

## PLANNING COMMITTEE – Thursday 7 November 2024

### **24/1155/RSP - Part retrospective: Works to rear gardens of Plots 1 and 2 including land levelling, external patio, retaining walls, external seating areas and fencing at VIVIKT, CHORLEYWOOD ROAD, RICKMANSWORTH, WD3 4EP**

Parish: Chorleywood Parish Council  
Expiry of Statutory Period: 04.10.2024  
(Extension of Time: 12.11.2024)

Ward: Chorleywood North and Sarratt  
Case Officer: Scott Volker

Recommendation: That Part Retrospective planning permission be granted.

Reason for consideration by the Committee: The application was called in by Chorleywood Parish Council due to insufficient information on the proposed development and concerns regarding the impact of the development on surrounding neighbouring properties.

To view all documents forming part of this application please go to the following website:

[24/1155/RSP | Part retrospective: Works to rear garden including land levelling, external patio, retaining walls, external seating areas and fencing | Vivikt Chorleywood Road Rickmansworth Hertfordshire WD3 4EP](#)

## **1 Relevant Planning and Enforcement History**

- 1.1 18/0570/FUL - Demolition of existing five-bedroom dwelling and construction of two five-bedroom detached dwellings with associated works including bin stores to front - Permitted, demolition has commenced – Permitted May 2018.
- 1.2 21/0344/DIS - Discharge of Condition 3 (Materials), Condition 4 (Landscaping), Condition 6 (Drainage), Condition 7 (Visibility), Condition 8 (Construction management plan), Condition 9 (Energy Statement) and Condition 10 (Boundary treatment) pursuant to planning permission 18/0570/FUL – Determined April 2021.
- 1.3 21/0540/RSP - Part Retrospective: Demolition of existing five bedroom dwelling and construction of two five-bedroom detached dwellings including basement, bin stores to front, associated works and alterations to access arrangements – Permitted June 2021.
- 1.4 24/1154/RSP – Variation of Condition 2 pursuant to planning permission 21/0540/RSP (Part retrospective: Demolition of existing five-bedroom dwelling and construction of two five-bedroom detached dwellings including basement, bin stores to front, associated works and alterations to access arrangements) to change the external access for the proposed basement of the dwelling contained within Plot 1 – Permitted October 2024.
- 1.5 23/0142/COMP – Enforcement Case: Increase in land level and works not in accordance with plans (height of dwellings and construction of balcony) – Pending Investigation.

## **2 Description of Application Site**

- 2.1 The application site is located on southern side of Chorleywood Road and is a site under redevelopment to construct two detached two-storey five-bedroom dwellings following grant of planning permission 21/0540/RSP with plans later varied under application 24/1154/RSP.
- 2.2 Works are progressing on site with the main built form of the dwellings complete. Works have also been undertaken which fall outside of the approved plans, namely, landscaping and land level alterations within the rear garden of both plots.
- 2.3 The neighbouring dwelling to the west (Little Orchard) consists of a detached chalet style dwelling with the first-floor accommodation served by dormers. The neighbouring dwelling to the east (Raydons) is a two-storey detached dwelling. On the common boundary with Little Orchard there is a combination of fencing, vegetation and hedging which screens the

immediate rear aspect of the neighbouring garden. Towards the rear there is a mutual level of overlooking over the hedging. On the opposite side with Raydons, there is an unregistered strip of land which historically provided rear access to Vivikt and Raydons but now serves no apparent purpose and is lined by hedgerow. The leylandi hedging on the Raydons side of the access varies in height and screens a large proportion of private amenity space of this garden; however, there are some views across towards the rear conservatory of this neighbour from the application site. Along the rear of the site are mature trees and fencing which screens views of those properties on Spencer Walk.

### **3 Description of Proposed Development**

- 3.1 This application seeks part retrospective planning permission for works to the rear garden of Plots 1 and 2 including land levelling, external patios, retaining walls, external seating areas and fencing. Following a recent site visit it was noted that the patios to the rear to the properties had already been created.
- 3.2 The rear landscaping works and land levelling includes the addition of patio paving to the immediate rear of each dwelling. The hard landscaping would extend into the rear garden of Plot 1 to a depth of 7m to provide a patio area around the basement opening with the rear garden. The patio area would extend out from ground floor level of the dwelling before dropping down 600mm to an area laid to lawn. The lawn area would be surrounded to both flanks by a hard surfaced path for a depth of 16.5m before sloping down a further 600mm at the rear part of the garden before further sloping down towards the rear boundary.
- 3.3 Turning to Plot 2, the hard-surfacing would extend to a depth of 14.5m to incorporate the basement opening and a gravelled feature set in from the boundary with Plot 1. This would step down 400mm to an area laid to lawn with a patio surround for a depth of 11m which will lead to two seating areas at the same land level set in from the rear boundary by 3.5m.
- 3.4 A 2m high close boarded fence would be erected along the common boundary between the two plots which would be stepped in height to following the change in land levels across the site.
- 3.5 During the course of the application process additional plans, section drawings were provided to aid the assessment. The plans also included a new screen along the eastern edge of the patio of Plot 1 adjacent to the common boundary with Raydons.

