

DATED

20 March

2025

(1) BENJAMIN KHALILI

and

(2) EFG PRIVATE BANK LIMITED

and

**(3) THE MAYOR AND BURGESSES OF
THE LONDON BOROUGH OF CAMDEN**

DEED OF VARIATION

Relating to the Agreement dated 29 April 2016
Between the Mayor and the Burgesses of the
London Borough of Camden, Matilda Ruiz De Calzado, Coronation Consulting Group
Limited, Astoria Investment Management Limited, and EFG Private Bank (Channel Islands)
Limited

under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as
14 TEMPLEWOOD AVENUE LONDON NW3 7XA

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 3935

THIS DEED is made on the 20 day of March 2025

BETWEEN

1. **BENJAMIN KHALILI** of care of Flat S, 82 Portland, Portland Place, London W1B 1NS (hereinafter called "the Owner") of the first part
2. **EFG PRIVATE BANK LIMITED** (Co. Regn. No. 02321802) whose registered office is at Park House, 116 Park Street, London, England, W1K 6AP (hereinafter called "the Mortgagee") of the second part
3. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third part

WHEREAS:

- 1.1 The Council, Matilda Ruiz De Calzado, Coronation Consulting Group Limited, Astoria Investment Management Limited, and EFG Private Bank (Channel Islands) Limited entered into an Agreement dated 29 April 2016 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute of the Property under Title Number NGL644843 subject to a charge to the Mortgagee.
- 1.3 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.4 The Mortgagee as mortgagee under legal charge the registration of which is currently pending under Title Number NGL644843 dated 12 February 2025 is willing to enter into this Deed to give its consent to the same.
- 1.5 The Council is the local planning authority for the purposes of the Act and considers it expedient in the interests of the proper planning of its area that the Development of the Property should be restricted or regulated in accordance with this Deed.
- 1.6 A new Planning Application in respect of the Property and to amend the Original Planning Permission was submitted to the Council by the Owner and validated on 17

July 2024 for which the Council resolved to grant permission conditionally under reference 2024/2954/P subject to the conclusion of this Deed.

- 1.7 This Deed of Variation is made by virtue of the Town and Country Planning Act 1990 Section 106A (as amended) and is a planning obligation for the purposes of that section.
- 1.8 Without prejudice to the terms of the other covenants contained in the Existing Agreement the parties hereto have agreed to vary the terms of the Existing Agreement as hereinafter provided.

2. INTERPRETATION

- 2.1 All words and phrases defined in the Existing Agreement shall have the same meaning in this Deed save where the context otherwise dictates and for the avoidance of any doubt the Existing Agreement shall remain in full force and effect save as varied by this Deed.
- 2.2 All reference in this Deed to clauses in the Existing Agreement are to clauses within the Existing Agreement.
- 2.3 Where in this Deed reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Agreement.
- 2.4 Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not be construed as part of this Agreement and shall not effect the construction of this Deed.
- 2.5 Unless the context otherwise requires references to the singular shall include the plural and vice versa.
- 2.6 References in this Deed to the Owner and Mortgagee shall include their successors in title.
- 2.7 Nothing in this Deed shall limit or otherwise prohibit the further implementation of the Original Planning Permission provided it is carried out in accordance with the

conditions of that planning permission and the Existing Agreement. For the avoidance of doubt it is agreed between the parties that the terms of this Deed have no effect on the planning obligations under the Existing Agreement which shall remain in effect unless satisfactorily discharged.

2.8 In this Deed the following expression shall unless the context otherwise states have the following meaning now allocated to it.

2.8.1 "Deed" this Deed of Variation made pursuant to Section 106A of the Act

2.8.2 "Existing Agreement" the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 29 April 2016 made between (1) The Mayor and Burgesses of the London Borough of Camden; (2) Matilda Ruiz De Calzado; (3) Coronation Consulting Group Limited; (4) Astoria Investment Management Limited; and (5) EFG Private Bank (Channel Islands) Limited

2.8.3 "the Original Planning Permission" means the planning permission granted by the Council on 29 April 2016 referenced 2013/6912/P as later amended by non-material amendment 2024/1436/P granted on 15 May 2024 allowing excavation works to provide single basement floor level, side and rear extensions at ground floor level, extension and alterations to coach house and other external alterations, removal of car port and erection of cycle store, associated landscaping, and conversion from five self-contained flats to a dwelling house (Class C3) as shown on drawing numbers: - 1861/AE-001, 1861/AE-002, 1861/AE-003/01, 1861/AE-003/02, 1861/AP-002/01, 1861/AP-002/02, 1861/AP-003/01, 1861/AP-003/02, 1861/AP-004, 1861/AP-005,

