

Report to Planning Committee

Application Number:	2024/0095
Location:	Land East of Westhouse Farm, Moor Road, Bestwood, Nottinghamshire
Proposal:	Construction of 93 houses, associated infrastructure, and external works
Applicant:	Langridge Homes Ltd
Agent:	Halsall Lloyd Partnership
Case Officer:	Nigel Bryan

In accordance with the Gedling Borough Council Constitution, this application is required to be determined by Planning Committee as it is an application proposing ten or more residential dwellings.

1.0 Site Description

- 1.1 The application site comprises a parcel of agricultural land to the eastern side of Moor Road. There is a relatively significant change of levels through the application site, with the land dropping away as head you head through the site in an easterly direction. The application site is currently vacant of any features of note, save for some mature trees in the south-east corner, which are subject of a preservation order.
- 1.2 It is currently bound by open countryside to the north and east, with hedging marking these field boundaries, with some mature trees in the hedge line. To the western boundary is Hawthorne Primary and Nursery School and a number of dwellings recently constructed as part of the wider allocated site. The southern boundary is bound by a footpath with a number of residential properties beyond, accessed off Leen Close, Yeoman Avenue and Keepers Close
- 1.3 This site forms part of the Residential Allocation H12, within the Gedling Borough Local Plan, part of which has already been built out.

2.0 Relevant Planning History

- 2.1 There is no direct planning history for the site; however, the application site forms part of allocation H12. On the wider site permission was granted for the erection of some 101 dwellings; the outline permission under reference 2014/0238 and reserved matters approval under refence 2018/0823. There have been other subsequent applications for plot substitutions, discharge of

conditions and non-material amendments. However, the key applications for development of the adjacent site are 2014/0238 and 2018/0823.

3.0 Proposed Development

- 3.1 Full planning permission is sought for the erection of 93 dwellings (65 no. open market and 28 no. affordable dwellings (20 social rent and 8 shared ownership)), along with the provision of public open space, private gardens, sustainable drainage, roads, car parking and landscaping.
- 3.2 The scheme would provide a wide range of house types from 1 to 5 bedroom, the majority of which would be two-storey, along with two bungalows. The majority of properties would be detached or semi-detached, along with a terrace of three two-bed properties. The proposal of 93 no. dwellings, over a Gross Site Area of 4.92 hectares produces a density of 19 dwellings per hectare.
- 3.3 There would two main areas of open space, one in the southeast corner of the site, which would include play equipment and trees subject of a preservation order. The second main area of public open space would be to the site entrance, adjacent to the first phase of development, summarised in section 2.0 of this report. A small area of public open space, to accommodate a tree subject of a preservation order, is also proposed between plots 13 and 14 on the northern boundary of the site.
- 3.4 Vehicular access to the site would be from Moor Lane and pass through phase 1 of the development. It would also allow a secondary access to Hawthorne Primary and Nursery School. The vast majority of properties would be accessed from adopted highway, with a small number accessed from a private drive. A pedestrian link is also provided to the footway on the southern edge of the site.
- 3.5 Each dwelling would be provided with off-street parking, some with garages. The public open space would be overlooked by the proposed dwellings.

4.0 Consultations

- 4.1 GBC Arboricultural Officer – There are a number of trees subject of a preservation order on site. The layout does appear to largely respect them, although a root protection area plan should be provided, and other information supplied to fully accord with the BS5837. Greater planting of trees in the public realm should also be identified.
- 4.2 NCC Archaeology – have requested the submission of further exploratory works given the potential for the developments impact on possible features of interest. This should be secured before development commences and, whilst preferable in advance of permission being granted, it can be secured via condition
- 4.3 GBC Development and Parks and Open Spaces (POS) – Note that the Public Open space would be policy compliant in terms of being 10% of the overall site area. Given the number of dwellings to be erected a LEAP and Informal

play area e.g. a Multiuse-games area, should be provided on site. A LEAP has been provided, although it is one piece of equipment short so final details showing the additional piece of equipment will need to be approved through the open space scheme. A maintenance contribution of £31,400.00 is sought for maintenance of the LEAP. As no informal play area is to be provided a capital sum of £261,607.20 and maintenance contribution of 119,320.00, or £380,297.20 in total is sought to mitigate the shortfall.

- 4.4 GBC Strategic Housing – note that the site should provide 30% affordable dwellings, split 70% social rent and 30% shared ownership. This has been identified and the affordable housing mix is acceptable.
- 4.5 GBC Scientific Officer – previous applications on the wider allocated site have assessed the current application site in respect of contamination. As a result, no conditions are necessary in this regard. Requests that conditions be added in respect of electric vehicle charging points be secured for occupiers and that a Construction Emission Management Plan (CEMP) be approved to minimise possible disturbance through dust and other pollution that the development may temporarily generate.
- 4.6 GBC Waste and Recycling Team – No comments received.
- 4.7 NCC Highways Officer – following receipt of additional information in respect of tracking for refused vehicles, they raise no objection to the application, subject to the imposition of conditions in respect of parking and access to individual plots.
- 4.8 NCC Rights of Way (ROW) – No observations made.
- 4.9 NCC Planning Policy – Given the number of dwellings, contributions sought by the County Council to make the development acceptable in planning terms are outlined below:
- £7,500 toward Travel Plan monitoring;
 - £41,400 toward bus stop improvements;
 - £365,080 toward primary education (to be spent on expanding Hawthorne Primary School);
 - £412,770 toward secondary education;
 - £3,278 toward libraries
- 4.10 Lead Local Flood Authority (LLFA) – Raise no objection to the application, subject to the imposition of a condition, with the indicative drainage strategy considered to be acceptable.
- 4.11 The Environment Agency – No objection. The development falls within flood zone 1 and therefore there are no fluvial flood risk concerns associated with the site. There are no other environmental constraints associated with the application site which fall within the remit of the Environment Agency.
- 4.12 NHS Nottingham and Nottinghamshire – Given the number of dwellings proposed, the proposal would not require a new build facility; however, to ensure adequate capacity is provided for new residents a contribution of

£50,394.37 towards Primary and Community Care Services is sought. This would be spent at either Rise Park Surgery, St Alban's Medical Centre or Oakenhall Medical Practice.

