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CONTACT: Katherine Williams
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E-MAIL: katherine.williams@midsussex.gov.uk
REF: DM/25/2774
DATE: 19th February 2026

Dear Sir/Madam

**Havelock Farm Wakehurst Place Selsfield Road Ardingly
Variation of condition 31 (approved plans) of planning permission DM/22/1774 (as
amended by NMA DM/25/2016) to allow alterations to the approved scheme.**

I advise that your application DM/25/2774 was **Granted Permission** on **19th February 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



Ann Biggs
Assistant Director Planning and Sustainable Economy

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

PERMISSION

REFERENCE: DM/25/2774

DESCRIPTION: VARIATION OF CONDITION 31 (APPROVED PLANS) OF PLANNING PERMISSION DM/22/1774 (AS AMENDED BY NMA DM/25/2016) TO ALLOW ALTERATIONS TO THE APPROVED SCHEME.

LOCATION: HAVELOCK FARM, WAKEHURST PLACE, SELSFIELD ROAD, ARDINGLY

DECISION DATE: 19 FEB 2026

CASE OFFICER: KATHERINE WILLIAMS -
KATHERINE.WILLIAMS@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. Prior to the commencement of any development above ground/slab level plans shall have been submitted to and approved in writing by the local planning authority of detailed 1:20 section and elevation drawings showing the return north elevation of Glasshouse 1 including all windows, doors, the roof and solar panels, rainwater pipes and guttering, the façade details and the junction with the fully glazed part of the

glasshouse. The development shall be carried out in accordance with these approved details.

Reason: To achieve a development of visual quality in the AONB and to accord with Policies DP16 and DP26 of the District Plan and the NPPF.

2. Prior to the commencement of any development above ground/slab level a schedule of materials and finishes to be used for the external facings of the proposed buildings shall have been submitted to and approved by the Local Planning Authority. The materials should be based on the High Weald Colour Study, should reflect those used in the local area and be locally sourced where possible. The works shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority in writing.

Reason: To achieve a development of visual quality in the AONB and to accord with Policies DP16 and DP26 of the Mid Sussex District Plan and Policy ARD2 of the Neighbourhood Plan.

3. The works shall be carried out in accordance with the Arboricultural Method Statement approved in application ref: DM/23/2802.

Reason: To achieve a development of visual quality in the AONB and to accord with Policies DP16, DP26 and DP37 of the Mid Sussex District Plan and Policy ARD2 of the Neighbourhood Plan.

4. The development shall be built in accordance with the hard and soft landscaping plans and details submitted with the application. The approved scheme of soft landscaping works shall be implemented not later than the first planting season following commencement of the development (or within such extended period as may first be agreed in writing with the Local Planning Authority). Any planting removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation.

Reason: To achieve a development of visual quality in the AONB and to accord with Policies DP16, DP26 and DP37 of the Mid Sussex District Plan and Policy ARD2 of the Neighbourhood Plan.

5. A historic building survey shall be submitted following the completion of the demolition phase of the development and approved in writing by the local planning authority. This information shall follow the detailed measurement and recording methodology approved under reference DM/23/2802.

Reason: In the interests of the special interest of the heritage assets and to accord with Policy DP34 of the Mid Sussex District Plan.

6. Prior to the commencement of any development above ground/slab level details of the proposed foul and surface water drainage and means of disposal shall have been submitted to and approved in writing by the local planning authority. No building/area shall be occupied or brought into use 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 Policy DP41 of the District Plan and the NPPF.

7. The advance planting to the western boundary shall be implemented in accordance with the plans and details submitted with the application and will need to be carried out prior to any other construction work above ground/slab level and in accordance with an implementation timetable agreed in writing with the Local Planning Authority.

Reason: To achieve a development of visual quality in the AONB and to accord with Policies DP16, DP26 and DP37 of the Mid Sussex District Plan and Policy ARD2 of the Neighbourhood Plan.

8. Prior to the commencement of any development above ground/slab level, a Landscape Management Plan, including long term design objectives, management responsibilities and maintenance schedules and periods for all soft landscape areas together with a timetable for the implementation of the landscape management plan, shall have been submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall be carried out in accordance with the approved details and timetable.

Reason: To achieve a development of visual quality in the AONB and to accord with Policies DP16, DP26 and DP37 of the Mid Sussex District Plan and Policy ARD2 of the Neighbourhood Plan.

