.



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3.0 Preliminary Matters

- 3.1 Access to the case file on Public Access can be found here: [ZF24/01766/FL | Extension to and reinforcement of the existing seawall and addition of replacement rock armour | Land South Of Royal Parade Filey North Yorkshire](#)

4.0 Site and Surroundings

- 4.1 The application site is in relation to a section of land to the South of Royal Parade in Filey. The site forms part of the beach, Martin's Ravine slipway and existing sea wall/rock armour defences.
- 4.2 The site is outside of the Development Limits of Filey and is therefore classed as a countryside location. The Development Limits of Filey is to the North of the site. The site is directly adjacent to the promenade, which is raised above the slipway and site. Royal Parade contains a café, ice cream parlour and public toilets. The site is located within the Filey Conservation Area.

5.0 Description of Proposal

- 5.1 The applicant (North Yorkshire Council) is seeking full planning permission for the extension and reinforcement of the existing seawall. The works are split into two broad sections
- 5.2 The first is to extend the seawall by 5m to the South - to the Western side of Martins Ravine slipway, with materials and dimensions to match the existing wall. The wall would be laid using steel sheet piles and reinforced concrete, with a height of 750mm and a depth of 450mm. The second part of the project is to temporarily replace the rock armour around the seawall, re-position and re-build the stone gabions. The area of which measures 12m x 2m.
- 5.3 Vehicular access onto the site would be through the Bridge Hole slipway, along the beach to an unloading area adjacent to the site. An existing off-site compound on Church Cliff Drive would be used (permitted development), with an access route to the site shown in the submitted documents - along Ravine Road, to the slipway, and then traversing along the beach to the site.

6.0 Planning Policy and Guidance

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise.

Adopted Development Plan

- 6.2 The Adopted Plan for this site is:
-Scarborough Borough Local Plan 2011 to 2032 adopted 2017

Emerging Development Plan - Material Consideration

- 6.3 There is no emerging development plan which covers the application site.

Guidance - Material Considerations

- National Planning Policy Framework 2024
- National Planning Practice Guidance
- National Design Guide
- NYCC SuDS Design Guidance

7.0 Consultation Responses

- 7.1 The following consultation responses have been received and have been summarised below.
- 7.2 Filey Town Council - Support the application and have no objections to raise.
- 7.3 Environmental Health CRT - No objection raised but there are several matters that are of material consideration for Environmental Health. This includes noise, vibration, dust, odour (if any), waste storage, materials storage and lighting. It is acknowledged that the application has been supported by a Construction Method Statement and Construction Environment Management Plan (CEMP), and these documents can be conditioned.
- 7.4 Environmental Health Scientific team - No objections raised
- 7.5 Ecology - The submitted ecology and biodiversity information is of sufficient standard and achieves at least 10% Biodiversity Net Gain (BNG). However, the BNG report identifies works within the blue line boundary as 'on-site', which is not in line with the national legislation. Works are only considered to be on-site which are located within the outlined red line boundary. It is recommended that the red line boundary is amended to include the adjacent cliff - where the BNG enhancements would take place. Otherwise, the level of enhancement is acceptable, and the scheme is supported by the ecologists. A habitat management and monitoring plan should be secured via condition to implement the BNG mitigation and enhancements.
- 7.6 The Environment Agency - It is noted that the application has not been supported by a flood risk assessment. Although, it is acknowledged that the application is to extend and reinforce the existing seawall, therefore there would be no increased flood risk and no objection is raised. The proposal does not raise a concern to geomorphology as it is not changing the length of the coastline.
- 7.7 The Local Highways Authority - No objections are raised, however further information is requested which can be covered through condition.
- 7.8 Natural England - No objection raised.

Local Representations

7.9 The application has been advertised by means of site notice and press notice. No representations have been received.

8.0 Environmental Impact Assessment

8.1 The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environmental Statement is therefore required.

9.0 Main Issues

9.1 The main issues are:

- Principle of Development
- Impact on Amenity
- Design and Impact on Visual Amenity
- Impact on the Historic Environment
- Highways Safety
- Flood Risk
- Ecology/Biodiversity

10.0 Assessment

Principle of Development

10.1 The application site is located outside of the Development Limits of Filey and is therefore a countryside location. The starting point for such developments is Local Plan Policy ENV6: Development Affecting the countryside, which states that development in the countryside should be limited to those for which a countryside location is essential. The development is in direct association with the existing seawall defences in Filey, seeking to extend and reinforce the sea defences which are predicted to extend the lifetime of the seawall by 50 years. Local Plan Policy ENV6 (f) outlines that such necessary development in the countryside includes those that are location dependent for technical/operational reasons. It is considered by your officers that the proposed development meets this criterion with the extension and reinforcement of the seawall intrinsically linked with the existing position outside of the development limits.