1861/AP-006, 1861/AS-001/01, 1861/AS-001/02, 1861/AS-002, 1861/ASP-001, pending/06A, pending/05A, pending/07 and Site Location Plan

Supporting documents: Design and Access Statement, Chelmer Basement Impact Assessment, Tree Protection Method Statement, Sharps Redmore Environmental Noise Assessment, Method Statement for Basement Construction

3. VARIATION TO THE EXISTING AGREEMENT

- 3.1 The following definitions contained in the Existing Agreement shall be varied as follows:

3.1.1 "Development"

variation of conditions 1 (approved plans), 4 (joinery) and 5 (landscaping) of planning permission 2013/6912/P (as later amended by non-material amendment 2024/1436/P granted 15/05/2024) for; 'Excavation works to provide single basement floor level, side and rear extensions at ground floor level, extension and alterations to coach house and other external alterations, reinstatement/ repair of boundary treatments, removal of car port and erection of cycle store, associated landscaping, and conversion from six self-contained flats to a dwelling house (Class C3)', namely to; erect a link to connect the coach house to the main house, modify the internal layout, remove approved front lightwell, make changes to fenestration, retain existing dormer window and balcony to side elevation, and lower the lower ground floor level as shown on drawing

numbers: 100, rev 0; 108, rev 0; 110, rev 0; 111, rev 0; 112, rev 0; 113, rev 0; 114, rev 0; 120, rev 0; 121, rev 0; 122, rev 0; 223, rev 0; 130, rev 0; 199, rev D; 200, rev F; 201, rev F; 202, rev H; 203, rev E; 204, rev F; 205, rev G; 206, rev D; 300, rev E; 301, rev D; 302, rev D; 303, rev F; 310, rev G; 311, rev D

3.1.2 "Planning Permission" the planning permission for the Development under reference number 2024/2954/P granted by the Council in the form of the draft annexed hereto; and

3.1.3 "Planning Application" the application for Planning Permission in respect of the Property submitted on 17 July 2024 by the Owner and given reference number 2024/2954/P.

3.2 All references in Clause 5 and Clause 6 of the Existing Agreement to "Planning Permission reference 2013/6912/P" shall be replaced with "Planning Permission reference 2024/2954/P".

3.3 In all other respects the Existing Agreement (as varied by this Deed) shall continue in full force and effect.

4. COMMENCEMENT

4.1 Without prejudice to the effect of Clause 3.5 in the Existing Agreement the provisions in this Deed shall take effect on the Implementation of the Planning Permission referenced 2024/2954/P.

5 PAYMENT OF THE COUNCIL'S LEGAL COSTS

5.1 The Owner agrees to pay the Council (on or prior to completion of this Deed) its reasonable legal costs incurred in preparing this Deed.

6. **REGISTRATION AS LOCAL LAND CHARGE**

6.1 This Deed shall be registered as a Local Land Charge.

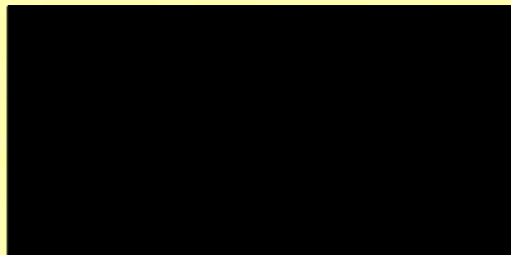
7. **MORTGAGEE EXEMPTION**

7.1 The Mortgagee hereby consents to the completion of this Deed and agrees to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owner and the Mortgagee have executed this instrument as their Deed the day and year first before written

**EXECUTED AS A DEED BY
BENJAMIN KHALILI
In the presence of:**

)
)
)



Witness Signature

Witness Name: ZBIGNIEW SEKULA

Address: 41 STAINES ROAD, TW19 5BY

Occupation: ESTATE MANAGER (OPERATIONS)

