

Mr Adam Forsdick
c/o Mr Chris Tookey
CarneySweeney
Brunel House
2 Fitzalan Road
Cardiff
CF24 0EB

CONTACT: Rachel Richardson
PHONE: 01444 477224
E-MAIL: rachel.richardson@midsussex.gov.uk
REF: DM/24/0981
DATE: 11th October 2024

Dear Sir/Madam

Homebase 219 - 225 London Road East Grinstead West Sussex

Demolition of existing DIY retail unit and construction of Class E(a) retail foodstore with associated parking, landscaping and access works. Additional drawing received on 01.05.2024 to show height comparison between existing and proposed south west elevations. Amended drawings in relation to highways and landscaping/boundary treatment received on 14.06.2024. Amended drawings received on 28.06.2024 for staff cycle parking.

I advise that your application DM/24/0981 was **Granted Permission** on **11th October 2024**.

I enclose a copy of the Decision Notice in relation to the above application. If you are acting as an Agent please ensure that a copy is given to the applicant. **Please read the notes accompanying this decision notice carefully.**

Please also be advised that this permission does not constitute an approval under Building Regulations. Before you proceed with your proposal you should ensure that a Building Control application is not required, or has been submitted.

Yours faithfully



Ann Biggs
Assistant Director Planning and Sustainable Economy

Mr Adam Forsdick
Mr Chris Tookey
CarneySweeney
Brunel House
2 Fitzalan Road
Cardiff
CF24 0EB

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2015

PERMISSION

REFERENCE: DM/24/0981

DESCRIPTION: DEMOLITION OF EXISTING DIY RETAIL UNIT AND CONSTRUCTION OF CLASS E(A) RETAIL FOODSTORE WITH ASSOCIATED PARKING, LANDSCAPING AND ACCESS WORKS. ADDITIONAL DRAWING RECEIVED ON 01.05.2024 TO SHOW HEIGHT COMPARISON BETWEEN EXISTING AND PROPOSED SOUTH WEST ELEVATIONS. AMENDED DRAWINGS IN RELATION TO HIGHWAYS AND LANDSCAPING/BOUNDARY TREATMENT RECEIVED ON 14.06.2024. AMENDED DRAWINGS RECEIVED ON 28.06.2024 FOR STAFF CYCLE PARKING.

LOCATION: HOMEBASE, 219 - 225 LONDON ROAD, EAST GRINSTEAD, WEST SUSSEX

DECISION DATE: 11 OCT 2024

CASE OFFICER: RACHEL RICHARDSON -
RACHEL.RICHARDSON@MIDSUSSEX.GOV.UK

The Council hereby notify you that they **GRANT** planning permission for the above development to be carried out in accordance with the submitted application and plans and subject to compliance with the following conditions:-

Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. Approved Plans

The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".

Reason: For the avoidance of doubt and in the interest of proper planning.

3. Pre commencement

No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.

The above works, including for deliveries or collection of plant equipment or materials for use during the demolition/construction phases, shall be limited to the following times:

Monday to Friday: 08:00 - 18:00 Hours

Saturday: 09:00 - 13:00 Hours

Sundays and Bank/Public Holidays: no work permitted.

Reason: In the interests of highway safety and the amenities of the area and to accord with policy DP21 of the Mid Sussex District Plan 2014 - 2031 and policy EG11 of the East Grinstead Neighbourhood Plan.

4. Prior to the commencement of any part of the development hereby permitted, the details of a scheme of mitigation measures to improve air quality relating to the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with, and to a value derived in accordance with, the "Air quality and emissions mitigation guidance for Sussex" which is current at the time of the application. All works which form part of the approved scheme shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: To preserve the amenity of local residents regarding air quality and emissions and to accord with policy DP29 of the Mid Sussex District Plan 2014 - 2031.

5. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning

Authority), the following components of a scheme to deal with the risks associated with contamination of the site, including the identification and removal of asbestos containing materials, shall each be submitted to and approved, in writing, by the local planning authority:

a) A preliminary risk assessment which has identified:

- o all previous uses
- o potential contaminants associated with those uses
- o a conceptual model of the site indicating sources, pathways and receptors
- o potentially unacceptable risks arising from contamination at the site

and unless otherwise agreed in writing by the Local Planning Authority,

b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;

and, unless otherwise agreed in writing by the Local Planning Authority,

c) Based on the site investigation results and the detailed risk assessment (b) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with DP41 of the Mid Sussex District Plan 2014-2031 and national policy contained within the National Planning Policy Framework.