### **4 Consultation**

#### **4.1 Statutory Consultation**

##### **4.1.1 Chorleywood Parish Council: Initial Consultation [Objection – CALL-IN]**

*The Committee had objections to this application on the following grounds and wish to call-in, unless officers are minded to refuse.*

*The Committee had concerns that, bearing in mind the application is Retrospective, there is a significant disconnect between the plans presented and the soil levels observed on the site. This difference appears to be irreconcilable.*

*If the actual land levels are higher than those shown in the plans, this will have a material negative impact on the privacy afforded to the neighbouring properties.*

*Should the plans or supporting information be amended by the Applicant or if further evidence can be provided to demonstrate that the actual soil levels on site accord with the plan presented, please advise the Parish Council so the comments can be updated to reflect the amended.*

**Officer comment:** Following receipt of the above comments, officers engaged in discussions with the applicant which resulted in the submission of additional plans to enable a more detailed assessment on the impact of the patio and land level changes to surrounding neighbouring amenity.

4.1.2 Chorleywood Parish Council: Second Consultation – No response received at time of report writing. Any response received will be updated to Members verbally.

4.1.3 National Grid: No response received at time of writing.

## **4.2 Public/Neighbour Consultation**

4.2.1 Site notice: Not required.

4.2.2 Number consulted: 11

4.2.3 No of responses received: 4 objections.

4.2.4 Summary of responses:

- Land levels are well above where they should be
- No effort was made to remove soil during excavation for the basements
- Damage to trees
- Overlooking/loss of privacy
- Application short of detail absence of pre-existing and proposed datum readings
- Heights of dwellings higher than the original house on site (**Officer comment:** Officers have undertaken multiple site visits throughout the course of the enforcement investigation and the heights of the dwellings are as approved)
- Installation of balcony would overlook neighbours (**Officer Comment:** This application proposes no balconies and the development as built does not include balconies).

## **5 Reason for Delay**

5.1 Receipt of amended plans

## **6 Relevant Planning Policy, Guidance and Legislation**

### 6.1 Legislation

Planning applications are required to be determined in accordance with the statutory Development Plan unless material considerations indicate otherwise as set out within S38(6) Planning and Compulsory Purchase Act 2004 and S70 of Town and Country Planning Act 1990).

The Localism Act received Royal Assent on 15 November 2011. The Growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

The Environment Act 2021

### 6.2 Policy / Guidance

National Planning Policy Framework and National Planning Practice Guidance

In December 2023 the revised NPPF was published, to be read alongside the online National Planning Practice Guidance. The 2023 NPPF is clear that “existing policies should

not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits unless there is a clear reason for refusing the development (harm to a protected area). Relevant chapters include Chapter 2 and Chapter 4.

#### The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP9, CP10 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM6 and DM13 and Appendices 2 and 5.

The Chorleywood Neighbourhood Development Plan is also relevant, specifically Policy 2.

### 6.3 Other

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015)

## **7 Planning Analysis**

### 7.1 Background

- 7.1.1 Following a complaint to the Council an enforcement investigation was opened (ref. 23/0142/COMP) in relation to concerns with the works being undertaken on site not being in accordance with planning permission 21/0540/RSP in relation to changes to land levels, ridge height of the two dwellings higher than approved and creation of balconies above the single storey rear projections.
- 7.1.2 A site visit was undertaken where it was found that both dwellings had been built in accordance with the plans in respect of their ridge heights and no rear balconies had been installed; however, significant land level changes had occurred within the rear part of the site as a result of spreading the spoil dug out to create the basements. Lastly, the location of the external access to the basement associated to Plot 1 deviated from the plans.
- 7.1.3 A letter was sent to the owner of the property and as a consequence two planning applications have been submitted. This application relates to the landscaping works to the rear gardens of both plots. Application 24/1154/FUL solely related to the relocated external access to the basement of Plot 1 and was recently permitted in October. The landscaping works are also the continued subject of enforcement investigation referenced 23/0142/COMP.
- 7.1.4 The principle of the construction of two dwellings on the site therefore been approved and this application focuses on the works to the rear gardens of each plot.

