

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No:	2024/62/92723/E
Site Address:	Old Hall Stables, Timothy Lane, Upper Batley, Batley, WF17 0BA
Description:	Change of use and erection of extensions and alterations to convert stables to keeper/grooms quarter accommodation
Recommending Officer:	Elenya Jackson

DECISION – Conditional Full Permission

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Sarah Longbottom

AUTHORISED OFFICER

Date: 25 November 2024

OFFICER REPORT

Site Description

The site is currently occupied by a stable, covered in hard standing associated with accessing the site (this is informally laid out). The existing structure is to the north of the site 57m away from the road. The north of the site is undeveloped land, there is a riding arena 129m to the west of the site and a terraced row 35m to the southwest.

The immediate vicinity of the site is predominantly residential in nature with dwellings forming the majority of the street scene.

Description of Proposal

Permission is sought for the Change of use and erection of extensions and alterations to convert stables to keeper/grooms quarter accommodation. The proposals would facilitate the use of the site to accommodate a full livery, stallion services, foaling care, and equine recovery services.

The proposals would include extensions to the northern and eastern elevations. These would extend 1m beyond the rear elevation of the dwelling and 4m towards the northern elevation of the dwelling. The roof of the building would be altered from a flat roof to a pitched roof with a maximum height 4.5m with an eaves height of 2.9m.

Relevant Planning History

2023/21688 – Pre-application enquiry – advice given

2001/90028: ERECTION OF STORAGE BARN, STORAGE HUT AND EXTENSION TO EXISTING STABLES. Refused

91/05047: Erection of stables. Conditional full permission.

90/01300: Erection of stables. Conditional full permission.

History of Negotiations

None considered necessary.

Representations

The application was advertised by neighbour notification letters, which expired on 4/11/2024.

Four representations were received in response to site publicity which raised the following concerns:

- If attenuation tanks will be used
- Concerns regarding surface water run off
- flooding
- Requests road speed signs
- Rubbish disposal
- Light pollution
- Noise pollution
- Access for machinery
- Number of residents living on site
- Sanitation
- Ground gas

Consultation Responses

Non statutory

KC Waste: Waste associated with stables is classed as industrial waste.

KC Environmental Health: Accept the findings of the phase 1 report and recommend conditions.

Statutory

The Coal Authority: Agrees with the recommendations made in the phase one report and recommends conditions.

KC Highways DM : Given that access and parking arrangements are unchanged, and the proposed accommodation is ancillary to an existing business Highways Development Management have no objection to these proposals.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is located within the Green Belt on the Kirklees Local Plan.

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the

suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Kirklees Local Plan Policies

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP7** – Effective use of land and buildings
- **LP21**- Highway safety
- **LP 22** – Parking
- **LP 24** - Design
- **LP28**- Drainage
- **LP30** – Biodiversity and Geodiversity
- **LP51**- Protection and improvement of local air quality
- **LP53**- Contaminated and unstable land
- **LP57**- Extension alteration or replacement of existing building
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National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th December 2023, and Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving Sustainable Development
- Chapter 4 – Decision-Making
- Chapter 8 – Promoting Health and Safe Communities
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Design
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations

6) Conclusion

1 – Principle of development

The site is allocated as Green Belt on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP would be relevant, in conjunction with Chapter 12 of the NPPF regarding design.

The site is within the Green Belt and therefore the main issues are:

- Whether the proposal would be inappropriate development for the purposes of the NPPF and Kirklees Local Plan
- The effect of the proposal on the openness of the Green Belt, and on the character and appearance of the area
- If found to be inappropriate development, whether the harm by reason of inappropriateness is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify development.
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Chapter 13 of the NPPF requires Local Planning Authorities to regard the construction of new buildings in the Green Belt as inappropriate development. Exceptions to this include the extension or alteration of a building providing it does not result in disproportionate additions over and above the size of the original building.

An 'original building' is defined in the NPPF glossary as "a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.

Policy LP57 of the Kirklees Local Plan states that extensions will normally be acceptable provided that the host building remains the dominant element both in terms of size and overall appearance. The cumulative impact of previous extensions and other associated buildings will be considered. Proposals to extend buildings which have already been extended should have regard to the scale and character of the original part of the building. Furthermore, the proposal should not result in a greater impact on openness in terms of the treatment of outdoor areas, including hard standings, curtilages and enclosures and means of access; and the design and materials used should be sensitive to the character of the Green Belt setting.

The proposal would increase the footprint of the existing building by 4m to the north and 1m to the east; as such the proposal is to be assessed having regard to Policy LP57 and NPPF chapter 13.