6. The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. No building shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements and DP41 of the Mid Sussex District Plan (2014 - 2031).

7. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Biodiversity Net Gain Statement & Assessment (Biodiverse Consulting, December 2023) and Preliminary Ecological Appraisal (Biodiverse Consulting, December 2023), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

No site clearance works should be undertaken during the nesting bird season (March to August inclusive) unless the site has first been checked by a suitably qualified ecologist to confirm, no later than 48 hours before works commences, that there are no active nests.

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006

(as amended). In accordance with DP38 of the Mid Sussex District Plan 2014 - 2031 and national policy contained within the National Planning Policy Framework.

8. On completion of slab level, a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Biodiverse Consulting, December 2023), shall be submitted to and approved in writing by the local planning authority.

The enhancement measures shall be implemented in accordance with the approved details prior to first occupation and all features shall be retained in that manner thereafter.

Reason: To enhance protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (as amended). In accordance with DP38 of the Mid Sussex District Plan 2014 - 2031 and national policy contained within the National Planning Policy Framework.

9. A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (as amended). In accordance with DP38 of the Mid Sussex District Plan 2014 - 2031 and national policy contained within the National Planning Policy Framework.

10. Prior to occupation of the development, acoustic barriers shall be installed in accordance with the design and specification of section 7.3 of the Acoustic Consultants Noise Impact Assessment (ref 10524/PJW REVB, 11/4/24) and thereafter retained.

Reason: To safeguard the amenities of the occupiers of neighbouring properties and to accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014 - 2031 and policy EG3 of the East Grinstead Neighbourhood Plan.

11. No part of the development shall be first occupied until a Service Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall set out the arrangements for the loading and unloading of deliveries, in terms of location, frequency and vehicle routing, and set out arrangements for the collection of refuse. Once occupied the use shall be carried out only in accordance with the approved Plan.

Reason: To safeguard the operation of the public highway and to accord with policy DP21 of the Mid Sussex District Plan 2014 - 2031 and policy EG11 of the East Grinstead Neighbourhood Plan.

12. No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority.
- Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies and to accord with policy DP21 of the Mid Sussex District Plan 2014 - 2031 and policy EG11 of the East Grinstead Neighbourhood Plan.
13. No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the details shown on the approved drawings.
- Reason: In the interests of road safety in accordance with policies DP21, DP26 and DP29 of the Mid Sussex District Plan 2014 - 2031 and policies EG3 and EG11 of the East Grinstead Neighbourhood Plan.
14. No part of the development shall be first occupied until 'active' and 'passive' Electric Vehicle Charging spaces have been provided in accordance with the approved plans as approved by the Local Planning Authority.
- Reason: To provide EVC charging points to support the use of electric vehicles in accordance with national sustainable transport policies and to accord with policy DP21 of the Mid Sussex District Plan 2014 - 2031 and policy EG11 of the East Grinstead Neighbourhood Plan.
15. No part of the development shall be first occupied until the vehicle parking, vehicle circulatory area and vehicle turning spaces have been constructed in accordance with the ap-proved plan. These spaces shall thereafter be retained for their designated use.
- Reason: To provide adequate on-site car parking and turning space for the development in accordance with policy DP21 of the Mid Sussex District Plan 2014 - 2031 and policies EG11 and EG12 of the East Grinstead Neighbourhood Plan.
16. No part of the development shall be first occupied until details of the proposed boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be constructed as approved prior to the building coming into first use and shall remain in perpetuity.
- Reason: In the interests of the safety of users of the car park and to protect the amenities of adjacent residents in accordance with policies DP21, DP26 and DP29 of the Mid Sussex District Plan 2014 - 2031 and policies EG3 and EG11 of the East Grinstead Neighbourhood Plan.
17. The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority a verification plan by a competent person showing that the remediation scheme required and approved has been implemented fully and in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action shall be identified within the report, and thereafter maintained.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with DP41 of the Mid Sussex District Plan 2014-2031 and National Policy contained within the National Planning Policy Framework.

18. No building is not to be occupied, or brought into use, until a Verification Report pertaining to the surface water drainage system, carried out by a competent Engineer, has been submitted to the Local Planning Authority. The Verification Report shall demonstrate the suitable operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets, and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; and topographical survey of 'as constructed' features. The Verification Report should also include an indication of the adopting or maintaining authority or organisation.