10.2 The other requirement of Local Plan Policy ENV6 is that the scale of the proposal should be compatible with its surroundings and not have an unacceptable impact on the character and appearance of the open countryside or the wider landscape. The extension is small scale in comparison to the existing seawall and wider landscape. It is naturally depressed into the landscape and screened by the existing (and much larger) cliff to the immediate West and slipway/seawall to the North/North-East. There would be eye-level views onto the extension from the beach from the East and South, although the size and scale of the extension is considered to be modest in size compared to the existing natural and physical landscape. The proposed dimensions of the seawall are to exactly match the existing.

- 10.3 Local Plan Policy ENV3: Environmental Risk requires proposals to mitigate against the implications of environmental risk and the effects of climate change. This includes developments which seek opportunities that may help to reduce the causes and impacts of flooding. The overriding principles of the proposed development seek to improve the flood defences for the next half century and is in compliance with Policy ENV3.
- 10.4 The proposed development is considered to be fully in line with Local Plan Policies ENV6 and ENV3, outlined above, alongside the principles of sustainable development outlined in Local Plan Policy SD1 and within the NPPF. It is considered by officers that the development is therefore acceptable in principle.

Impact on Amenity

- 10.5 The proposed development is in relation to the existing seawall which is located to the South of the main town area of Filey. It is located within the countryside, and whilst there are existing business uses nearby, on Royal Parade, the Seawall is located at a lower ground level and the impact on the businesses is very limited. Although, the development will contribute to protecting Royal Parade from the effects of erosion in the longer term. Likewise, there is no residential properties in close proximity which would be directly affected by the development when it is constructed.
- 10.6 There is potential for the construction stage of the scheme to have an impact on amenity by means of noise, disturbance and light pollution. However, a detailed construction management plan (CMS) and Construction environment management Plan (CEMP) have been submitted to support the development. Colleagues in Environmental Health have assessed these documents and have raised no objections/concerns subject to a condition which requires the adherence to the approved documents, before, during and after construction works. However, these matters and other construction related matters such as working hours and health and safety are governed by primary legislation separate from planning.
- 10.7 The proposed development is considered to be acceptable in terms of its impact on amenity, in accordance with Local Plan Policy DEC4, subject to conditions.

Design and Impact on Visual Amenity

- 10.8 The proposed development is positioned in a secluded location, to the South of the town of Filey, in a depressed position in the landscape. There is natural screening to the West of the site with the cliffs, and to the North from the existing seawall/raised promenade. There are level viewpoints from the South and East from users of the beach. However, the extension is considered by your officers to be small scale in relation to the existing natural and manmade structures within the wider landscape. It is modest extension to the seawall and utilises design characteristics of the seawall are an exact match of the existing seawall. The construction materials, positioning and dimensions are considered to be appropriate. Your officers are of the opinion that the proposal is of a suitable design. It is likely that the proposed alterations will not make a noticeable change to member of the public following completion of the works.

- 10.9 It is considered that the proposed development is in compliance with local Plan Policy DEC1: Principles of Good Design and is acceptable in terms of design and impact on visual amenity.

Impact on the Historic Environment

- 10.10 The application site is located within the Filey Conservation Area. The site (Martins Ravine slipway) forms the Southern gateway into the Conservation Area from the beach, with direct access into Glen Gardens from this area.
- 10.11 Local Plan Policy DEC5: The Historic and Built Environment which states that proposals affecting the Conservation Area should preserve or enhance its character. The proposed development is a small extension to the existing seawall, and is modest in comparison to the existing sea defences and natural landscape. The design characteristics are an exact match of the existing and it is considered by officers that there is no perceived harm to the Historic Environment.
- 10.12 It is considered by officers that the proposed development will help to preserve the character and appearance of the Conservation Area by protecting it from the effects of coastal erosion. The proposed development is considered to be in compliance with Local Plan Policy DEC5: The Historic Environment and is acceptable in terms of its impact on the Historic Environment.