9. The works shall be carried out in accordance with the Construction Environmental Management Plan (CEMP) approved in application ref: DM/23/2802.

Reason: To protect neighbouring residential amenity and to accord with Policy DP26 of the District Plan.

10. The works shall be carried out in accordance with the Construction Environmental Management Plan (CEMP: Biodiversity) approved in application ref: DM/23/2802.

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 and Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats and species) and to accord with Policy DP38 of the District Plan.

11. Prior to the commencement of any development above ground/slab level a Biodiversity Compensation and Enhancement Strategy shall have been submitted to and approved in writing by the local planning authority. The content of the Biodiversity Compensation and Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed compensation measures,
- b) purpose and conservation objectives for the proposed enhancement measures,
- c) detailed designs to achieve stated objectives,
- d) locations of proposed enhancement measures by appropriate maps and plans,
- e) persons responsible for implementing the compensation and enhancement measures,

f) details of initial aftercare and long-term maintenance (where relevant). The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To enhance protected and Priority species and habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats and species) and to accord with Policy DP38 of the District Plan.

12. Prior to the commencement of any development above ground/slab level, a Landscape and Ecological Management Plan (LEMP) shall have been submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats and species) and to accord with Policy DP38 of the District Plan.

13. Prior to the commencement of any development above ground/slab level 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 site investigation scheme, 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 LPA,
 - b) 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 and to accord with the NPPF.

14. Prior to the commencement of any development above ground/slab level details showing the proposed location of one fire hydrant or stored water supply (in accordance with the West Sussex Fire and Rescue Guidance Notes) shall be submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service.

Reason: In the interests of amenity and in accordance with The Fire and Rescue Service Act 2004.

15. Prior to the commencement of any development above ground/slab level, a Water Supply Plan shall have been submitted to and approved in writing by the local planning authority. The Plan shall set out details about how the proposal accords with Policy DP42 of the District Plan in respect of the water supply that will serve the development. The development shall proceed in accordance with the approved details.

Reason: To ensure that there is adequate water supply to serve the development and to accord with Policy DP42 of the District Plan.

16. Prior to the commencement of any development above ground/slab level, a Glare Mitigation Plan shall have been submitted to and approved in writing by the local planning authority. The Plan shall set out details about how the proposal will minimise potential lighting glare adversely affecting neighbouring residential properties and how this will be managed in the long term. The development shall proceed in accordance with the approved details.

Reason: To protect the amenity of local residents and to accord with Policy DP26 of the Mid Sussex District Plan

17. Construction

Construction work on the site, including the use of plant and machinery, necessary for implementation of this consent shall, unless otherwise agreed in writing, be limited to the following times:

Monday -Friday 08:00 - 18:00 Hours

Saturday 09:00 - 13:00 Hours

Sundays and Bank/Public Holidays No work permitted

Reason: To protect the amenity of local residents and to accord with Policy DP26 of the Mid Sussex District Plan.

18. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Bat Mitigation Strategy and Hazel Dormice Non-Licensed Method Statement (Surrey Wildlife Trust, March 2023), Biodiversity Net Gain Assessment (Surrey Wildlife Trust, March 2023) and Ecological Impact Assessment (DeltaSimons, March November 2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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 and Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats and species) and to accord with Policy DP38 of the District Plan.

19. 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 LPA.

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 and to accord with the NPPF.

20. Pre-Occupation/Use of buildings

No part of the development shall be first occupied until the vehicular turning area has been provided in accordance with the approved plans and such space not thereafter be used other than for the purposes for which it is provided.

Reason: In the interests of protecting users of the public right of way and to accord with Policies DP21 and DP22 of the District Plan.

21. 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 submitted to and approved 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 District Plan

22. 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. The lighting scheme shall also be designed to protect the intrinsically dark night skies of the High Weald and neighbouring residential amenity.

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 and Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats and species), to protect neighbouring residential amenity and the AONB and to accord with Policies DP16, DP26 and DP38 of the District Plan.

23. No part of the development shall first be occupied unless and until a detailed schedule of works, including plans and elevations as appropriate, relating to the remaining historic farmstead buildings including any works of demolition and making good, as well as a timetable for the works, has been submitted to and approved in writing by the local planning authority. All buildings to be retained should be left in a structurally sound and weathertight condition. The development shall proceed in accordance with the approved details.