CONTINUATION OF S106 AGREEMENT (DEED OF VARIATION)
14 TEMPLEWOOD AVENUE LONDON NW3 7XA

EXECUTED AS A DEED BY
EFG PRIVATE BANK LIMITED
acting by a Director

.....
Director's Signature

In the

.....
Witness Signature

Witness Name: *WALTER ROZARIO*

Address: *PARK HOUSE, 116 PARK STREET, LONDON W1K 6AP*

Occupation: *CREDIT MANAGER*

**CONTINUATION OF S106 AGREEMENT (DEED OF VARIATION)
14 TEMPLEWOOD AVENUE LONDON NW3 7XA**

**THE COMMON SEAL OF THE MAYOR
AND BURGESSES OF THE LONDON
BOROUGH OF CAMDEN**

was hereunto affixed by Order:-

.....
Duly Authorised Officer

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Application ref: 2024/2954/P
Contact: Brendan Versluys
Tel: 020 7974 1196
Date: 14 March 2025

Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Phone: 020 7974 4444

planning@camden.gov.uk
www.camden.gov.uk/planning

Michael Burroughs Associates Limited
93 Hampton Road
Hampton Hill
London TW12 1JQ

Dear Sir/Madam

DRAFT
FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION
Town and Country Planning Act 1990 (as amended)

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:
14 Templewood Avenue
London
NW3 7XA

PROPOSAL
DECISION
Proposal:

Variation of conditions 1 (approved plans), 4 (joinery) and 5 (landscaping) of planning permission 2013/6912/P (as later amended by non-material amendment 2024/1436/P granted 15/05/2024) for: 'Excavation works to provide single basement floor level, side and rear extensions at ground floor level, extension and alterations to coach house and other external alterations, reinstatement/ repair of boundary treatments, removal of car port and erection of cycle store, associated landscaping, and conversion from six self-contained flats to a dwelling house (Class C3)', namely to; erect a link to connect the coach house to the main house, modify the internal layout, remove approved front lightwell, make changes to fenestration, retain existing dormer window and balcony to side elevation, and lower the lower ground floor level.

Drawing Nos: Plans: 100, rev 0; 108, rev 0; 110, rev 0; 111, rev 0; 112, rev 0; 113, rev 0; 114, rev 0; 120, rev 0; 121, rev 0; 122, rev 0; 223, rev 0; 130, rev 0; 199, rev D; 200, rev F; 201, rev F; 202, rev H; 203, rev E; 204, rev F; 205, rev G; 206, rev D; 300, rev E; 301, rev D; 302, rev D; 303, rev F; 310, rev G; 311, rev D

Supporting information: Letter prepared by SM Planning, 16/07/2024; Heritage Report prepared by Stephen Levrant: Heritage Architecture Ltd., February 2025

The Council has considered your application and decided to grant permission subject to the conditions and informatives (if applicable) listed below **AND** subject to the successful conclusion of a Section 106 Legal Agreement.

The matter has been referred to the Council's Legal Department and you will be contacted shortly. If you wish to discuss the matter please contact **Aidan Brookes** in the Legal Department on **020 7 974 1947**.

Once the Legal Agreement has been concluded, the formal decision letter will be sent to you.

Condition(s) and Reason(s):

- 1 For the purposes of this decision, condition no.1 of planning permission 2013/6912/P (as amended by 2024/1436/P) shall be replaced with the following condition:

REPLACEMENT CONDITION 1

The development hereby permitted shall be carried out in accordance with the following approved plans Plans: 100, rev 0; 108, rev 0; 110, rev 0; 111, rev 0; 112, rev 0; 113, rev 0; 114, rev 0; 120, rev 0; 121, rev 0; 122, rev 0; 223, rev 0; 130, rev 0; 199, rev D; 200, rev F; 201, rev F; 202, rev H; 203, rev E; 204, rev F; 205, rev G; 206, rev D; 300, rev E; 301, rev D; 302, rev D; 303, rev F; 310, rev G; 311, rev D

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

- 2 The development hereby permitted must be begun not later than the end of three years from the date of the original planning permission ref 2013/6912/P dated 29/04/2016.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 3 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 and D2 of the London Borough of Camden Local Plan 2017 and policies SD1, SD 2, SD 4, SD 5, and SD 6 of the Redington Frogna! Neighbourhood Plan 2021.

- 4 For the purposes of this decision, condition no.4 of planning permission 2013/6912/P (as amended by 2024/1436/P) shall be replaced with the following condition:

REPLACEMENT CONDITION 4:

External joinery

Before the relevant part of the work is begun, detailed drawings, manufacturers specifications, and/or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority, including:

- a) full elevation drawings at 1:50
- b) Individual elevation and section drawings of each new external door, gates and widow joinery unit (including Coach House garage doors, and link roof lights) at a scale of 1:10, with section details at 1:1, and manufacturers specifications.

All new window joinery is to be matched fenestration, detail and materiality.