- 4.13 Nottinghamshire Police – No objection. Provide advice regarding designing out crime.
- 4.14 Severn Trent Water – No comments received.
- 4.15 Bestwood Village Parish Council – wish to raise a number of areas that should be addressed. Most notably, the school access as it currently stands is unacceptable and unsafe. The priority should be to ensure that a new access from the proposed development is secured as soon as possible. Other points of note include; there is a shortage of frontline health services within the village; highway safety may be compromised and the speed bumps are inadequate to deter speeding vehicles; is the affordable housing mix appropriate for the young and elderly?; more bungalows should be provided; flooding in the village should be not exacerbated by the development and there are not enough community facilities with the village or on this development.
- 4.16 Neighbours – Two public consultations have been undertaken on the application. As a result of consultation undertaken 8 letters of objection have been received, along with one letter of support.

A summary of the objections received are outlined below:-

- A number of the plots would have a detrimental impact on the amenity of existing residents, in particular plots 60, 61 and 62, which will overlook and overbear;
- Inadequate feedback has been provided to residents given the length of time it has taken to determine the application;
- Bestwood is a village and its continued expansion will turn it into a small town
- The Green Belt should be protected;
- Hedgerows around the site should be protected, they are home to a wide range of wildlife;
- Bestwood does not have access to enough services to support the growth in population, it has one shop but no public house, restaurant or health facilities;
- The housing mix is too targeted toward families and the developers return, it should also cater for the elderly e.g. bungalows, and young people;
- Houses on phase 1 are not selling; is there a demand for more properties?
- Highways in the local area will be more congested with each property likely to have 1 or 2 cars;
- Highway safety will be compromised;
- Ecology will be compromised and there are a wide range of birds that are found on the site, including owls;
- The application would result in a breach of Article 8 of the Human Rights Act;
- The application should not result in increased flooding, which can cut the village off if the main road is flooded; and
- Access for the school needs to be provided as a priority.

The one letter of support indicates that there is a need to have a new access to Hawthorne Primary and Nursery School and, on that proviso, the application should be granted.

6.0 Relevant Planning Policies

- 6.1 Section 38(6) of the Town and Country Planning Act dictates that development proposals must be determined in accordance with the development plan, unless other material considerations indicate otherwise. The following policies are relevant to the application:
- 6.2 At the national level the National Planning Policy Framework (2024) is relevant. At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF sees good design as a key element of sustainable development. The NPPF seeks to ensure a high standard of amenity for existing and future users of land and buildings.

National Planning Policy Framework:

- Part 2 – Achieving sustainable development
- Part 4 – Decision making
- Part 5 – Delivering a sufficient supply of homes
- Part 8 – Promoting healthy and safe communities
- Part 9 – Promoting sustainable transport
- Part 11 – Making effective use of land
- Part 12 – Achieving well-designed and beautiful places
- Part 14 – Meeting the challenge of climate change, flooding and coastal change
- Part 15 – Conserving and enhancing the natural environment

- 6.3 Gedling Borough Council Aligned Core Strategy 2014:

Policy A - Presumption in Favour of Sustainable Development – a positive approach will be taken when considering development proposals.

Policy 1 - Climate Change – all development will be expected to mitigate against and adapt to climate change including with respect to flood risk.

Policy 2 – The Spatial Strategy – Sets out a hierarchical approach of urban concentration and regeneration, that supports the principle of residential development in the main built up area of Nottingham.

Policy 8 – Housing Size, Mix and Choice sets out the objectives for delivering new housing.

Policy 10 – Design and Enhancing Local Identity states that development will be assessed in terms of its “structure, texture and grain including street patterns, plot sizes, orientation and positioning of buildings and the layout of space”.

Policy 14 – Managing Travel Demand - The need to travel, especially by private car, will be reduced by securing new developments of appropriate scale in the most accessible locations.

Policy 16 – Green Infrastructure, Parks and Open Spaces – Green Infrastructure should be designed and managed as a multifunctional resource capable of delivering a wide range of environmental and quality of life benefits for local communities.

Policy 17 – Biodiversity – New development should provide new biodiversity features, and improve existing biodiversity features wherever appropriate.

Policy 18 – Infrastructure – New development must be supported by the required infrastructure, and contributions will be sought from development proposals.

Policy 19 – Developer Contributions sets out that new developments will be required to meet the reasonable cost of new infrastructure required as a consequence of the proposal.

- 6.4 The Local Planning Authority adopted the Local Planning Document (LPD) on the 18th July 2018. The relevant policies in the determination of this application are as follows:

LPD4 – Surface Water Management states “all development proposals should, wherever possible, include measures to pro-actively manage surface water including the use of appropriate surface treatments and Sustainable Drainage Systems in order to minimise the risk of flooding on the development site without increasing flood risk elsewhere.

