

PLANNING COMMITTEE - Thursday 31 July 2025

25/0694/RSP – Retrospective: Construction of outbuilding in rear garden for ancillary residential use at 20 Marlin Square, Abbots Langley, Hertfordshire, WD5 0EG

Parish: Abbots Langley Parish Council
Expiry of Statutory Period: 12.06.25.
Extension Of Time: 20.07.25.

Ward: Abbots Langley and Bedmond
Case Officer: Clara Loveland

Development type: Householder.

Recommendation: That RETROSPECTIVE PLANNING PERMISSION BE GRANTED subject to conditions.

Reason for consideration by the Committee: Abbots Langley Parish Council called in if officers are minded to approve due to concerns with the development being overbearing, resulting in a loss of light and privacy.

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

<https://www3.threerivers.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SUUKP5QFG6700>

1 Relevant planning and enforcement history

- 1.1 23/1496/CLED - Certificate of Lawfulness Existing Use: Stationing of Caravan/Mobile Home in rear garden for ancillary residential use. Refused for the following reason:

This application seeks a Certificate declaring that the structure, sited in the rear amenity garden within the land edged in red on the accompanying Location Plan, is a caravan and does not constitute development as per Section 55 (1) of the Town and Country Planning Act 1990 ('the Act'). Having regard to the evidence submitted, it has not been satisfactorily demonstrated that the structure in this case would be moveable once constructed and thus it is not a caravan. The LPA consider that the structure is a building and building operations, as set out in Section 55(1) of the Act, have occurred. The development is not covered by any Permitted Development rights.

The Lawful Development Certificate for Existing Development pursuant to Section 192 of the Town and Country Planning Act 1990 (as amended) is therefore refused. It therefore follows that planning permission for the development is required.

Appeal dismissed (PINS ref: APP/P1940/X/24/3336810).

Officer Note: The Appeal decision was based strictly on the facts and on relevant planning law, i.e. that the siting of a caravan/mobile home for incidental or ancillary use in the curtilage of the dwellinghouse did not comprise a material change of use of the land or buildings or operational development. The Inspector's decision confirmed that the council's refusal of 23/1496/CLED was well-founded and that the works resulted in the erection of a building / constituted building operations for which planning permission is required and none had been applied for.

- 1.2 23/0075/COMP - Unauthorised outbuilding not for incidental purposes (annex use). Pending consideration, subject to the determination of this application.
- 1.3 19/1640/FUL - Single storey side and rear extension and alterations to roof of existing projection - 11.11.2019 – Permitted.
- 1.4 02/00227/FUL - Loft conversion with rear dormer - 26.04.2002 – Permitted.

- 1.5 01/01712/CLPD - Certificate of Lawfulness Proposed Use: Loft conversion with rear dormer windows - 06.02.2002 – Refused.

2 Site Description

- 2.1 The application site is located on Marlin Square, Abbots Langley and contains a two-storey, mid-terraced dwelling with a yellow facing brick exterior with red brick detailing and a grey slate roof.
- 2.2 To the rear of the dwelling is an amenity area predominantly laid with paving which measures some 100sqm in area (including the area of the outbuilding contained within the rear garden) and is enclosed by close boarded fencing. Beyond the site and to the rear of the outbuilding, there is a Public Footpath (32) connecting Langley Road to Creasy Close and Tibbs Hill Road.
- 2.3 Within the rear amenity area is a flat roofed outbuilding which is the subject of this application and is sited on a slightly higher land level than the main paved garden.