All approved rooflights shall be of the conservation type with glazing bar(s), and fitted flush with the existing roof slope and shall not project above the plane of the roof.

No permission is granted for the removal or alteration of any of the existing windows other than those specifically noted in the approved plans.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies D1 and D2 of the London Borough of Camden Local Plan 2017 and policies SD1, SD 2, SD 4, SD 5, and SD 6 of the Redington Frognal Neighbourhood Plan 2021.

- 5 For the purposes of this decision, condition no.5 of planning permission 2013/6912/P (as amended by 2024/1436/P) shall be replaced with the following condition:

REPLACEMENT CONDITION 5:

Before the relevant part of the work is begun, full details of hard and soft landscaping and means of enclosure of all un-built, open areas have been submitted to and approved by the local planning authority in writing. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area in accordance with the requirements of policies A2, A3, A5, D1 and D2 of the London Borough of Camden Local Plan 2017, and policies SD 2, SD 4, SD 5, BGI 1, and BGI 2 of the Redington Frognal Neighbourhood Plan 2021.

- 6 Basement works shall be carried out in accordance with the appointee details previously approved under ref 2024/4735/P on 7/11/2024, or with other such details as submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure proper consideration of the structural stability of neighbouring buildings and to safeguard the appearance and character of the immediate area in accordance with the requirements of policies D1, D2 and A5 of the London Borough of Camden Local Plan 2017 and policy UD 1 of the Redington Frognal Neighbourhood Plan 2021.

- 7 Details of the replacement rose garden, shall be provided on site and approved in writing by the local planning authority before the occupation of the basement.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 and D2 of the London Borough of Camden Local Plan 2017, and policies SD 2, SD 4, SD 5, BGI 1, and BGI 2 of the Redington Frogna! Neighbourhood Plan 2021.

- 8 Before the brickwork is commenced, samples and/or manufacturer's specifications of all facing materials including brickwork, fascia's, soffits and rainwater goods, shall be submitted to and approved in writing by the local planning authority.

A sample panel of brickwork (demonstrating the matching brick colour, size and texture, bond pattern, method of pointing, and mortar mix) should be presented on-site and approved by the Council before the relevant parts of the work are commenced and the development shall be carried out in accordance with the approved details. All approved samples shall be retained on site during the course of the works.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies D1 and D2 of the London Borough of Camden Local Plan 2017 and policies SD1, SD 2, SD 4, SD 5, and SD 6 of the Redington Frogna! Neighbourhood Plan 2021.

- 9 All hard and soft landscaping works shall be carried out in accordance with the approved landscape details by not later than the end of the planting season following completion of the development or any phase of the development, whichever is the sooner. Any trees or areas of planting (including trees existing at the outset of the development other than those indicated to be removed) which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a high quality of visual amenity in the scheme in accordance with the requirements of policies A2, A3, A5, D1 and D2 of the London Borough of Camden Local Plan 2017, and policies SD 2, SD 4, SD 5, BGI 1, and BGI 2 of the Redington Frogna! Neighbourhood Plan 2021.

Informative(s):

- 1 Reasons for granting permission

The applicant has sought to amend condition 2 of the approved planning permission ref. 2022/1863/P, which requires the consented development to be carried out in accordance with the approved plans. Conditions 4 (joinery) and 5 (landscaping), are also to be updated to reflect changes to the timing at which details of joinery and landscaping works are required.

Turning to the changes to the approved works, the proposed drawings have been amended to increase the scale of the approved coach house. The increased footprint (and third garage door) would specifically be used for bike storage and this integrated storage would then omit the approved free-standing storage structure on the southern boundary, consolidating the amount of approved built-form in the front garden. The revised fenestration pattern as proposed would be more balanced than the approved details and aid to mitigate the adverse effects of the additional bulk. Overall, the increased scale to the approved coach house would be relatively modest and ensure this building remains as a secondary element to the main house and reflecting the architectural aesthetic of the main house. Condition 4 would secure a sample panel to be submitted to and approved by the local planning authority in relation to works to the coach house.

The omission of the proposed approved front lightwell, following changes to the internal layout of the proposed approved basement, is also considered a heritage benefit.

Due to the approved permission containing limited proposed landscaping details and to mitigate the design amendments to the approved coach house, it is considered necessary to add a requirement for landscaping plans to be submitted for approval by the local planning authority. These landscaping plans would be secured by condition 5 and their implementation would be secured by condition 9.