LPD11 – Air Quality states “Planning permission will not be granted for development proposals that have the potential to adversely impact on air quality, unless measures to mitigate or offset their emissions and impacts have been incorporated.”

LPD18 – Protecting and Enhancing Biodiversity – Development proposals will be expected to take opportunities to incorporate biodiversity in and around development, wherever possible.

LPD 21 - Provision of New Open Space - Planning permission will be granted for residential development on sites of 0.4ha and above where it provides a minimum of 10% open space.

LPD 32 - Amenity states “Planning permission will be granted for development proposals that do not have a significant adverse impact on the amenity of nearby residents or occupiers, taking into account potential mitigation measures”.

LPD 33 – Residential Density sets out that proposals for residential development will not be granted unless they are above a residential density of 30 dwellings per hectare.

LPD 35 – Safe, accessible and Inclusive Development provides detail on how development can create attractive, safe, inclusive and healthy environments

Policy LPD 36 - Affordable Housing - Planning permission will be granted for new residential development on sites of 15 dwellings or more subject to the provision of affordable housing. The following percentage targets will be sought in the sub-market ... Arnold / Mapperley 30%.

LPD 37 – Housing Type, Size and Tenure states “Planning permission will be granted for residential development that provides for an appropriate mix of housing, subject to housing need and demographic context within the local area.”

LPD 48 – Local Labour Agreements - The Borough Council will seek to negotiate planning agreements to secure local labour agreements for developments of 10 or more dwellings, on 0.5 hectares of land or development that will create more than 15 jobs.

LPD 57 Parking Standards sets out the requirements for parking.

LPD 61 – Highway Safety states “Planning permission will be granted for development proposals which do not have a detrimental effect on highway safety, patterns of movement and the access needs of all people.”

LPD 65 Housing Allocations – Bestwood Village - The site forms part of a larger housing allocation H12 for Westhouse Farm.

6.5 Low Carbon Planning Guidance for Gedling Borough (May 2021)

Parking Provision for Residential and Non Residential Developments SPD (2022)

Open Space Provision for New Housing Development SPG (2001).

Affordable Housing Supplementary Planning Document (December 2009)

The Design Code Framework

Assessment of Planning Considerations

7.0 Principle of Development

7.1 The application site is allocated for residential development as the site forms the southern part of the housing allocation H12, Westhouse Farm allocated for up to 210 dwellings under Policy LPD 65 of the Local Plan. The first phase of development, largely built out, was for the erection of 101 dwellings. Given the proposed application is for 93 dwellings, the site would return 194 properties, below the 210 identified in policy LPD65; however, the policy recognises that a higher or lower number may be acceptable, depending on the suitability of the scheme.

- 7.2 Having regard to the above, the principle of development on this site is established through the strategic allocation in the adopted Local Plan under LPD65.
- 7.3 Whilst the principle of development is supported there would also be a need to consider a wide range of other planning matters including whether or not the character of the area is respected, residential amenity, highway considerations, flooding matters, drainage, ecology, and more, which are all considered below.

8.0 Design / Impact on Visual Amenity and Character of the Area

- 8.1 The proposed scheme would provide public open space provision over and above that required by policy, with a large space near to the access to Hawthorne Primary and Nursery School, as well as modest space between plots 13 and 14, to ensure protection of a tree subject of a preservation order, as well as third parcel of land in the southeast corner of the site, which would have play equipment on it and also has a number of trees subject of preservation order.
- 8.2 There would be a wide range of house types and sizes, including 1, 2, 3, 4 and 5 bedroomed dwellings, the majority of which would be two-storey, as well as 2 bungalows. The housing mix would 6 1-bedroomed properties, 15 2-bedroomed properties, 15 3-bedroomed properties, 30 4-bed properties and 27 5-bedroomed properties. The majority of properties would be detached or semi's, although there would also be a terrace of 3-properties, which would be social rent. As a result, the housing mix is considered to be appropriate, with the majority targeted toward families; however, there would also be opportunities for younger and older people to purchase dwellings. The affordable housing mix would also be appropriate, providing the requisite number of properties, 20 social rent (4x1-bed; 14x2-bed and 2x3-bed) and 8 shared ownership (8x3-bed). Given the site area is 4.92 and 93 dwellings are proposed across the site, which results in a density of 19 dwelling per hectare. This is lower than the 25 dwelling per hectare threshold identified in policy LPD33; however, the design and layout is considered to respect the character of the area. The site also incorporates 3 areas of public open space. Therefore, a lower density of development is considered to be justified in this instance.
- 8.3 There are a number of similar housetypes to that approved under phase 1, which would ensure continuity with the earlier phase. Materials would be a mixture of red brick under red and grey tiled roofs with a smaller number of plots including white render, to add interest and assist in legibility.
- 8.4 Hedging around the edge of the site will be retained and additional hedgerow planted to supplement the existing. This will have ecological benefits and ensure that the green aspect to the edge of the site is retained.
- 8.5 To conclude this section, it is considered that the overall design and layout of the proposal complies with the relevant planning policies set out in Section 6 of this report. In particular, it complies with the objectives of the National

Planning Policy Framework and the Aligned Core Strategy Policies 8 and 10 and Policies LPD 35 and 37.