Highways Safety

- 10.13 The proposed development, if built, would not have any direct impact on highways safety given its location adjacent to the seawall, slipway and beach. It would not require a permanent access and it would also not lead to additional parking demand in the area.
- 10.14 The submitted information outlines that the contractor's compound is located on Church Cliff Drive and is operating currently, serving the wider improvement works to the seawall. The contractors would be based at the compound, and the application site would be accessed via Ravine Road, Herrings slipway, then traverse a section of the beach onto the site. The beach would be traversed Southwards to an unloading area adjacent to the application site. A detailed construction management plan has been submitted which outlines the process. The majority of the works outlined, including the formation of a compound, are permitted development - outside the scope of planning control for this particular application.
- 10.15 The Local Highways Authority have been consulted on the proposal and have not objected to the scheme, however a request for further information was received through manner of condition. The majority of the requested information is included within the submitted technical documents (CMS and CEMP). These documents were amended and updated accordingly in line with the LHA's request, and it is considered appropriate to condition adherence to the submitted documents rather than request further information.
- 10.16 The proposed development is considered to be acceptable in terms of highway safety.

Flood Risk

- 10.17 The site is located in Flood Zone 3, which indicated land at the highest risk of flooding. Typically, a Flood Risk assessment (FRA) would be required for all developments in flood zones 2 or 3. However, in this case, the primary objectives of the scheme were taken into consideration as it is clear that the proposal is specifically intended to reduce the causes and impacts of flooding over time. As such, the scheme would reduce flood risk rather than increase it, and a flood risk assessment was considered by your officers to be unnecessary at validation stage. The Environment Agency have been consulted on the scheme and have not raised any objections in terms of flood risk or geomorphology. The works are expected to lengthen the lifespan of the seawall by an additional 50 years.
- 10.18 The proposed development is in compliance with local Plan policy ENV3: Environmental Risk in that it seeks opportunities to reduce the cause and impact of flooding and is acceptable from this perspective.

Ecology/Impact on Biodiversity

- 10.19 Biodiversity Net Gain (BNG) requirements were introduced in April 2024 which requires all developments to deliver at least 10% BNG. The application has been supported by a series of Ecology and BNG documents, including a completed (and dated) BNG metric, a Preliminary Ecological Appraisal (PEA), a Habitat Regulations Assessment (HRA) and a BNG feasibility report.
- 10.20 The submitted information outlines that there would be no detrimental impact to protected species or habitats on/directly adjacent to the site. A HRA was recommended within the PEA, which has been submitted and assessed by colleagues in Ecology. No objections have been received in regard to this document.
- 10.21 The BNG report outlines that 10.09% BNG would be delivered through on-site enhancements which includes the removal of invasive species and the planting of non-invasive species on the site and adjacent cliff-top. The Council's ecologists have raised no objection to this arrangement, although outlined that a large proportion of the works would take place within land in the Council's ownership adjoining the application site. The plans and supporting documents are being amended to enlarge the red line boundary so that the enhancement works would take place within the application site. This would allow the enhancement and management plan to be secured by condition. It is expected to have the amended plans in time for the committee meeting.
- 10.22 Should the application be approved, the Government's standard biodiversity net gain (BNG) condition will automatically apply to the planning permission, requiring submission and approval of a biodiversity gain plan - including a habitat management and monitoring plan (HMMP). A separate BNG implementation plan would be necessary to ensure that the approved measures are carried out, and that appropriate management of site is secured for 30 years.
- 10.23 The proposed development has submitted sufficient details and a plan showing that the minimum 10% BNG would be achieved on site and is in compliance with Local