Condition 4 would be amended to outline more specific criteria in relation to joinery details to be submitted and approved by the local planning authority, in particular following the further design changes to the coach house.

The retention of the existing dormer and balcony to the side elevation, both historic features to the existing building, would maintain the existing character and there is no objection to their retention.

The changes to the approved basement would be minor and in general accordance with the approved basement works. A revised basement impact assessment is therefore not required.

Overall, the proposal would not cause harm to the character and appearance or significance of the host building, or the character and appearance of the wider conservation area.

Special regard has been attached to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses and to preserving or enhancing the character or appearance of the conservation area, as required under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

Given the nature and scale of the works, the proposal would not cause any adverse impacts on the amenity of adjoining residential occupiers in terms of loss of light, outlook, or privacy.

No objections have been received prior to making this decision. The planning history of the site has been taken into account when coming to this decision.

As such, the proposed development is in general accordance with policies A1, A5, D1, D2, H1, H3, H4, H5, H6, H7, T1, T2, T3 of the London Borough of Camden Local Plan 2017 and policies SD 1, SD 2, SD 4, SD 5, SD 6, BGI 1, BGI 2 and UD 1 of the Redington Froggnal Neighbourhood Plan 2021. The proposed development also accords with the London Plan 2021 and the National Planning Policy Framework 2024.

- 2 This approval under Section 73 of the 1990 Act effectively varying the relevant condition of the previous planning permission is subject otherwise to the same terms, drawings, conditions (and obligations where applicable) as attached to the previous planning permission. This includes condition 1 providing for a 3 year time period for implementation which for the avoidance of doubt commences with the date of the original decision (and not this variation).
- 3 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444). Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 4 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at www.camden.gov.uk) or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

- 5 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.
- 6 Biodiversity Net Gain (BNG) Informative (1/2):

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 ("1990 Act") is that planning permission granted in England is 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 local planning authority (LPA) that would approve any Biodiversity Gain Plan (BGP) (if required) is London Borough of Camden.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are summarised below, but you should check the legislation yourself and ensure you meet the statutory requirements.

Based on the information provided, this will not require the approval of a BGP before development is begun because planning permission is granted under section 73 and the original (parent) permission was made or granted before 2 April 2024.

++ Summary of transitional arrangements and exemptions for biodiversity gain condition

The following are provided for information and may not apply to this permission:

1. The planning application was made before 12 February 2024.
2. The planning permission is retrospective.
3. The planning permission was granted under section 73 of the Town and Country Planning Act 1990 and the original (parent) planning permission was made or granted before 12 February 2024.
4. The permission is exempt because of one or more of the reasons below:

- It is not "major development" and the application was made or granted before 2 April 2024, or planning permission is granted under section 73 and the original (parent) permission was made or granted before 2 April 2024.
- It is below the de minimis threshold (because it does not impact an onsite priority habitat AND impacts less than 25 square metres of onsite habitat with biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat).
- The application is a Householder Application.
- It is for development of a "Biodiversity Gain Site".
- It is Self and Custom Build Development (for no more than 9 dwellings on a site no larger than 0.5 hectares and consists exclusively of dwellings which are Self-Build or Custom Housebuilding).
- It forms part of, or is ancillary to, the high-speed railway transport network (High Speed 2).

7 Biodiversity Net Gain (BNG) Informative (2/2):

+ 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. In addition to information about minimising adverse impacts on the habitat, the BGP must include information on compensation for any impact on the biodiversity of the irreplaceable habitat.

The LPA can only approve a BGP if satisfied that the impact on the irreplaceable habitat is minimised and appropriate arrangements have been made for compensating for any impact which do not include the use of biodiversity credits.

++ The effect of section 73(2D) of the Town and Country Planning Act 1990
If planning permission is granted under section 73, and a BGP was approved in relation to the previous planning permission ("the earlier BGP"), the earlier BGP may be regarded as approved for the purpose of discharging the biodiversity gain condition on this permission. It will be regarded as approved if the conditions attached (and so the permission granted) do not affect the post-development value of the onsite habitat, or any arrangements made to compensate irreplaceable habitat, as specified in the earlier BGP.

++ Phased development

In the case of phased development, the BGP will be required to be submitted to and approved by the LPA before development can begin (the overall plan), and before each phase of development can begin (phase plans). The modifications in respect of the biodiversity gain condition in phased development are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2021.

You can find advice about your rights of appeal at:

<https://www.gov.uk/appeal-planning-decision>.

Yours faithfully

Supporting Communities Directorate