

Jones Homes (Southern) Limited
c/o Mr Jack Karagoz
DHA Planning Ltd
Unit 419
The Print Rooms
164-180 Union Street
London
SE1 0LH

CONTACT: Susan Dubberley
PHONE: 01444 477590
E-MAIL: susan.dubberley@midsussex.gov.uk
REF: DM/25/3090
DATE: 20th April 2026

Dear Sir/Madam

Land Rear Of 96 Folders Lane Burgess Hill West Sussex RH15 0DX
Variation of condition no 2 relating to planning application DM/23/0532 - to revise the location of the apartment blocks refuse and cycle store. Removal of condition 5 - wheelchair accessible unit.

I advise that your application DM/25/3090 was **Granted Permission** on **20th April 2026**.

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



Eric Owens
Interim Assistant Director Planning and Sustainable Economy

Jones Homes (Southern) Limited
Mr Jack Karagoz
DHA Planning Ltd
Unit 419
The Print Rooms
164-180 Union Street
London
SE1 0LH

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

PERMISSION

REFERENCE: DM/25/3090

DESCRIPTION: VARIATION OF CONDITION NO 2 RELATING TO PLANNING APPLICATION DM/23/0532 - TO REVISE THE LOCATION OF THE APARTMENT BLOCKS REFUSE AND CYCLE STORE. REMOVAL OF CONDITION 5 - WHEELCHAIR ACCESSIBLE UNIT.

LOCATION: LAND REAR OF 96 FOLDERS LANE, BURGESS HILL, WEST SUSSEX, RH15 0DX

DECISION DATE: 20 APR 2026

CASE OFFICER: SUSAN DUBBERLEY -
SUSAN.DUBBERLEY@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 on or before 29th April 2028.

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

2. 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. The development hereby approved shall be carried out in accordance with the submitted details of the materials and finishes to be used for external walls, windows, doors and roofs of the proposed building approved under condition 3 of application DM/25/2295. The works to be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve buildings of visual quality and to accord with Policy DP26 of the District Plan 2014 - 2031.

4. The development shall be carried out in accordance with the submitted details approved under condition 4 of application DM/25/2295. The works to be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve buildings of visual quality and to accord with Policy DP26 of the District Plan 2014 - 2031

5. N/A

6. (i) No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological evaluation identified in the submitted Written Scheme of Investigation and confirmed by the local authority archaeological advisors.
(ii) A mitigation strategy detailing the excavation / preservation strategy shall be submitted to the local planning authority following the completion of the archaeological evaluation.
(iii) No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.
(iv) The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: To protect the archaeological value of the site and to accord with policy DP34 of the Mid Sussex District Plan 2014-2031.

7. The development hereby approved shall be carried out in accordance with the submitted Construction Management Plan approved under condition 7 of application DM/25/2434. The approved Plan shall be implemented and adhered to throughout the entire construction period.

Reason: To ensure safe and neighbourly construction in the interests of amenity and road safety and to accord with Policies DP21, DP26 and DP29 of the Mid Sussex District Plan 2014-2031.

8. No construction plant or machinery shall be used and no commercial goods or commercial waste shall be loaded, unloaded, stored or otherwise handled and no vehicles shall arrive or depart, within the application site outside the hours of 08:00 - 18:00 Hours Monday - Friday, 09:00 - 13:00 Hours Saturday, and no work permitted on Sundays or Bank/Public Holidays.

Reason: To ensure safe and neighbourly construction in the interests of amenity and road safety and to accord with Policies DP21, DP26 and DP29 of the Mid Sussex District Plan 2014-2031.

9. The development hereby approved shall be carried out in accordance with the scheme of mitigation measures to improve air quality approved under condition 9 of application DM/25/2295. 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 protect air quality and to accord with policy SA38 of the Site Allocations Development Plan Document 2022.

10. The development hereby approved shall be carried out in accordance with the details approved under condition 10 of application DM/25/1777.

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.

11. Not required due to details approved under condition 10 of application DM/25/1777.

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.

12. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the LPA), shall be carried out until a method statement identifying, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the LPA. The remediation measures shall be carried out as approved and in accordance with the approved programme. If no unexpected contamination is encountered during development works, on completion of works and prior to occupation a letter confirming this should be submitted to the LPA. If unexpected contamination is encountered during development works, on completion of works and prior to occupation, the agreed information, results of investigation and details of any remediation undertaken will be produced to the satisfaction of and approved in writing by the Local Planning Authority.

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.

13. No development above ground floor slab level shall commence until full details of hard and soft landscaping scheme have been submitted to, and approved in writing, by, the Local Planning Authority. To include details of any tree Pruning, Canopy Reduction or Lifting.

The works shall be carried out prior to the occupation of that particular phase of the development. Any trees or plants which, within a period of five years from 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.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031 and policy SA13 of the Site Allocations Development Plan Document 2022.

14. No dwelling shall be first occupied until the car parking serving the respective dwelling has been constructed in accordance with the approved site plan. Once provided the spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide adequate on-site car parking for the development and to accord with Policy DP21 of the Mid Sussex District Plan.

15. No dwelling shall be first occupied until covered and secure cycle parking spaces serving the respective dwelling have been provided in accordance with plans and details approved under condition 15 of DM/25/2295.

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.

16. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Lizard Landscape Design and Ecology, May 2024), Reptile Survey Report (Lizard Landscape Design and Ecology, December 2023), Bat Survey Report (Lizard Landscape Design and Ecology, November 2023), Preliminary Ecological Appraisal (Lizard Landscape Design and Ecology, November 2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This includes the non-licensed Precautionary Method Statement for bats in Section 4.5.4 of the Ecological Impact Assessment (Lizard Landscape Design and Ecology, May 2024), which avoids impacts on European Protected Species.

This will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details

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) and in accordance with policies DP38 of the Mid Sussex District Plan and 180 of the NPPF.

17. All works to be carried out in accordance with the Dormouse Licence issued by Natural England on 08/01/2026.

Reason: To conserve protected 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 s17 Crime & Disorder Act 1998 and in accordance with policies DP38 of the Mid Sussex District Plan and 180 of the NPPF.

18. The development hereby approved shall be carried out in accordance with the submitted Reptile Mitigation Strategy approved under condition 18 of application DM/25/2396. The Reptile Mitigation Strategy shall be implemented in accordance with the approved details, and all features shall be retained in that manner thereafter.

Reason: To allow the LPA to discharge its duties under the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as amended) and in accordance with policies DP38 of the Mid Sussex District Plan and 180 of the NPPF.

19. The development hereby approved shall be carried out in accordance with the submitted construction environmental management plan (CEMP: Biodiversity) approved under condition 19 of application DM/25/2396. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To conserve 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 (Priority habitats & species) and in accordance with policy DP38 of the Mid Sussex District Plan and 180 of the NPPF.

20. No development shall be carried out above ground slab level unless and until there has been submitted to and approved in writing by the Local Planning Authority A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Ecological Impact Assessment (Lizard Landscape Design and Ecology, May 2024), 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 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) and in accordance with policy DP38 of the Mid Sussex District Plan and 180 of the NPPF.

21. The development shall be carried out in accordance with lighting scheme approved under condition 21 of application DM/25/2396. 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) and in accordance with policy DP38 of the Mid Sussex District Plan and 180 of the NPPF Policy.