Plan Policy ENV5: The Natural Environment and national legislation in regard to BNG. The proposed development is therefore considered by your officers to be acceptable in terms of ecology/biodiversity.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1 The application site is in reference to land to the South of Royal Parade, to the south of the town of Filey. The site is located outside of the Development Limits, in the open countryside, and forms part of the beach, martin's slipway and existing seawall. The application site is within the Conservation Area. The application seeks full planning permission for the extension of the Seawall by 5m to be constructed from steel sheet piles and reinforced concrete, alongside the replacement and reinforcement of existing rock armour/stone gabions.
- 11.2 The application is considered by your officers to represent an appropriate use in the countryside location by demonstrating that it is location dependent for technical and operation purposes. The proposed development also seeks to reduce the causes and impacts of Flood Risk and is in line with Local Plan Policies ENV3 and ENV6, alongside meeting the principles of sustainable development - in line with Local Plan Policy SD1 and the NPPF. The proposed development is considered by officers to be acceptable in principle.
- 11.3 The proposal has been supported by several ecological/biodiversity documents which outline that the scheme would be of little harm to protected species or habitats and that at least 10% BNG would be achieved on site. Conditions would be required to achieve this with the developer expected to submit further information to discharge a biodiversity gain plan and submit a habitat monitoring and management plan.
- 11.4 The scale of the development is considered by officers to be compatible with the surrounding area, being a modest extension to the existing seawall with matching materials, and substantial natural screening to the West and North. There are no other concerns raised by officers to the development in terms of amenity, highways safety or the impact on the historic environment.
- 11.5 It is your officer's recommendation that permission is granted for the application, subject to conditions.

12.0 RECOMMENDATION

- 12.1 That Permission be granted subject to conditions
- 1 The development hereby permitted shall be carried out in strict accordance with the following plans:
- Site Location Plan - Received on 31st October 2024
 - General Arrangement - Outflanking of new wall (Ref. 19389-WAT-SBR-R-SK-C-97032-C02)
 - RC Details of New Wall (Ref. 19389-WAT-SBR-R-SK-C-97033-C02)
 - Gabions and rock armour removal plan (Ref. 19389-WAT-SBR-R-SK-C-97034 C05)
 - Preliminary Ecological Appraisal Report (Ref. WIE 19389_100-R-1-1-7-PEA)

- Stage 1 Habitats Regulations Assessment (Ref. WIE19389_100-R-1-1-7-HRA)

Reason: For the avoidance of doubt.

- 2 The external materials, colour and general finished appearance of the proposed development shall match that of the existing wall (Reinforced concrete), as outlined in the approved plans and associated documents referenced in condition 1.

Reason: In the interest of visual amenity, in accordance with Local Plan Policy DEC1: Principles of Good Design.

- 3 Prior to the commencement of this development, a scheme for the implementation of the approved Biodiversity Gain Plan (BGP), required by the deemed planning condition attached to this permission, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
 - A timetable for the implementation and completion of the biodiversity enhancement measures set out in the approved BGP.
 - Proposals for the maintenance and monitoring of the on-site biodiversity enhancement measures. Where the biodiversity enhancements proposed in the BGP are "significant" in relation to the pre-development baseline biodiversity value of the site, provision shall be made for their maintenance and monitoring for a period of not less than 30 years from the date of completion of the development (including completion of the on-site habitat enhancements).
 - Proposals for the submission of monitoring reports to the Local Planning Authority. The scheme as approved shall be implemented in its entirety in accordance with the timetable set out in the approved scheme or such other period which may subsequently be approved in writing by the Local Planning Authority. Any Planning obligations that are proposed within the scheme shall be completed before the development is first brought into use. The Local Planning Authority shall be notified in writing within 28 days of the date of completion of the development (including completion of the on-site habitat enhancements).If the development has commenced but completion of development is not reached, and constructions works have ceased for a period of 12 months, notice shall be served to the Local Planning Authority in writing within 13 months of the last construction works on site. In the event that the development (excluding any approved on-site habitat enhancements) is not completed, the on-site enhancements shall still be implemented in full in accordance with the timetable set out the approved BGP and they shall be maintained and monitored in accordance with the provisions set out in the approved Plan.

Reason: To respond positively and seek opportunities for the enhancement of species, habitats and other assets to result in a net gain in biodiversity, in accordance with Local Plan Policy ENV5: The Natural Environment.

Notes

1 Biodiversity Net Gain

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 North Yorkshire 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 following is suggested text for inclusion in the decision notice where the local planning authority considers that the permission falls within paragraph 19 of Schedule 7A to the Town and Country Planning Act 1990.

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:

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).

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).

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.

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).

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).

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.

Target Determination Date: 12 February 2025

Case Officer: Nathan Denman

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