9.0 Impact on Residential Amenity

- 9.1 Given the shape of the site, a large number of properties have views across open countryside, public open space or toward the school. Internally, some properties are back to back and nearly all have garden depths of 10m, which would ensure that any overlooking and overbearing impacts would be acceptable. The majority of properties have their own gable adjacent to their neighbour, save for those that turn around a corner. In those instances, the rear elevation of the property is an adequate distance away from the neighbouring property gable.
- 9.2 Concern has been expressed about possible overlooking and overbearing impact from the proposed dwellings to those on the immediate edge of Bestwood Village. However, the four properties (plots 62, 63, 64 and 65) that face south would have a road to their front and be not less than 12m from the site boundary, with a footpath beyond. As a result, it is not considered that these properties would have an overlooking or overbearing impact on properties toward the end of Yeoman Avenue.
- 9.3 Similar concern has been raised about plot 61, which would sit close to the edge of the site, adjacent to the school, footpath and properties on Keepers Close. Whilst the property would sit close to the boundary there is the footpath between the proposed two-storey dwelling and existing property on Keepers Close. No windows are proposed in the side elevation of plot 61 and the gable would not be to the rear elevation of the 16 Keepers Cottage, rather it would be at an angle to it. Primary views from plot 61 would be over their own rear garden and public domain, so it is not considered that the amenity of adjacent properties would be compromised, with any views oblique in nature. Furthermore, plot 61 would be to the north of existing properties so would not cause direct overshadowing to the garden.
- 9.4 Any noise or disturbance during construction would be temporary in nature and to reduce possible disturbance the Council's Scientific Officer has raised no objections to the proposal, subject to a number of conditions. One such condition is the submission of a Construction Emissions Management Plan to minimise the emission of dust and other emissions to air during site preparation and construction.
- 9.5 Finished floor levels have not been supplied, so final details of these would need to be approved. Any such approvals would need to follow the natural contours of the site, which, whilst not flat, would allow for the change to be absorbed within the site.
- 9.6 The proposed units themselves are of an adequate size to provide an acceptable level of amenity for proposed occupiers and adequate garden sizes are proposed to serve all dwellings.
- 9.7 For the reasons stated above, it is considered that the proposal complies with the relevant planning policies regarding amenity set out in Section 6 of this

report. In particular, it complies with the objectives of the National Planning Policy Framework Policies, LPD 32 and 37.

10.0 Highway considerations

- 10.1 A single access is proposed to serve the development, which will pass through phase 1 of the development to the west. The access would be extended to allow access to the 93 dwellings proposed as part of this application, as well as the adjacent school, which is currently accessed from Keepers Close. There have been minor changes to the highway layout to ensure adequate visibility around bends and other such alterations; following receipt of amended plans the Highway Authority have confirmed that they raised no objection to the application, subject to conditions, as outlined in paragraph 4.7 of this report. The majority of dwellings would be accessed from an adopted road, save for a modest number accessed from private drives to the end of the road network.
- 10.2 A Transport Assessment (TA) has been submitted in support of the application and identified that the development would generate 47 vehicle trips in the AM peak hour and 46 during the PM peak hour. It is predicted that the development would generate 434 vehicular two-way trips per day. The TA has assessed the junction capacity of Moor Road and Westhouse Lane, which was designed with the future phase in mind, given it is an allocated site, and was designed to accommodate the number of dwellings proposed to be erected, along with traffic associated with the school too. It is accepted that school traffic can generate peaks in traffic movement and erroneous parking. As a result it is recommended that boundary treatments be approved to reduce the likelihood of parking on the nearby public open space and feature such as knee rail around the POS should do this.
- 10.3 A Section 106 Legal Agreement is required and will include the provision of a private management company to maintain all shared private driveways. This would need to be signed prior to the grant of any planning permission.
- 10.4 The Council's Parking Provision for Residential and Non Residential Developments SPD (2022) states that the parking requirement for houses in urban areas is as follows;-
- 2 bedrooms – 2 allocated spaces plus 0.2 unallocated spaces
 - 3 bedrooms – 2 allocated spaces plus 0.3 unallocated spaces
 - 4 plus bedrooms – 3 allocated spaces plus 0 unallocated spaces or 2 allocated spaces plus 0.6 unallocated spaces.

This would equate to a requirement of 226 spaces.

- 10.5 A total of 93 dwellings are proposed to be erected. Each dwelling would, save for a small number of properties e.g. plot 73 on a corner plot, have at least two allocated parking spaces and some of the larger units 3 and 4. The TA indicates that in total 188 allocated spaces would be provided along with 38 communal spaces, which would be accommodated through on-street parking. The SPD does allow for unallocated parking and given the site is large enough to accommodate the parking provision, and there are no overriding

concerns from a highway safety point of view about on street parking, the parking provision is, as a result, considered to be acceptable. Additional on plot parking spaces was sought; however, the agent has indicated that this would, in particular for plots 81-93, lead to a streetscape dominated by parked cars, which would in itself be out of character with the area. Weighing things in the round, the level of parking provision is, on balance, considered to be acceptable.

- 10.6 An updated Travel Plan has been submitted and is being appraised by the Highway Authority. No response has been received as to its suitability. As a result a condition is intended to be added to the decision notice requiring the details to be approved in writing by the Local Planning Authority. Should it be approved prior to the Planning Committee the condition can be amended.
- 10.7 For the reasons stated above, it is considered that the proposal complies with the relevant planning policies regarding highway safety set out in Section 6 of this report. In particular, it complies with the objectives of the National Planning Policy Framework Policies, LPD 57, 61 and the Council's Parking Standards SPD.