The plans provided indicate that 9 stables would be provided as part of the proposal (the existing site has 11 stables) and four rooms would be utilised by individuals that would run/use the facility.

Impact to the Green Belt has both spatial and visual parameters; it is considered by officers that the increase in volume/scale of the building within the Green Belt would be limited when considered in the context of the site and

the proposal being on the northern boundary of the existing building would reduce its visual implications in the Green Belt due to having limited vantage points from the public realm.

No details have been provided regarding parking/ re-surfacing or hard standing on site and therefore officers understand that this would remain as existing.

A further point would be that the proposal would facilitate the use of the site as a 24-hour livery service. It is considered that this would accord with LP10 in terms of supporting small/medium enterprises in the rural economy. The proposal is considered to be an acceptable form of development within the Green Belt and therefore the principle of development is considered to be acceptable, in accordance with Policy LP57 of the KLP and guidance contained within Chapter 13 of the NPPF.

2 - Design

In terms of the design of the proposal, it is considered that the proposed materials would be in-keeping with the existing materials of the site, the scale of the proposed extension would be of acceptable scale and the existing structure would remain as the dominant element.

The proposal would comply with Policy LP24 and LP57 of the Kirklees Local Plan (a) in terms of the form, scale and layout and (c) as the extension would form a subservient addition to the property in keeping with the existing building, respect Local Character, taking into account the rural local area and the aims of chapter 12 and 13 of the National Planning Policy Framework. Therefore, it is considered that the principal of the application would be acceptable.

3 – Impact on residential amenity:

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The House Extensions and Alterations SPD goes into further detail with respect to Key Design Principle 3 on privacy, Key Design Principle 5 on overshadowing/loss of light, Key Design Principle 6 on preventing overbearing impact and Key Principle 7 for outdoor space.

The application site is not located adjacent to any neighbouring residential properties. The proposal would be retaining the site as a predominantly equestrian use with the exception of the accommodation that would be ancillary to the use of the site. It is considered that this would be sufficient distance from neighbouring residents to not raise any concerns regarding overshadowing/loss of light or overbearing. Therefore the proposals would have no significant detrimental impact upon the amenity of adjacent occupiers, in accordance with Policy LP 24, KDP 3 and KDP5 of the SPD. External lighting (security and otherwise) is expected around the site and due to the current use of the site, is already present. Officers consider it necessary to request a Lighting Specification Assessment as a condition to limit the glare from additional lighting(this will also need to give due regard to ecology). On the basis of the above, the proposals are considered to be acceptable in respect of residential amenity, and in accordance with Policy LP24 of the KLP.

4 – Impact on highway safety:

KC Highways DM has been consulted on the application and due to existing parking arrangements and access remaining unchanged, it is considered that the proposals would not represent any additional harm in terms of highway safety and as such would comply with Policies LP21 and LP22 of the Kirklees Local Plan.

5– Other matters:

Carbon Budget

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. It is considered that due to the nature and scale of the proposal, no further information would be required regarding carbon budget.

Ecology

Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 179 of the NPPF outlines that decisions should promote the protection and recovery of priority species and identify and pursue opportunities for securing net gains for biodiversity. Paragraph 180 goes on to note that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Policy LP30 of the Kirklees Local Plan echoes the NPPF in respect of biodiversity and outlines that development proposals should minimise impacts on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist

There have been updates to [Schedule 7A of the Town and Country Planning Act 1990 \(inserted by the Environment Act 2021\)](#), which result in biodiversity net gain being a statutory requirement. Biodiversity Net Gain (BNG) of 10% for developments is a mandatory requirement in England under the Environment Act 2021.

Details of the proposal's contribution have been provided and state that, post development, there would be 4.45 habitat units on site (12.5% increase) and 1.64 Hedgerow units (25.56% increase on site) and no further offsite contribution is required.

The report concludes that a detailed management plan should be provided and that this can be secured via a planning condition.

Therefore, the details provided are considered acceptable subject to conditions.

Coal Mining Legacy and Contaminated Land:

The site is located within a High Risk Coal Area in close proximity to a former landfill site and as a result, The Coal Authority and KC Environmental Health have been consulted on the application.

They have assessed the Phase I report submitted to support the application and concur with the findings given.

As a result, conditions have been requested requiring intrusive investigations and a signed statement that the site is safe for occupation.

Subject to these conditions the proposal would accord with Policy LP53 of the Kirklees Local Plan.

6 – Representations:

Four representations were received in response to site publicity.