Reason: In the interests of the special interest of the heritage assets and to accord with Policy DP34 of the Mid Sussex District Plan.

24. 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 under condition 13 has been implemented fully and in accordance with the approved details (unless varied with the written agreement of the LPA 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 and to accord with the NPPF.

25. Prior to the first occupation of any dwelling/unit forming part of the proposed development that they will at their own expense install the fire hydrant (or in a phased programme if a large development) approved under the terms of condition 14 in the approved location to BS 750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.

The fire hydrant shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner / occupier if the installation is retained as a private network.

Reason: In the interests of amenity and in accordance with The Fire and Rescue Service Act 2004.

26. The development shall be constructed in accordance with the applicant's Sustainability and Energy Statement (Pick Everard 25/05/2022). No part of the development shall be first occupied unless or until the details of the PV arrays (siting and design) have been submitted to and approved in writing by the local planning authority with the development proceeding only in accordance with these approved details.

Reason: In the interests of sustainability and to accord with Policy DP39 of the District Plan.

27. Post-occupation / management

Noise associated with plant and machinery incorporated within the development, that will be used between the hours of 23:00 and 07:00, 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 30dB. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014.

Reason: To protect neighbouring residential amenity and to accord with Policy DP26 of the District Plan.

28. Noise associated with plant and machinery incorporated within the development, that will be used between the hours of 07:00 and 23:00, 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 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014.

Reason: To protect neighbouring residential amenity and to accord with Policy DP26 of the District Plan.

29. **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.

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 began** because it is considered that one or more 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. 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:

- 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.

2. Your attention is drawn to the comments from the West Sussex County Council Public Rights of Way team:

"From the documents provided it seems there is no plan to obstruct or restrict public footpath 3Ar that runs adjacent to the development site therefore we have no objection to the proposals.

Having said that it seems the footpath will be the route of access onto site for vehicles so there are some points to note. It should be clear that public rights take precedent over private rights of vehicular access therefore any vehicular use should give way to public pedestrian users. It is also important to note that any damage done to the footpath surface as part of the exercise of private vehicular rights is the responsibility of those exercising those rights to make good and any works must have a specification and method statement approved by WSCC as Highway Authority.

Finally I should point out that there should be no positive drawings from the proposed development onto the public footpath and if there are proposals that may impact the public footpath these will require WSCC's PROW teams approval before works start."

3. 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 identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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
Landscaping	6730-LLB-XX-E1-DR-L-0001-S4-P09		28.10.2025
Landscaping	6730-LLB-XX-E1-DR-L-0003-S4-P05	2	02.02.2026
Landscaping	6730-LLB-XX-E2-DR-L-0002-S4-P09		28.10.2025
Landscaping	6730-LLB-XX-E2-DR-L-0004-S4-P05	2	02.02.2026
Landscaping	6730-LLB-XX-XX-DR-L-0004-S4-P06		28.10.2025
Landscaping	6730-LLB-XX-XX-DR-L-0005-S4-		28.10.2025

Landscaping	P04 6730-LLB-XX-XX- DR-L-0006-S4-		28.10.2025
	P03		
Proposed Floor Plans	C1913-500-120	A	28.10.2025
Landscaping Details	6730-LLB-XX-XX- RP-L-0002-S4-		28.10.2025
	P04		
Drainage Details	C1913-500-110		28.10.2025
Drainage Details	C1913-500-111		28.10.2025
Proposed Floor Plans	C1913-500-121	A	28.10.2025
Sections	C1913-500-122	A	28.10.2025
Sections	C1913-500-123	A	28.10.2025
Proposed Elevations	C1913-500-124	A	28.10.2025
Lighting Layout/Light Pollution	0104349-HLEA- XX-XX-DR-E- 708001	P03	28.10.2025
Proposed Elevations	A06 1002	P1	28.10.2025
Proposed Elevations	A06 1003	P1	28.10.2025
Proposed Elevations	A06 1004	P1	28.10.2025
Proposed Floor Plans	A03 1001	P1	28.10.2025
Proposed Elevations	A02 1030	P1	28.10.2025
Proposed Site Plan	A02 1002	P1	10.12.2025
Sections	A021020	P1	28.10.2025
General	General Plan		28.10.2025



Ann Biggs
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

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 12th February 2024, or
- (ii) The application for the original planning permission* to which the Section 73 planning permission relates was made before 12th February 2024.

* "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 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.