22. Prior to commencement of development, in accordance with the submitted Flood Risk Assessment and Drainage Strategy 2104771-01C by Ardent, October 2024, Revision C and Dwg. 2104771-002 B Drainage Strategy, October 2024 detailed designs of a surface water drainage scheme incorporating the following measures shall be submitted to and agreed with the Local Planning Authority. The approved scheme will be implemented prior to the first occupation of the development. The scheme shall address the following matters:
- I. Additional detailed infiltration testing in accordance with BRE Digest 365 (or equivalent) along the length and proposed depth of the proposed attenuation basin. If infiltration is proven to be unfavourable then greenfield runoff rates will be attenuated to $Q_{bar} 9.9 \text{ l/s}$ as stated within section 6.7 of the FRA and Drainage Strategy.
 - II. Provision of surface water attenuation storage, sized and designed to accommodate the volume of water generated in all rainfall events up to and including the critical storm duration for the 3.33% and 1% annual probability rainfall events (both including allowances for climate change).
 - III. Detailed designs, modelling calculations using up to date parameters and plans of the of the drainage conveyance network in the:
 - o 3.33% annual probability critical rainfall event plus climate change to show no above ground flooding on any part of the site.
 - o 1% annual probability critical rainfall plus climate change event to show, if any, the depth, volume and storage location of any above ground flooding from the drainage network ensuring that flooding does not occur in any part of a building or any utility plant susceptible to water (e.g. pumping station or electric substation) within in the development.
 - IV. The design of the infiltration / attenuation basin will incorporate an emergency spillway and any drainage structures include appropriate freeboard allowances. Plans to be submitted showing the routes for the management of exceedance surface water flow routes that minimise the risk to people and property during rainfall events in excess of 1% annual probability rainfall event.
 - V. Finished ground floor levels of properties are a minimum of 300mm above expected flood levels of all sources of flooding (including the ordinary watercourses, Suds features and within any proposed drainage scheme) or 150mm above ground level, whichever is the more precautionary.
 - VI. Details of how all surface water management features to be designed in accordance with The SuDS Manual (CIRIA C753, 2015), including appropriate treatment stages for water quality prior to discharge.

Reason: To prevent flooding in accordance with National Planning Policy Framework paragraph 173 and 175 by ensuring the satisfactory management of local sources of flooding surface water flow paths, storage and disposal of surface water from the site in a range of rainfall events and ensuring the SuDS proposed operates as designed for the lifetime of the development and to comply with policy DP41 of the District Plan and policy SA12 of the Site Allocations Development Plan Document 2022.

23. Prior to commencement of development any construction shall not begin until a detailed construction phase surface water management plan for the site has been

submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be carried out in accordance with the approved details.

Reason: To ensure that the construction of the site does not result in any flooding both on and off site and that all surface water drainage features are adequately protected and to comply with policy DP41 of the District Plan and policy SA12 of the Site Allocations Development Plan Document 2022.

24. The development hereby approved shall not be first occupied until details of the maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be implemented prior to the first occupation of the development hereby approved and thereafter managed and maintained in accordance with the approved details in perpetuity. The Local Planning Authority shall be granted access to inspect the sustainable drainage scheme for the lifetime of the development. The details of the scheme to be submitted for approval shall include:
- I. a timetable for its implementation,
 - II. details of SuDS features and connecting drainage structures and maintenance requirement for each aspect,
 - IV. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

Reason: To ensure that the development achieves a high standard of sustainability and ensure the flood risk is adequately addressed for each new dwelling and not increased in accordance with NPPF and comply with policy DP41 of the District Plan.

25. Prior to first use a detailed verification report, (appended with substantiating evidence demonstrating the approved construction details and specifications have been implemented in accordance with the surface water drainage scheme), has been submitted to and approved (in writing) by the Local Planning Authority. The verification report shall include photographs of excavations and soil profiles/horizons, any installation of any surface water structure and Control mechanism.

Reason: To ensure that the development achieves a high standard of sustainability and ensure the flood risk is adequately addressed for each new dwelling and not increased in accordance with NPPF and policy DP41 of the District Plan and policy SA12 of the Site Allocations Development Plan Document 2022.

Biodiversity Net Gain

1. This permission is considered to be one which **will not require the approval of a biodiversity gain plan before development is begun** because it is considered that one of the statutory exemptions or transitional arrangements is 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. Temporary directional signs to housing developments (Major apps only 10 units +)The applicant is advised that they must apply and obtain approval from West Sussex County Council as Highway Authority for all temporary directional signs to housing developments that are to be located on the highway. Further details of the process and how to apply are available here:
<https://www.westsussex.gov.uk/roads-and-travel/information-for-developers/temporarydevelopment-signs/#overview>.
3. The proposed development will require formal address allocation. You are advised to contact the Council's Street Naming and Numbering Officer before work starts onsite. Details of fees and advice for developers can be found at www.midsussex.gov.uk/streetnaming or by phone on 01444 477175.
4. Your attention is drawn to the requirements of the Environmental Protection Act 1990with regard to your duty of care not to cause the neighbours of the site a nuisance.
Accordingly, you are requested that:
No burning of demolition/construction waste materials shall take place on site.
If you require any further information on these issues, please contact Environmental Protection on 01444 477292.
5. Erection of flow control structures or any culverting of an ordinary watercourse requires consent from the appropriate authority, which in this instance is Arun District Council on behalf of West Sussex County Council. It is advised to discuss proposals for any works at an early stage of proposals.
Please note if the LPA decide to grant planning permission, we wish to be notified for our records should there be any subsequent surface water flooding that we may be required to investigate as a result of the new development.
6. The granting of planning permission does not authorise obstruction of, interference tooor moving of any Public Right of Way (PROW); this can only be done with the prior consent of West Sussex County Council (WSCC), as highway authority, and possibly also a legal Order process by (Mid Sussex District Council) as the local planning authority.
7. The obligations under the planning obligation by way of Agreement dated 24th April 2025 pursuant to the pervious application DM/23/0532 will be equally applied to and satisfy the requirements necessitated under this application DM/25/3090.