- If attenuation tanks will be used
Officer response: The application form states that the site will be connecting to the main sewer on Timothy Lane.
- Concerns regarding surface water run off
Officer response:
The site is within flood zone 1, with no known flood risks or watercourses and no additional hard standing to facilitate the development. It is considered that the increase in footprint of the building would be marginal in this instance and not significantly increase surface water displacement.
- Flooding
Officer response: The site is within flood zone 1, with no known flood risks or watercourses.
- Requests road speed signs
Officer response: KC Highways have not raised any objections to the proposal. '30 MPH' repeater signs would not be issued on a lit street.
- Rubbish disposal

Officer response: KC Environmental Health have been consulted on the application as has KC Waste. The disposal of waste associated with stables is considered industrial waste and therefore the local authority does not have a duty to collect. Concerns relating to waste would be required to be raised with Environmental Health.

- Light pollution
Officer response: The site would be retaining its existing use; however, a condition is proposed relating to the addition of further lighting, should that be required.
- Noise pollution
Officer response: The proposal would be retaining its existing use. It is considered if there are concerns relating to noise, these should be reported to Environmental Health who have powers under separate legislation.
- Access for machinery
Officer response: KC Highways have been consulted on the application and have not raised any concerns as the proposal would not alter the use of the site or represent a significant intensification.
- Number of residents living on site
Officer response: The property would not be residential; the domestic facilities on site are ancillary, associated with the care of the animals using the livery service.
- Sanitation
Officer response: The application states that the site would be connecting to the existing main sewer on Timothy Lane.
- Ground gas
Officer response: KC Environmental Health have been consulted on the application and requested intrusive investigations. Ground gas would be explored as part of these conditions.

7 – Conclusion:

This application for the Change of use and erection of extensions and alterations to convert stables to keeper/grooms quarter accommodation at Old Hall Stables, Timothy Lane, Upper Batley, Batley, WF17 0BA has been assessed against relevant policies in the development plan as listed in the policy section of the report and the National Planning Policy Framework and other material considerations.

The proposals would accord with Policies LP24 and LP57 of the Kirklees Local Plan and advice within chapters 12 & 13 of the National Planning Policy Framework.

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation

APPROVE

Decision Authorisation - Delegated Powers

Application Number: 2024/92723

Officer Recommendation: APPROVE

APPROVE

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policy LP24 of the Kirklees Local Plan.

3. Groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: This is a pre-commencement condition to ensure that ground conditions are investigated at an appropriate time in order to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework

4. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (3) further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: This is a pre-commencement condition to ensure that ground conditions are investigated at an appropriate time in order to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework

5. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (4). In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: This is a pre-commencement condition to ensure that ground conditions are investigated at an appropriate time in order to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

6. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for (that part of) the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework

7. Should additional lighting on site be required, before implementation, a lighting scheme which indicates the measures to be taken for the control of any glare or stray light arising from the operation of artificial lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed in accordance with the measures so approved and thereafter the artificial lighting shall be operated in accordance with the approved scheme.

Reason: To reduce any disruption to neighbouring residents of the site and to preserve the openness of the Green Belt in accordance with Policies LP24 and LP57 of the Kirklees Local Plan and chapters 12 and 13 of the National Planning Policy Framework

8. No development shall commence until; a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and; b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed. The

intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: This is a pre-commencement condition to ensure that the impact of past coal mining legacy has been investigated at an appropriate time, and can be adequately mitigated in order to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework

9. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework. Reports must be prepared in accordance with the following guidance: • Land Contamination Risk Management (LCRM) • BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice • Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group. The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

Plans and specifications schedule: -

Plan Type	Reference	Date Received
Grouped Plans and elevations proposed	02	27/10/2024
Grouped Plans and elevations Existing	01	27/10/2024
Climate change statement		27/10/2024
Phase 1 Desk Study	6602	27/10/2024
Biodiversity Net Gain Assessment	BNG V1 Final issue	27/10/2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a

pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

No amendments were requested in this instance.

BIODIVERSITY NET GAIN – INFORMATIVE NOTE:

Based on the information available, this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

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

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
 - (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
 - 4.1 Development which is not 'major development' (within the meaning of [article 2\(1\) of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#)) where:
 - i) the application for planning permission was made before 2 April 2024;
 - i) planning permission is granted which has effect before 2 April 2024; or
 - ii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).
 - 4.2 Development below the de minimis threshold, meaning development which:
 - i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and

- i) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

- i) consists of no more than 9 dwellings;
- i) is carried out on a site which has an area no larger than 0.5 hectares; and
- ii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

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

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

Irreplaceable habitat

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

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

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

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

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

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

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- i) 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.