11.0 Drainage / Flood Risk

- 11.1 The site is located within Flood Zone 1 and is therefore at a low risk of flooding. Nonetheless, due to the size of the proposal a full Flood Risk Assessment was submitted with the application. The Environment Agency were consulted on the application and have raised no objections.
- 11.2 The Lead Local Flood Authority (LLFA) has assessed the submitted surface water drainage information and found it to be acceptable. This is subject to a condition requiring precise details of surface water drainage being approved prior to the commencement of development.
- 11.3 The site will be drained utilising Sustainable Urban Drainage (SUD's) features. Due to the topography of the site, the northern plots will be drained to attenuation tanks under the POS near to the school entrance, which will link into the surface water sewer network approved under phase one and will discharge at 18l/s. The southern aspect of the site will drain via infiltration to trenches in the public open space to the southeast corner, along with soak-aways to individual plots, where they can be provided an adequate distance away from the property. All are considered to be acceptable to be a means by which to drain the site.
- 11.4 Foul water will link to the foul water network associated operated by Severn Trent and will be dealt with through the Building Regulations process, should planning permission be granted.
- 11.5 For the reasons stated above, subject to conditions, drainage at the site is acceptable and the proposal will not increase flood risk in the area. As such, the proposal is considered to be in accordance with Part 14 of the NPPF, Policy 1 of the ACS and LPD4.

12.0 Ecology

- 12.1 The site is a greenfield site to the immediate edge of Bestwood. The application was registered after the date to be exempt from Bio-diversity net-gain (BNG); therefore, the development would require 10% BNG. A BNG metric has been submitted in support of the application along with a preliminary ecological appraisal, which reviews the likelihood of protected species being impacted, and indicates a baseline assessment for understanding BNG.
- 12.2 To secure 10% BNG each site needs to be assessed against three key criteria; area Habitat Units, Hedgerow Units and Water Course Units. The 3 criteria are not interchangeable e.g. if there is a shortfall in one area it cannot be made up in another area. Habitat Units looks at BNG value of the land e.g. Grass land and woodland, Hedgerow and Watercourse Units are measured in kilometres.
- 12.3 The development would result in a shortfall of Habitat Units of 18.73%. Hedgerow units would increase by 10.32%; this is to be achieved through retaining existing boundary hedgerows and additional planting. The site has no watercourse units so this would not be impacted. As a result, there is a requirement to secure off-site provision for the shortfall in Habitat Units, which can be secured through conditions.
- 12.4 For the reasons stated above, subject to conditions, the proposal will not have an unacceptable impact on ecology and would provide 10% BNG enhancements, albeit some of it off-site. As a result, the application is deemed to comply with Part 15 of the NPPF and policy LPD18.

13.0 Sustainability

- 13.1 In respect of the Low Carbon Planning Guidance for Gedling Borough it is apparent that there are sustainable benefits from the scheme. Each property is intended to have solar panels on the roof. Drainage will be completed utilising SUD's. Each property would need to provide an electric vehicle charging point and contributions are sought toward public transport improvements e.g. bus stop enhancements and Travel Plan monitoring. The site is also considered to be in a sustainable close to services e.g. school and public open space.

14.0 Planning Obligations

- 14.1 The application meets the trigger for a number of contributions to make the development acceptable in planning terms.
- 14.2 The contributions sought from various statutory consultees are summarised below:
- Affordable housing – In accordance with LPD36 and guidance within the NPPF, as the proposed development is for more than 10 dwellings, the development must provide 30% of the dwellings as affordable housing. It is

intended to provide 28 affordable dwellings, which would break down as 20 social rent and 8 shared ownership.

- Education Contribution – A total contribution of £777,850 is sought toward education provision. This would breakdown as £365,080 toward primary education and £412,770 toward secondary provision
- Library Contribution - £3,278 to be used by Nottinghamshire County Council as a contribution towards enhancing library provision at Arnold Library.
- Primary Healthcare Contribution - £50,394.37
- Open Space Contribution – In the absence of an Informal play area, a contribution of £261,607.20 and maintenance contribution of 119,320.00, or £380,297.20 in total is sought. In addition, a contribution of £31,400.00 is sought for maintenance of the identified Local Equipped Area of Play, should it be adopted by Gedling Borough Council. However, the agreement should be written to allow the POS to be controlled through a management company if required, with either approach considered to be acceptable.
- Transport and travel – A £7,500 travel plan monitoring fee.
- A contribution of £41,400 toward bus stop improvements.
- A management scheme and management company for the future maintenance of the private driveways and SUDS (if applicable).
- S106 Monitoring fee – A S106 monitoring fee.
- Local Labour Agreement – A local labour agreement.

14.3 All of the above contributions are considered to comply with the statutory limitation on planning obligations within Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) as well as guidance as outlined in paragraph 57 of the NPPF, which identifies the tests required to seek a planning obligation, as well as ACS19.

14.4 A Section 106 Legal Agreement will be drafted to secure the contributions set out in paragraph 14.2 of this report.

15.0 Other Issues

15.1 The site is located within a former coal mining area and, as such, the standard coal mining informative should be attached to any grant of planning permission providing advice for building in a former coal mining area.

15.2 The Council's Scientific Officer advises that conditions should be attached to the grant of any planning permission regarding a Construction Emission Management Plan and electric vehicle charging points. This is in accordance with Policy LPD11 as well as the NPPF.

15.3 The majority of neighbour concerns have been addressed throughout the main body of this report. However, the remaining neighbour concerns are addressed below.

15.4 The site is not within the Green Belt; it is an allocated site. Two rounds of consultation have been made on the application. Since the last consultation, only minor changes to the layout have been made e.g. minor changes to the highway alignment, on which further consultation is not considered necessary.