- 7.1.5 Site visits were undertaken as part of the assessment of the application and the enforcement investigation. Officers recognise that at present the artificial land levels are significantly higher than the pre-existing levels across parts of the site; however, this is a part-retrospective application which proposes to make changes to ensure that the final land levels return to and are close to the original land level but allowing for some degree of change to facilitate the proposed gardens.
- 7.1.6 The land regrading constituted development within the meaning of 'development' of Section 55(1) of the Act defined as *"the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land."* Thus, planning permission is required for the land regrading and associated operational development.
- 7.1.7 This current application has therefore been submitted in an attempt to formalise the breach of planning control by utilising Section 73A of the Town and Country Planning Act 1990 (as amended) which enables an application to be made to the Local Planning Authority for development carried out before the date of the application. At the time of the application, the works were still progressing.
- 7.2 Design, impact on Character and Street Scene
- 7.2.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy relates to design and states that in seeking a high standard of design, the Council will expect development proposals to have regard to the local context and conserve or enhance the character, amenities and quality of an area.
- 7.2.2 Policy DM1 and Appendix 2 of the Development Management Policies LDD (DMP LDD) (adopted July 2013) set out that development should not have a significant impact on the visual amenities of the area.
- 7.2.3 Policy 2 of the Chorleywood Neighbourhood Plan (2020) states that developments must incorporate high quality landscape design and maximise opportunities for greening through planting of trees or hedging and other soft landscaping that contribute to the streetscape and character of the area.
- 7.2.4 Prior to works commencing on site, the rear garden was predominantly natural grass with a slight gradient from the rear of the pre-existing dwelling and the neighbouring site of Little Orchard down towards the rear boundary and the southern corner of the site. A pre-existing topography plan referenced E117 REV-B was provided during the course of the application process detailing the pre-existing land levels of the site. Site visit photographs taken by the planning officer in the assessment of the 2018 application showing the pre-existing condition of the land were available to officers to aid assessment of this application. The site photographs taken by officers and the submitted topography drawing collaborate each other.
- 7.2.5 The proposed development seeks to alter the rear gardens of each individual plot by way of hard-surfacing and retaining walls and lawn areas. Amenity features are proposed within the rear garden of Plot 2 including two sunken seating areas located adjacent to the rear boundary. As a result of these changes the rear gardens of both plots would have a greater proportion of hard-surfacing in comparison to the general appearance of neighbouring gardens which are largely natural soft landscaped gardens. Nevertheless, the proposed rear gardens would not be visible from the wider street and would be set within the ground at a limited height which would reduce their prominence. Furthermore, the dwellings are set a considerable distance back from the public highway. It should be noted that the plots benefit from long rear gardens and when viewed in the context of the site, the changes would not be overly dominant as to detract from the character and appearance of the new dwellings on site in any way which are of modern design. Additional plans were received

during the course of the application process providing further details on the finished site levels and section drawings. The drawings show that the land levels from the dwelling to the rear of the site would incorporate a more formalised change to the land levels the development but would continue to step down from the rear of the dwelling towards the rear of the site. Thus, it is not considered the engineering operations as amended to rear of the site would be unacceptable with regard to any loss of character. The final levels within the rear gardens are provided within plan number E118 Rev-B and supported by section drawings on the same plan. To ensure compliance with these plans, a condition would be secured.

7.2.6 As such, it is not considered that the proposed development results in any adverse impact to the character and appearance of the host dwelling or street scene and is acceptable in accordance with Policy CP1 and CP12 of the Core Strategy (adopted October 2011), Policy DM1 and Appendix 2 of the Development Management Policies document (adopted July 2013) and Policy 2 of the Chorleywood Neighbourhood Plan (2020).

### 7.3 Impact on amenity of neighbours

7.3.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space.'

7.3.2 Policy DM1 and Appendix 2 of the Development Management Policies LDD set out that residential development should not result in loss of light to the windows of neighbouring properties nor allow overlooking and should not be excessively prominent in relation to adjacent properties.