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
General	22130-P103G	materials	02.12.2025
General	22130-P104J	surface	02.12.2025
		materials layout	
General	22130-P106G	refuse strategy	02.12.2025
General	22130-P107G	parking strategy	02.12.2025
General	22130-P108G	garden lengths	02.12.2025
		layout	
General	22130-P109K	air source heat	02.12.2025
		pump	
General	22130-P130A	ancillary	02.12.2025
		buildings	
General	22130-C101L	Coloured Site	02.12.2025
		Layout	
General	22130-C109J	Coloured Street	02.12.2025
		Scenes	
General	22130-P101K	Proposed Site	02.12.2025
		Layout	
General	22130-P102H	Boundary Types	02.12.2025
		Layout	
Proposed Floor and Elevations Plan	22130 - P115	E	19.04.2024
Proposed Floor and Elevations Plan	22130 - P116	A	19.04.2024
Proposed Floor and Elevations Plan	22130 - P117	A	19.04.2024
Proposed Floor and Elevations Plan	22130 - P118	A	19.04.2024
Proposed Floor and Elevations Plan	22130 - P119	D	19.04.2024
Proposed Floor and Elevations Plan	22130 - P120	C	19.04.2024
Proposed Floor and Elevations Plan	22130 - P121	B	19.04.2024
Proposed Floor and Elevations Plan	22130 - P122	D	19.04.2024
Proposed Floor and Elevations Plan	22130 - P123	B	19.04.2024
Proposed Floor and Elevations Plan	22130 - P124	B	19.04.2024
Proposed Floor and Elevations Plan	22130 - P125	B	19.04.2024
Proposed Floor and Elevations Plan	22130 - P126	A	19.04.2024
Proposed Floor and Elevations Plan	22130 - P127	C	19.04.2024
Street Scene	22130 - P110	A	24.02.2023
Proposed Floor and Elevations Plan	22130 - P128	B	19.04.2024
Proposed Floor and Elevations Plan	22130 - P129	B	19.04.2024
Proposed Floor and Elevations Plan	22130 - P130		19.04.2024
Location Plan	22130 - S101	A	24.02.2023
Site Plan	17261 - S102		24.02.2023
Levels	2104771-001	A	24.02.2023
Proposed Floor and Elevations Plan	22130 - P131		19.04.2024
Tree Survey	LLD2765-ARB	DWG-02	24.02.2023
Tree Survey	LLD2765-ARB	DWG-03	24.02.2023
Tree Survey	LLD2765-ARB	DWG-04	24.02.2023
Tree Survey	LLD2765-ARB	DWG-05	24.02.2023
Tree Survey	LLD2765-ARB	DWG-06	24.02.2023
Tree Survey	LLD2765-ARB	DWG-07	24.02.2023

A handwritten signature in black ink, appearing to read 'EO' followed by a stylized flourish.

Eric Owens
Interim Assistant Director Planning and Sustainable Economy

PECNDZ

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 (8 weeks in the case of advertisements, 12 weeks in the case of householder or minor commercial development) of the date of this notice *(see exceptions below)

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 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.

- * If this decision relates to the same or substantially the same land and development as is already the subject of an enforcement notice, 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 this notice.*
- * If an enforcement notice is 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.*

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 replaceable 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.