As a result, the level of community engagement associated with the application is considered to be acceptable.

- 15.5 Concerns have been raised about possible flooding and the dwellings being cut-off during flood events on surrounding roads. However, the site is in flood zone 1 and is not at risk of flooding and no objection has been raised by statutory consultees. There is no reason why the application would be contrary to Article 8 of the Human Rights Act.
- 15.6 It is noted that the Environmental Health Officer has requested a condition in respect of electric vehicle charging points being provided; however, this is not required in that they need to be provided under building regulations approval.
- 15.7 The letter of support is noted and would reduce vehicles accessing the school from Keepers Close.

16.0 Conclusion

- 16.1 The proposed development is consistent with local and national planning policies. The site is allocated for residential development in the Local Plan, the design, scale and layout of the proposal is considered to be acceptable and does not have an unacceptable impact on the character or visual amenity of the area. The proposal will not have an unacceptable impact on the residential amenity of occupiers of neighbouring properties in terms of noise, overlooking or massing / overshadowing. Parking and access at the site is acceptable. The proposal will not increase flood risk in the area nor will it have an unacceptable impact on ecology in the area. It is considered that the proposal is appropriate for its context and is in accordance with the NPPF (Parts 2, 4, 5, 8, 9, 11, 12, 14, and 15), Policies A, 1, 2, 8, 10, 14, 16, 17, 18 and 19 of the ACS, Policies LPD 4, 11, 18, 21, 32, 33, 35, 36, 37, 48, 57, 61 and 64 of the LPD, Parking Provision SPD, Low Carbon Planning Guidance for Gedling Borough, Open Space Provision SPD and Design code.

17.0 Recommendation:

- 1 **Planning permission be GRANTED subject to the completion of a satisfactory section 106 agreement which secures appropriate planning obligations and subject to the conditions set out in paragraph 14.2 of this report; and**
- 2 **Should a satisfactory section 106 agreement which secures appropriate planning obligations not be completed by 25th September 2026 or any further extension of time agreed in writing between the applicant and the local planning authority, that it be delegated to the Assistant Director for Planning to REFUSE planning permission.**

Conditions

1. The development must be begun not later than three years beginning with the date of this permission.

2. This permission shall be undertaken in accordance with the following list of approved drawings:

001	Site Location Plan	A
101	Site Layout Plan	S
201	House Type A3L	A
202	House Type A4L	A
203	House Type C4	A
204	House Type C10	A
205	House Type DA3	A
206	House Type E21L	A
207	House Type G7L	A
208	House Type JD	A
209	House Type K8L	A
210	House Type K18	A
211	House Type K9L	A
212	House Type KA3L	A
214	House Type L4	A
216	House Type R4	A
217	House Type S21L	A
218	House Type T21L	A
219	House Type V3	A
220	House Type W12	A
222	House Type XS	A
223	House Type Y2	A
224	House Type YS	A
225	House Type YB	A
226	House Type BGA3	A
227	House Type F4	A
228	House Type B1B	-
N1812	Planning Statement Phase 2 Design and Access Statement	2024 02/2024
16/0323/RP & AA TCP 01	Arboricultural Constraints Report	03/2023
	BNG Metric	Rev 6
WFBV-BSP-XX-XX-T-W-0001	Flood Risk Assessment	P02
WFGN-BSP-ZZ-XX-RP-D-0001	Transport Assessment	P03
BG213.119	PEA and BIA	Rev 6
WFBV-BSP-ZZ-XX-DR-C-SK190	Refuse Vehicle Swept Paths	P02
WFBV-BSP-ZZ-XX-DR-C-SK002	Proposed TRO Markings	P01

3. Above ground works shall not commence until samples of materials to be used for the external appearance of the dwellings, brick and tile, have been

submitted to and approved in writing by the Local Planning Authority. Development shall proceed in accordance with the details as approved.

4. No development or demolition shall take place until an Archaeological Mitigation Strategy for the protection of archaeological remains is submitted to and approved by the Local Planning Authority. The mitigation strategy will include appropriate Written Schemes of Investigation for completion of the geophysical survey, evaluation trenching and provision for further mitigation work. These schemes shall include the following:
 - a) An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).
 - b) A methodology and timetable of site investigation and recording
 - c) Provision for site analysis
 - d) Provision for publication and dissemination of analysis and records
 - e) Provision for archive deposition
 - f) Nomination of a competent person/organisation to undertake the workThe scheme of archaeological investigation must only be undertaken in accordance with the approved details.
5. The archaeological site work must be undertaken only in full accordance with the approved written schemes referred to in Condition 4. The applicant will notify the Local Planning Authority of the intention to commence at least fourteen days before the start of archaeological work in order to facilitate adequate monitoring arrangements.
6. A report of the archaeologist's findings shall be submitted to the Local Planning Authority and the Historic Environment Record Officer at Nottinghamshire County Council within 3 months of the works hereby given consent being commenced unless otherwise agreed in writing by the Local Planning Authority; and the condition shall not be discharged until the archive of all archaeological work undertaken hitherto has been deposited with the County Museum Service, or another public depository willing to receive it.
7. Prior to the commencement of development, a scheme of landscaping showing the location, species and size of specimens to be planted shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be carried out in the first planting season following the completion of the development. Any trees, shrubs or plants that die within a period of five years from the completion of each development phase, or are removed and/or become seriously damaged or diseased in that period, shall be replaced (and if necessary continue to be replaced) in the first available planting season with others of similar size and species.
8. Prior to the commencement of development, an updated Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The report shall meet the British Standard 5837 and shall include a Tree Protection Plan. Any mitigation approved in the report shall be adhered to and any tree protection fencing approved shall be in situ prior to works commencing and remain in place whilst development is underway to the pertinent plot.