7.3.3 Whilst it is proposed to undertake extensive landscaping works including rear patios and outdoor seating areas and terracing to Plot 2, the resultant garden land levels of Plot 2 would be relatively comparable to that of Little Orchard and given the existing boundary treatment on common boundary (fencing and hedging) the key private zone of this neighbouring property is adequately screened from view such the proposed landscaping works would not give rise to unacceptable harm in terms of loss of privacy to this neighbour. To clarify, a private zone is described at Appendix 2 of the Development Management Policies LDD as abutting or close to the dwelling that is not visible from the gardens or ground floor habitable rooms of adjoining properties. This should be of a minimum distance of 3 metres from a wall of the dwelling and be permanently screened by walls or fences. An outdoor seating is proposed within the rearmost part of Plot 2, but this would be sunken into the ground and at this part of the site there is an existing level of mutual overlooking of the rearmost part of the garden of both properties such that it is not considered that there would be a significant change to the relationship between the two. The existing line of mature trees and fencing along the shared boundary with 18 Spencer Walk maintain a sufficient level of screening to prevent overlooking towards this property to the rear.

7.3.4 Turning to Plot 1, again extensive landscaping works are proposed. During a site visit for the application, it is acknowledged that whilst standing on the rear patio there are partial views across into the neighbouring property Raydons and its conservatory which is set on a lower land level. As such, amended plans were requested to incorporate a 1.8m high planting screen along the entire depth of the eastern flank of the patio and a condition is attached to the recommendation requiring details of the screening to be submitted. With the addition of a screen and the presence of the existing leylandi hedging the visibility of the neighbouring property would be limited. In addition, the main usable space within the rear garden of Plot 1 would be raised in comparison to the pre-existing garden level, however, this area would be primarily located towards the centre of the garden, away from the flank boundary with Raydons and would be set down 600mm from the rear patio and continue to lower in height further towards the rear of the garden. As such, subject to conditions requiring the landscaping works to be undertaken with five months and installation of a

screen along the eastern edge of the patio, it is not considered that there would be a perceived sense of or actual overlooking into the garden of Raydons.

7.3.5 In respect to the two new plots, a two metre high close boarded fence is proposed along the common boundary between Plots 1 and 2 which would be stepped in parts to reflect the change in land levels. This boundary treatment would provide sufficient screening between the two properties to prevent any overlooking into the respective private gardens.

7.3.6 As such, subject to conditions the development would not result in any harm to the living conditions of the occupiers of neighbouring properties and would therefore be an acceptable form of development in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.

#### 7.4 Amenity Space

7.4.1 Policy CP12 of the Core Strategy states that development should take into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space. Appendix 2 of the Development Management Policies LDD states that 'amenity space must be provided within the curtilage of all new residential developments'. The Design Criteria at Appendix 2 provides indicative levels of amenity space which should be attained as individual gardens. A four-bedroom dwelling should provide 105sq. metres of amenity space with an additional 21sq. metres per additional bedroom.

7.4.2 The proposed dwellings would contain six bedrooms requiring 147sqm of amenity space. The dwellings would benefit from large private amenity space measuring approximately 270sqm which would exceed the indicative level for a dwelling of this size and is considered acceptable.

#### 7.5 Highways, Access and Parking

7.5.1 Core Strategy Policy CP10 requires development to provide a safe and adequate means of access to make adequate provision for all users, including car parking. Appendix 5 of the Development Management Policies document sets out parking standards for developments within the District.

7.5.2 The proposed development would not increase the demand for additional parking or result in the loss of parking provision on site for each dwelling. The dwellings would continue to benefit from a driveway which would provide sufficient off-street parking provision in accordance with Policy DM13 and Appendix 5 of the Development Management Policies LDD.

7.5.3 The changes in land levels as a result of this application, will likely involve large vehicle movements. A Construction Management Plan was approved under application 22/0051/DIS in respect of 21/0540/RSP. Officers consider that works should continue to adhere with the original CMP and thus have asked the applicant to submit it to support this application so that it can be conditioned.

#### 7.6 Trees and Landscaping

7.6.1 Policy DM6 of the Development Management Policies LDD (adopted July 2013) states that development proposals on sites which contain existing trees and hedgerows will be expected to retain as many trees and hedgerows as possible, particularly those of local amenity or nature conservation value. Policy DM6 further states that development proposals should demonstrate that existing trees, hedgerows and woodlands will be safeguarded and managed during and after development.

7.7 It is acknowledged that concerns regarding the removal of trees has been raised by consultees and neighbours. A number of the trees within the site have been affected by land levels, but remedial works have factored these trees into consideration.

7.8 It should be noted that the application site is not within a Conservation Area and does not benefit from designated TPOs. As such, the previous removal of trees from the site is not considered justification for refusal of this application.

#### 7.9 Wildlife and Biodiversity

7.9.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.

7.9.2 Biodiversity protection and protected species are a material planning consideration during the application process of this application. This is in accordance with Policy CP9 of the Core strategy in addition to Policy DM6 of the Development Management Policies Local Development Document. Local Authorities, in line with National Planning Policy, are required to ensure that a protected species survey is completed for applications whereby biodiversity may be affected prior to the determination of the application.