3 Description of proposed development

- 3.1 This application seeks retrospective planning permission for the construction of an outbuilding in the rear garden for ancillary residential use, i.e. an annex
- 3.2 The outbuilding is located to the rear of the application site and has a width of 5.18m, a depth of 5.38m and a height of 2.60m (as measured by the Officer on site) (referenced as 2.7m on the submitted details). The outbuilding contains a set of doors within the front elevation facing towards the main dwelling. The outbuilding is used as living accommodation by the applicant's father and contains a complete set of living facilities including open plan living area, bed, kitchen, and bathroom facilities.
- 3.3 As observed on the Officer site visit, the outbuilding is raised off the ground by approximately 0.1-0.2m from the adjacent ground by metal piles/poles which go into the ground.
- 3.4 During the application, an Officer visited the site on 26 June 2025 to measure the outbuilding. The appointed agent also provided a front elevation plan indicating the dimensions of the outbuilding in relation to the fence lines and to the front landscaping (wooden sleepers and front steps).

4 Consultee responses

4.1 Statutory consultation:

4.1.1 Abbots Langley Parish Council – Objection and called into the Planning Committee.

“Whilst members acknowledge that the dwelling benefits from permitted development rights, these come with specific limitations, especially with regard to height, proximity to boundary and use. As we cannot gauge from the photos the actual height of the building, we will have to rely on the officers’ investigations to conclude that the structure does not exceed 2.5m in height or occupy over 50% of the free external space that Permitted Development would allow. We understand that the application has been tested through the Permitted Development route and thru appeal and was disallowed, hence it is now encompassed within a formal planning application.

We are mindful that the current use is residential, a use not accepted within the Residential Permitted Development allowance. We note the concerns raised by neighbouring residents regarding the height, overbearing nature, light pollution and loss of privacy regarding the distance of the habitable windows to their own rear windows.

Whilst the Parish Council is mindful of the current housing crisis and the difficulty experienced in finding good quality, secure accommodation for both the younger generation looking for suitable accommodation and the older generation downsizing, we can appreciate that this style of solution is a common resolution within the district.

However, we do feel that in this instance the scale of the rear garden is a material consideration within this application and the fact that the neighbouring houses have easements to allow the host

dwelling access thru their private gardens would be a further material consideration in the loss of privacy these houses currently enjoy.

Due to the items listed above, we feel that we cannot support this application, however given the current situation and the fact that building houses an elderly resident, we would seek further information from the planning officer if permission could be granted on a temporary basis with the permission to lapse once the accommodation is vacated by the current resident? We only request this information as we are mindful that the application is retrospective and currently houses an elderly relative.

We do not feel that the president should be set for accommodation within rear garden of this scale and our concern would be that this application was granted approval for continued use.

Should the planning officer be looking to above the scheme we would request that it is brought to committee where all parties can make representation.

We have further concerns regarding the current building and its compliance with the Building Safety Act and would request that if the officer is of a mind to approve, that full compliant sign off to the above Act is set as a condition prior to continued habitation, as we have concerns regarding the Fire Strategy regarding proximity to neighbouring building, surface spread of flame, fire evacuation and access for fire crews to name a few.”

Officer Comment: This application can only assess material planning considerations. Concerns raised relating to Building Safety and Fire Strategy are not assessed as part of this application and subject to other legislation.

4.1.2 National Grid – No comment received.

5 Neighbour consultation

5.1 Site notice: Posted: 23.04.25. Expired: 15.05.24.

5.2 Press notice: Published 02.05.25. Expired 24.05.25.

5.3 7 neighbours consulted and 3 objections received.

Summary of comments:

- Overbearing and intrusive due to proximity to boundary.
- Disruptive to the peaceful enjoyment of surrounding gardens.
- Overdevelopment.
- Inappropriate residential use in a rear garden.
- Fire safety concerns related to materials used.
- Light pollution.
- Risk of setting dangerous precedent for backdoor dwellings.
- Misuse and intensification of existing right of way. The increase in the number of individuals who use the right of way alters its purpose. Safety concerns related to safeguarding for children play space.
- Ignored an enforcement notice.

5.4 The applicant has provided a response to the comments raised:

- Factually in accurate statements made.

- No enforcement notice issued.
- The structure is an ancillary accommodation not a separate house.
- Father of applicant relies on applicant (daughter) due to increasing personal care.
- The application must be determined for its actual use.
- Building regulations, drainage pressure and precedent are not relevant to this application.
- The size of the structure would be permitted development.
- Limited noise and illumination.