9. Occupation of the proposed dwellings shall not take place until their respective driveways have been surfaced in a bound material (not loose gravel) for a minimum distance of 5.0m behind the highway boundary, and which shall be drained with provision to prevent the discharge of surface water from the driveways to the public highway. The bound material and the provision to prevent the discharge of surface water to the public highway shall be retained for the lifetime of the development.
10. Occupation of the proposed dwellings shall not take place until details of how access will be achieved from adjacent phases of development have been submitted to and approved in writing by the Local Planning Authority.
11. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - o the parking of vehicles of site operatives and visitors
 - o loading and unloading of plant and materials
 - o storage of plant and materials used in constructing the development
 - o the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - o wheel washing facilities
 - o measures to control the emission of dust and dirt during construction
 - o a scheme for recycling/disposing of waste resulting from demolition and construction works
 - o School Safety Measures
12. Occupation of the proposed dwellings shall not take place until such time as the travel plan is approved. The development shall be carried out in accordance with the approved travel plan.
13. No part of the development hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved Flood Risk Assessment (FRA) and Drainage Strategy WFBV-BSP-XX-XX-T-W-0001-P02_Flood_Risk_Assessment, 16th January 2024, BSP Consulting., has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:
 - a) Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753 and NPPF Paragraph 169.
 - b) Limit the discharge generated by all rainfall events up to the 100 year plus 40% (climate change) critical rain storm to QBar rates for the developable area.
 - c) Provide detailed design (plans, network details, calculations and supporting summary documentation) in support of any surface water drainage scheme,

including details on any attenuation system, the outfall arrangements and any private drainage assets.

Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change return periods.

i) No surcharge shown in a 1 in 1 year.

ii) No flooding shown in a 1 in 30 year.

iii) For all exceedance to be contained within the site boundary without flooding properties in a 100 year plus 40% storm.

d) Evidence to demonstrate the viability (e.g. Condition, Capacity and positive onward connection) of any receiving watercourse to accept and convey all surface water from the site.

e) Details of Severn Trent Water approval for connections to existing network and any adoption of site drainage infrastructure.

f) Evidence of approval for drainage infrastructure crossing third party land where applicable.

g) Provide a surface water management plan demonstrating how surface water flows will be managed during construction to ensure no increase in flood risk off site.

h) Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term effectiveness.

14. No part of the development shall be brought into use until details of all the boundary treatments proposed for the site including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. This should include boundary treatments for public open space too. The approved boundary treatment for each individual plot and public open space shall be implemented prior to the occupation of each individual dwelling and use of the public open space.
15. Prior to commencement of the development a Construction Emission Management Plan (CEMP) for minimising the emission of dust and other emissions to air during the site preparation and construction shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must be prepared with due regard to the guidance produced by the Council on the assessment of dust from demolition and construction and include a site specific dust risk assessment. All works on site shall be undertaken in accordance with the approved CEMP.
16. No part of the development shall be commenced until details of the existing and proposed ground and finished floor levels of the site and approved building[s] have been submitted to and approved in writing by the local

planning authority. The development shall be carried out thereafter in accordance with the approved details.

17. A Construction Ecological Management Plan (CEcMP), including all avoidance and mitigation recommendations set out within the Preliminary Ecological Appraisal and Biodiversity Impact Assessment report, ref. BG23.119, Rev. 6, shall be provided to and approved by the Local Planning Authority (LPA) prior to the commencement of works.

Works shall then be conducted in accordance with the CEcMP.

18. A Landscape Ecological Management Plan (LEMP), including all compensation and enhancement recommendations set out within the Preliminary Ecological Appraisal and Biodiversity Impact Assessment report, ref. BG23.119, Rev. 6, shall be provided to and approved by the LPA prior to the commencement of works.

The details as approved shall be implemented.

19. Details of a post-construction wildlife sensitive lighting scheme, compliant with Bats and Artificial Lighting at Night (Bat Conservation Trust and Institute of Lighting Professionals, 2023), shall be provided to and approved by the LPA prior to the commencement of works.

The details as approved shall be implemented.

20. Development may not be begun unless:
 - (a) a biodiversity gain plan has been submitted to the Local Planning Authority; and
 - (b) The Local Planning Authority has approved the plan.

21. The Biodiversity Gain Plan shall be prepared in accordance with the Preliminary Ecological Appraisal and Biodiversity Impact Assessment (rev 6), received 15th March and the Statutory Metric Calculation Tool, received by the Local Planning Authority 15th March.

22. The development shall not commence until a Habitat Management and Monitoring Plan in respect of any on-site biodiversity gain (the onsite HMMP), prepared in accordance with the approved Bio-diversity Gain Plan and including:

- (a) a non-technical summary;
- (b) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
- (c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
- (d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and

- (e) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority, has been submitted to, and approved in writing by, the Local Planning Authority.
- 23. Notice in writing shall be given to the Council when the on-site HMMP works have started.
- 24. No dwelling shall be occupied until:
 - (a) the habitat creation and enhancement works set out in the approved on-site HMMP have been completed; and
 - (b) a completion report, evidencing the completed habitat enhancements, has been submitted to, and approved in writing by the Local Planning Authority.
- 25. The created and/or enhanced habitat specified in the approved on-site HMMP shall be managed and maintained in accordance with the approved on-site HMMP.
- 26. Monitoring reports shall be submitted to local planning authority in writing in accordance with the methodology and frequency specified in the approved on-site HMMP.