7.9.3 A biodiversity checklist was submitted with the application this stated that no protected species or biodiversity factors will be affected as a result of the application. The Local Planning Authority is not aware of any protected species within the immediate area that would require further assessment.

#### 7.10 Mandatory Biodiversity Net Gain

7.10.1 Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 sets out that every planning permission granted for the development of land in England shall be deemed to have been granted subject to the 'biodiversity gain condition' requiring development to achieve a net gain of 10% of biodiversity value. This is subject to exemptions as set out in The Biodiversity Gain Requirements (Exemptions) Regulations 2024.

7.10.2 Given that this is a retrospective application the need for the development to achieve a biodiversity net gain is not required.

### **8 Recommendation**

8.1 That part retrospective PLANNING PERMISSION BE GRANTED, subject to the following conditions:

C1 Within FIVE MONTHS of the date of this permission, the alterations to land levels and soft landscaping hereby approved shall be implemented in accordance with PL-005 REV A, PL-006 REV A and PL-007 REV A and shall be maintained as such thereafter.

Reason: To safeguard the amenities of the occupiers of neighbouring residential properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

C2 Prior to first occupation of the development hereby permitted, a plan indicating the positions, design, materials and type of boundary treatment to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before any of the dwellings are occupied and shall be retained thereafter.

Reason: To ensure that appropriate boundary treatments are proposed to safeguard the amenities of neighbouring properties and the character of the locality in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011)



and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C3 Prior to the first occupation of the dwelling within Plot 1, details of a soft landscaping scheme including details of planting screen (e.g. evergreen species) to a height of 1.8m as measured from the surface of the rear patio to be erected along the depth of the eastern flank of the rear patio and its future management shall be submitted to and approved in writing by the Local Planning Authority. The screening shall be erected prior to occupation of the dwelling in accordance with the approved details and maintained as such thereafter in accordance with the agreed details.

Reason: To safeguard the amenities of the occupiers of neighbouring residential properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM1 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

- C4 The development shall be implemented in accordance with the Construction Management Plan re. A121 REV B and dated 3<sup>rd</sup> March 2022 prepared by Kotak.

Reason: To minimise danger, obstruction and inconvenience to users of the highway in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

## 8.2 **Informatives:**

- I1 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £145 per request (or £43 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 01438 879990 or at [buildingcontrol@hertfordshirebc.co.uk](mailto:buildingcontrol@hertfordshirebc.co.uk) who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at [www.hertfordshirebc.co.uk](http://www.hertfordshirebc.co.uk).

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

Following the grant of planning permission by the Local Planning Authority it is accepted that new issues may arise post determination, which require modification of the approved plans. Please note that regardless of the reason for these changes, where these modifications are fundamental or substantial, a new planning application will need to be submitted. Where less substantial changes are proposed, the following options are available to applicants:

- (a) Making a Non-Material Amendment

(b) Amending the conditions attached to the planning permission, including seeking to make minor material amendments (otherwise known as a section 73 application).

It is important that any modifications to a planning permission are formalised before works commence otherwise your planning permission may be unlawful and therefore could be subject to enforcement action. In addition, please be aware that changes to a development previously granted by the LPA may affect any previous Community Infrastructure Levy (CIL) owed or exemption granted by the Council. If you are in any doubt whether the new/amended development is now liable for CIL you are advised to contact the Community Infrastructure Levy Officer (01923 776611) for clarification. Information regarding CIL can be found on the Three Rivers website (<https://www.threerivers.gov.uk/services/planning/community-infrastructure-levy>).

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work. Further information on how to incorporate changes to reduce your energy and water use is available at: <https://www.threerivers.gov.uk/services/environment-climate-emergency/home-energy-efficiency-sustainable-living#Greening%20your%20home> Development Management Section prior to the commencement of work.

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The development maintains/improves the economic, social and environmental conditions of the District.
- 14 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 Three Rivers District Council.

There are statutory exemptions and transitional arrangement which mean that the biodiversity gain conditions does not always apply.

Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because the following statutory exemption or transitional arrangement is considered to apply.

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).

Where the local planning authority considers that the permission falls within paragraph 19 of Schedule 7A to the Town and Country Planning Act 1990, the permission which has been granted has the effect of requiring or permitting the development to proceed in phases. The modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 apply.

Biodiversity gain plans are required to be submitted to, and approved by, the planning authority before development may be begun, and, if subject to phased development, before each phase of development may be begun.

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.

More information can be found in the Planning Practice Guidance online at <https://www.gov.uk/guidance/biodiversity-net-gain>.