5.5 **Officer Comment:** This application can only assess material planning considerations. Concerns raised relating to Building Safety, Fire Strategy, light pollution, safeguarding and the right of way are not assessed as part of this application. It should be noted that no Enforcement Notice has been issued for the development.

6 Reason for Delay

6.1 Committee cycle and submission of amended plans.

7 Legislation and Relevant Local and National Planning Policies

7.1 Legislation

7.1.1 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).

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

7.1.3 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.

7.1.4 The Environment Act 2021.

7.2 National Planning Policy Framework and National Planning Practice Guidance

7.2.1 In December 2024 the revised NPPF was published, to be read alongside the online National Planning Practice Guidance. The 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”.

7.2.2 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).

7.3 Three Rivers Local Development Plan

7.3.1 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.

7.3.2 The Development Management Policies Local Development Document (LDD) 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, DM9, DM13, Appendix 2, and Appendix 5.

7.4 Other

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

8 **Analysis**

8.1 Overview

8.1.1 This application has come forward because of an enforcement investigation (23/0075/COMP) which follows reports concerning an alleged breach of planning control.

8.1.2 From the outset, Officers considered that the outbuilding was operational development, and by virtue of its height in relation to adjacent boundaries and its use (i.e. containing primary living accommodation) failed to fall within the requirements of Schedule 2, Part 1, Class E of the General Permitted Development Order 2015 (as amended). As such, it was the view of officers that the works comprised a building and were not permitted development and therefore express planning permission was required from the Local Planning Authority (LPA).

8.1.3 Notwithstanding officers' views, the applicant submitted an application for a Certificate of Lawfulness for an Existing Use (23/1496/CLED), as it was believed that the outbuilding was in fact a structure which fell within the definition of a caravan and thus did not comprise operational development nor resulted in a material change of use of land, on the basis that it was providing ancillary living accommodation for the applicant's father.

8.1.4 The Certificate of Lawfulness application was refused by the LPA on the grounds that the outbuilding comprised development requiring planning permission. An appeal was lodged against the refusal and the scheme was subsequently dismissed at appeal (APP/P1940/X/24/3336810) and confirmed that the outbuilding was a building requiring planning permission. This appeal is contained within Appendix 1.

8.1.5 The building size has not altered since the time of the certificate or appeal.

8.1.6 In terms of use, it is understood that there is currently one occupant of the building and this is corroborated from the information submitted as part of the application.

8.1.7 Unlike the appeal, the planning merits of the outbuilding are considered and set out within this report below.

8.2 Impact on the character and appearance of the street scene

8.2.1 Policy CP1 of the Core Strategy 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'. The NPPF encourages the effective use of land and at the heart of the NPPF is a presumption in favour of sustainable development which seeks positive improvements in the quality of the built environment but at the same time balancing social and environmental concerns.

8.2.2 Policy DM1 and Appendix 2 of the Development Management Policies document set out that new residential development should not be excessively prominent in relation to the general street scene and should respect the character of the street scene, particularly with regard to the spacing of properties, roof form, positioning and style of windows and doors and materials.

8.2.3 **Size:** In terms of size, it is recognised that that outbuilding in situ is large and covers a large proportion of the rear garden, spanning the full width of the garden. It is also of a noticeable height, some 0.6-0.7m above the boundary fence lines. Due to this, whilst it is not readily visible from the wider street of Marlin Square, there are views of it from neighbouring dwellings and their associated gardens and from the public footpath behind. It is also noteworthy that there are also some views of the outbuilding from the bowls club behind the site however, these are limited when considering the large bowls clubhouse/building which is sited close along the boundary with the footpath obscuring

and limiting any views. Although visible from these locations, the outbuilding is set within a context where there is a proliferation of mixed developments, including extensions and other outbuildings / structures that vary in size, extent and positioning. In this context, the outbuilding is not out of character. Given the remaining space available within the garden, its single-storey nature and flat roof form, the outbuilding does not result in overdevelopment of the plot or appear so excessively prominent that it adversely affects the character of the area. Notwithstanding these reasons, to prevent any further development of the garden, a condition is recommended that removes Class E permitted development rights which would take effect from the date of the decision.