Reasons

- 1. In order to comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2. For the avoidance of doubt.
- 3. To ensure that the character of the area is respected and to comply with policy ASC10.
- 4. To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation in accordance with the National Planning Policy Framework.
- 5. In order to ensure that satisfactory arrangements are made for the investigation, retrieval and recording of any possible archaeological remains on the site in accordance with the National Planning Policy Framework.
- 6. In order to ensure that satisfactory arrangements are made for the reporting, archiving and dissemination of the results of the investigation in accordance with the National Planning Policy Framework.
- 7. To ensure that adequate landscaping is provided and to comply with policy LPD19 and guidance within the NPPF.
- 8. To ensure that protected trees are not detrimentally impacted and to comply with policy LPD19 and guidance within the NPPF.

9. In the interest of highway safety and to comply with policy LPD61.
10. In the interest of highway safety and to comply with policy LPD61.
11. In the interest of highway safety and to comply with policy LPD61.
12. To promote sustainable travel and comply with guidance within the NPPF.
13. A detailed surface water management plan is required to ensure that the development is in accordance with NPPF and local planning policies. It should be ensured that all major developments have sufficient surface water management, are not at increased risk of flooding and do not increase flood risk off-site.
14. To ensure that the character of the area is respected and to comply with policy ASC10.
15. To ensure the development is constructed in an appropriate sustainable manner which takes into consideration air quality within the Borough, and takes into consideration the National Planning Policy Framework and policy LPD11 of the Councils Local Plan.
16. In the interests of residential amenity and to comply with LPD32.
17. To protect and maintain biodiversity in accordance with relevant wildlife legislation, the National Planning Policy Framework, Aligned Core Strategy Policy 17 and Local Plan Policy LPD 18.
18. To conserve and enhance the site for biodiversity in accordance with the National Planning Policy Framework, Aligned Core Strategy Policy 17 and Local Plan Policy LPD 18.
19. To protect and maintain biodiversity in accordance with relevant wildlife legislation, the National Planning Policy Framework, Aligned Core Strategy Policy 17 and Local Plan Policy LPD 18.
20. To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990.
21. To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990.
22. To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990.
23. To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990.
24. To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990.

25. To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990.
26. To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990.

Notes to Applicant

The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the Highway Authority regarding compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible.

Please email hdc.south@nottscc.gov.uk to discuss the necessary highways legal agreements.

The County Council's costs for undertaking a review of the monitoring reports is solely for reviewing and commenting on these documents that must first be produced and provided annually by the site's travel plan co-ordinator appointed by the developer (the appointment of a travel plan co-ordinator by the developer is required as part of any approved travel plan).

The County Council's costs for travel plan monitoring does not include the following activities which are the responsibility of the site travel plan co-ordinator (all of which are required to be undertaken annually as part of any approved travel plan):

- (i) undertaking the travel surveys with businesses/residents
- (ii) processing/input of travel surveys with businesses/residents
- (iii) analysis of travel surveys with businesses/residents
- (iv) production of annual travel plan monitoring report

A separate quote for undertaking and processing the survey work can, however, be provided to the developer on request. Please contact Transport.Planning@nottscc.gov.uk

The applicant is advised that all planning permissions granted on or after 16th October 2015 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website.

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's

website or from the Planning Portal:

www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Mining Remediation Authority on 0345 762 6846 or if a hazard is encountered on site call the emergency line 0800 288 4242.

Further information is also available on the Mining Remediation Authority website at: Mining Remediation Authority - GOV.UK

The Lead Flood Authority would be a consultee on any drainage strategy to be approved. Any deviation from the principles agreed in the approved documents, including the FRA and drainage strategy, may lead to us objecting to the discharge of conditions.

All electrical circuits/installations shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET code of practice on Electrical Vehicle Charging Equipment installation (2015) and The Electric Vehicles (Smart Charge Points) Regulations 2021.

With regards to condition 1, the biodiversity gain plan must include:

- (a) information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;
- (b) the pre-development biodiversity value of the onsite habitat;
- (c) the post-development biodiversity value of the onsite habitat;
- (d) any registered offsite biodiversity gain allocated to the development and the biodiversity and the biodiversity value of that gain in relation to the development;
- (e) any biodiversity credits purchased for the development;
- (f) any such other matters as the Secretary of State may by regulations specify;
and
- (g) timings for implementation.

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 Gedling Borough Council.

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

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;

ii) planning permission is granted which has effect before 2 April 2024; or

iii) 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

ii) 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;
- ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- iii) 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
- 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.

With regards to condition 20, the biodiversity gain plan must include:

- (a) information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;
- (b) the pre-development biodiversity value of the onsite habitat;
- (c) the post-development biodiversity value of the onsite habitat;
- (d) any registered offsite biodiversity gain allocated to the development and the biodiversity and the biodiversity value of that gain in relation to the development;
- (e) any biodiversity credits purchased for the development;
- (f) any such other matters as the Secretary of State may by regulations specify;
and
- (g) timings for implementation.

With regards to the discharge of conditions 21 (BNG Gains Plan) and 22 (BNG Habitat Management and Monitoring Plan), please be aware that a Section 106 Legal Agreement may be required in order to secure the required details and monitoring fee, as part of the discharge if condition application.