Reason: To ensure that the constructed surface water drainage system complies with the approved drainage design and is maintainable in accordance with DP41 of the Mid Sussex District Plan and national policy contained within the National Planning Policy Framework.

19. Prior to the installation of any external lighting to this site details of light intensity, spread and any shielding and times of use together with a report to demonstrate its effect on nearby residential properties shall be submitted to and approved in writing by the Local Planning Authority. It is recommended that the information be provided in a format that demonstrates compliance with the ILP Guidance Notes for the Reduction of Obtrusive Light. Relevant information is available from the following site:
<https://www.theilp.org.uk/documents/obtrusive-light>

Reason: To protect the amenity of neighbouring residents from light spill or reflection and to accord with policy DP29 of the Mid Sussex District Plan 2014 - 2031.

20. Unless otherwise agreed in writing, noise associated with fixed plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1 metre from the façade of the nearest existing noise sensitive premises, shall not exceed 37dB LA90,(T) daytime, and 27dB LA90, (T) nighttime. The Rating Level is to be determined as per the guidance provided in BS 4142:2014. Details of fixed plant or machinery and any mitigation measures required to achieve this standard shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the commercial operation concerned begins operating on site, and thereafter be maintained in accordance with the approved details. Details of post installation testing shall be submitted to the LPA upon request.

Reason: To safeguard the amenities of the occupiers of neighbouring properties and to accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014 - 2031 and policy EG3 of the East Grinstead Neighbourhood Plan.

21. No commercial goods or commercial waste shall be loaded or unloaded onto or from a delivery or collection vehicle and no such vehicles shall arrive or depart within the application site except between the hours of 07:00 - 21:00 hours Monday to Saturday and between the hours of 08:30 - 18:00 hours on Sundays and bank holidays.

Reason: To safeguard the amenities of the occupiers of neighbouring properties and to accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014 - 2031 and policy EG3 of the East Grinstead Neighbourhood Plan.

22. Vehicles used for deliveries shall not sound any reversing alarm and shall not operate any on board refrigeration unit while on site unless within the hours of 08:00 to 21:00 hours Monday to Saturday and between the hours of 08:30 - 18:00 hours on Sundays and bank holidays.

Reason: To safeguard the amenities of the occupiers of neighbouring properties and to accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014 - 2031 and policy EG3 of the East Grinstead Neighbourhood Plan.

23. The store hereby permitted shall not be open for trade or business except between the hours of 07:00 to 22:00 Monday to Saturdays and 10:00 to 16:00 on Sundays and 08:00 to 18:00 on Bank Holidays.

Reason: To safeguard the amenities of the occupiers of neighbouring properties and to accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014 - 2031 and policy EG3 of the East Grinstead Neighbourhood Plan.

24. The development hereby approved shall only be used as a retail food store (Class E). This shall be restricted to 'limited product line deep discount retailing', and shall be used for no other purpose falling within Class E(a) of the Town and Country Planning (Use Classes) Order 1987. 'Limited product line deep discount retailing' shall be taken to mean the sale of no more than 3,500 individual product lines. No increase in the number of product lines shall be permitted without the prior written approval of the Local Planning Authority.

Reason: To ensure that the proposal does not detract from the viability of the town centre and to accord with policy DP2 of the Mid Sussex District Plan 2014 - 2031 and relevant paragraphs of the National Planning Policy Framework.

25. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, or as amended in the future, no extension or alteration of the building, including the insertion of a mezzanine floor shall be carried out without the specific grant of planning permission from the Local Planning Authority.

Reason: To ensure that adequate and satisfactory provision is made for the parking of vehicles clear of the highway and to accord with Policy DP21 of the Mid Sussex District Plan 2014 - 2031 and policy EG12 of the East Grinstead Neighbourhood Plan.

26. The development hereby permitted shall be carried out in accordance with sustainability measures set out in the Design and Access Statement.

Reason: In the interests of the sustainability of the development and to accord with policy DP39 of the Mid Sussex District Plan 2014 - 2031.

27. The existing trees and soft landscaping as shown on drawing number 5051-RPS-XX-EX-DR-L-9001 P02 shall be retained. Any trees or plants, which during the construction process, or within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written

consent to any variation. The approved details shall be completed prior to first use of the building hereby approved and thereafter retained.