- 8.2.4 It is also useful to note that an outbuilding of a similar scale could be erected under “permitted development” via Schedule 2, Part 1, Class E of the GPDO which enables outbuildings of up to 2.5m in height (when positioned within 2m of a boundary), subject to other conditions and limitations.
- 8.2.5 It is important to note that the appointed agent has provided a front elevation plan during this application to indicate the outbuilding in relation to front landscaping works such as the 2 steps and a wooden sleeper which are located to the front of the outbuilding. These features are considered to be landscaping works and would not require planning permission.
- 8.2.6 **Use:** When turning to the building's use, which provides independent living for the applicant's relative, this use would not be possible under “permitted development” under Class E.4. Therefore, it is the use which provides the key requirement for planning permission in this case. Due to the physical limitations of the building and its internal facilities, it does not accommodate a significant increase in the number of persons using or residing in it. This would resultantly limit any activity associated with its use. Given the proximity of the building to nearby neighbours (terraced properties), it is inevitable that neighbours would be aware of the general activity resulting from the occupation of the building. This is also evident through the comments received as part of this application. However, in this context, the use of the building is not considered to be significantly greater than what could reasonably be expected for a family home carrying out typical activities. Movements to and from the outbuilding are also intrinsically linked to the dwelling, as access is required through the dwelling, rather than a separate access.
- 8.2.7 Some comments have raised that the use of the building for independent living has resulted in increased activity/misuse of the shared access. However, the siting of the outbuilding prevents any access to the public footpath and is wholly contained within the application site. . Furthermore, there is not anything significantly out of the ordinary in the nature or type of movements to and from the site or any substantive evidence to suggest that a building of this size and occupation results in any significantly greater disturbance than might arise from a domestic family residence. For these reasons, it is considered that the noise and general disturbance experienced by nearby residential areas is not significantly greater than a typical family home. Additionally, when considering that the use provides independent living accommodation for a relative of the applicant, this would cater for a range of housing needs in accordance with the requirements of Policy CP3 by enabling other houses to be available and provides an alternative means of residential accommodation. Notwithstanding this, given that the use facilitates independent living, it would be reasonable and necessary to secure its use be maintained as ancillary (and not sold or let off).
- 8.2.8 In summary, subject to the conditions recommended, the proposed development does not result in harm to the character and appearance of the existing dwelling, site and wider street scene. The development is considered acceptable and in accordance with Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Development Management Policies LDD.
- 8.3 Impact on amenities of neighbours
- 8.3.1 Policy CP12 of the Core Strategy states that development should ‘protect residential amenities by taking into account the need for adequate levels of disposition of privacy, prospect, amenity and garden space’.
- 8.3.2 Policy DM1 and Appendix 2 of the Development Management Policies document set out that development should not result in the loss of light to the windows of neighbouring properties nor allow overlooking, and should not be excessively prominent in relation to adjacent properties.

8.3.3 Policy DM9 refers to contamination and pollution control. DM9(d) stated that planning permission will not be granted for development which:

i) Has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development

ii) Has an unacceptable adverse impact on countryside areas of tranquillity which are important for wildlife and countryside recreation; or

iii) Would be subject to unacceptable noise levels or disturbance from existing noise sources whether irregular or not.

8.3.4 **Size:** In any instance, the building is contained within the rear of the application site. Although it is recognised that it is noticeable from the immediate neighbours due to the linear terrace property formation, it is set some 7m away from the rear of the nearest neighbours at no.18 and 22. When considering the orientation of the sun, any loss of light or overshadowing would be limited and negligible when considering that the existing terrace set shade the rear gardens that are north/north-western facing gardens.

8.3.5 **Use:** Turning to its use, as highlighted above, when considering the limited occupation and their functional link to the occupants of the main dwelling, the use is not considered to be significantly greater than what could reasonably be expected of several adults or a family carrying out their typical activities. Due to this, it is considered that the use does not harm the living conditions of neighbouring occupiers.

8.3.6 **Privacy:** When considering privacy, it is noted that the building, which is for independent living, has front windows/doors however, these face into the garden towards the host dwelling and are largely obscured by the existing boundary treatment and as such is not considered to amount to any harmful loss of privacy to this neighbour. It is important to note that under permitted development an ancillary building for another use could potentially result in the same extent of glazing.

8.3.7 In summary, it is not considered the proposal harms the amenities of neighbours and complies with Policy C12 of the Core Strategy (adopted October 2011) and Policies DM1 and DM9 and Appendix 2 of the Development Management Policies document (adopted July 2013).

8.4 Trees and Landscaping

8.4.1 Policy DM6 of the Development Management Policies LDD sets out that development proposals should seek to retain trees and other landscape and nature conservation features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.

8.4.2 No trees have been impacted by the development.

8.5 Highways, access and parking

8.5.1 Core Strategy Policy CP10 (adopted October 2011) requires development to make adequate provision for all users, including car parking. Policy DM13 in the Development Management Policies document (adopted July 2013) states that development should make provision for parking in accordance with the Parking Standards set out within Appendix 5.

8.5.2 In terms of parking, the Parking Standards as set out within Appendix 5 of the Development Management Policies LDD states that a four or more bedroom dwelling should provide onsite parking provision for three vehicles. The number of total bedrooms across the site is unclear and the current site does not provide for any off-street parking. The outbuilding has provided for an additional bedroom space for the occupant. In the instance that an additional shortfall arises from the proposal, there is no evidence to suggest that this has placed unacceptable pressure on surrounding roads.

8.6 Wildlife Considerations

- 8.6.1 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.
- 8.6.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies document. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning application. A Biodiversity Checklist was submitted with the application and states that no protected species or biodiversity interests will be affected as a result of the application. The Local Planning Authority is not aware of any records of bats (or other protected species) within the immediate area that would necessitate further surveying work being undertaken.
- 8.7 Mandatory Biodiversity Net Gain
- 8.7.1 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.
- 8.7.2 The applicant has confirmed that if permission is granted for the development to which this application relates the biodiversity gain condition does not apply because the application relates to householder development.

9 Recommendation

- 9.1 That RETROSPECTIVE PLANNING PERMISSION BE GRANTED subject to the following conditions:

Annexe Use

- C1 The detached outbuilding, hereby permitted shall not be occupied or used at any time other than incidental to the enjoyment of, and ancillary to, the residential dwelling located on the site and it shall not be used as an independent dwelling, sold or let off at any time and will remain functionally linked to the dwelling on the site.

Reason: The creation and use of a separate and independent unit would not comply with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policies DM1, DM9 and Appendix 2 of the Development Management Policies LDD (adopted July 2013).

Permitted Development

- C2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification) from the date of the decision, no development within the following Class of Schedule 2 of the Order shall take place on the application site:

Part 1

Class E - provision of any building or enclosure

No development of the above class shall be constructed or placed on any part of the land subject of this permission.

Reason: To ensure adequate planning control over further development having regard to the limitations of the site and neighbouring properties and in the interests of the visual amenities of the site and the area in general, and having regard to the constraints posed by trees within and adjacent to the site, 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).

8.2 Informatives:

Standard Advice

11 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 which includes a fee.

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 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.

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:

{b (a)} Making a Non-Material Amendment

{b (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>

Positive and Proactive - Amendments

- 12 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 Local Planning Authority suggested modifications to the development during the course of the application and the applicant and/or their agent submitted amendments which result in a form of development that maintains/improves the economic, social and environmental conditions of the District.

Biodiversity Net Gain

- 13 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 arrangements which mean that the biodiversity gain condition does not 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.

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.

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> .