Reason: In the interest of the visual amenity of the area and to accord with policies DP26 and DP37 of the Mid Sussex District Plan 2014 - 2031 and policy EG3 of the East Grinstead Neighbourhood Plan.

28. On completion of slab level, details of hard landscaping shall be submitted to and approved by the Planning Authority. The approved details shall be completed prior to first use of the building hereby approved and thereafter retained.

Reason: In the interest of the visual amenity of the area and to accord with policies DP26 of the Mid Sussex District Plan 2014 - 2031 and policy EG3 of the East Grinstead Neighbourhood Plan.

Biodiversity Net Gain

1. This permission is considered to be one which **will require the approval of a biodiversity gain plan before development is begun** (which includes demolition) because none of the statutory exemptions or transitional arrangements are considered to apply.

Please see the information contained within the notes to applicants/agents set out below.

Informatives

1. In accordance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance.

Accordingly, you are requested that:

- Measures shall be implemented to prevent dust generated on site from crossing the site boundary during the demolition/construction phase of the development.
- No burning of materials shall take place on site at any time.

If you require any further information on these issues, please contact Environmental Protection on 01444 477292.

3. The applicant is advised of the requirement to enter into early discussions with and obtain the necessary licenses from the Highway Authority to cover any temporary construction related works that will obstruct or affect the normal operation of the public highway prior to any works commencing, should such works be required. These temporary works may include, the placing of skips or other materials within the highway, the temporary closure of on street parking bays, the imposition of temporary parking restrictions requiring a

Temporary Traffic Regulation Order, the erection of hoarding or scaffolding within the limits of the highway, the provision of cranes oversailing the highway

4. The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to (amongst other things): deliberately capture, disturb, injure, or kill great crested newts; damage or destroy a breeding or resting place; intentionally or recklessly obstruct access to a resting or sheltering place. Planning permission for a development does not provide a defence against prosecution under this legislation. Should great crested newts be found at any stage of the development works, then all works should cease, and a professional and/or suitably qualified and experienced ecologist (or Natural England) should be contacted for advice on any special precautions before continuing, including the need for a licence
5. You are advised that this planning permission requires compliance with a planning conditions before development commences. You are therefore advised to contact the case officer as soon as possible, or you can obtain further information from:
<https://www.gov.uk/guidance/use-of-planning-conditions#discharging-and-modifyingconditions>

(Fee of £145 will be payable per request). If you carry out works prior to a pre-development condition being discharged then a lawful start will not have been made and you will be liable to enforcement action.
6. In order to ensure approval of condition no. 5 in respect of air quality, the Council recommends that the submitted details / scheme is agreed in advance with the Council's Air Quality Officer.

Human Rights Implications

The planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

Plans Referred to in Consideration of this Application

The following plans and documents were considered when making the above decision:

Plan Type	Reference	Version	Submitted Date
Proposed Elevations	AD_111		01.05.2024
Location Plan	AD_090		23.04.2024
Existing Floor Plans	AD_101	REV B	22.04.2024
Existing Elevations	AD_103		22.04.2024
Proposed Elevations	AD_108		18.04.2024
Topographical Survey	SHEETS 1-3		18.04.2024
Landscaping Details	5051-RPS-XX-EX-DR-L-9001	P02	18.04.2024
Proposed Roof Plan	AD_106	REV A	18.04.2024
Lighting Layout/Light Pollution	DWG 00-02	REV 4	18.04.2024
Proposed Site Plan	AD_104	D	28.06.2024
Proposed Floor Plans	AD_105	C	28.06.2024
Landscaping	AD_109	C	28.06.2024
Planning Layout	AD_110	D	28.06.2024
Other	AD_112	A	28.06.2024

A handwritten signature in black ink, appearing to read 'AB', with a stylized flourish at the end.

Ann Biggs
Assistant Director Planning and Sustainable Economy

PEFULZ

APPEALS TO THE SECRETARY OF STATE

Notes for Applicants

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice;

However, if

- (i) this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, and you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice; or
- (ii) an enforcement notice is subsequently served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within:
 - 28 days of the date of service of the enforcement notice, or
 - within 6 months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>.

If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.uk](#).

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 Mid Sussex District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition that apply in this instance

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.

The effect of Paragraph 19 of Schedule 7A to the Town and Country Planning Act 1990

If 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).

Purchase Notices

If either the Local Planning Authority or Secretary of States refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the District Council. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.