



Delegated Report

Approval of Conditions Application

Planning Application No: 20260033

Location: Land At St Albans Close Gravesend Kent

Description: Application for the approval of condition 7 (Biodiversity Gain Plan) attached to planning reference number 20250479.

Applicant: Miss Esme Foley

Submitted Documents/Plans

Application Form
IDPL-BP-400 – Soft Landscape Plan GA
Biodiversity Gain Plan (Revised)
BNG Metric (Revised)
Habitat Management and Monitoring Plan (Revised)

Relevant Planning History

Reference	Description	Decision	Decision Date
20250479	Erection of 8x Solohaus self contained modular homes for temporary homeless accommodation, with associated plant, bin and bike stores and landscaping.	Permitted	16.10.2025

Development Plan

Gravesham Local Plan Core Strategy (2014)

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS12 – Green Infrastructure
- CS13 – Green Space, Sport and Recreation
- CS18 – Climate Change
- CS19 – Development & Design Principles

Paragraph 34 of the NPPF (2024) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2024), the Council will also seek to replace these.

National Planning Policy Framework (2024)

- Section 2 – Achieving Sustainable Development

- Section 8 – Promoting Health and Safe Communities (para 104)
- Section 11 – Making Effective Use of Land
- Section 12 – Achieving Well-Designed Places
- Section 15 – Conserving and Enhancing the Natural Environment

Supplementary Planning Guidance

- Design for Gravesham – Design Code (2024)
- Gravesham Landscape Character Assessment (2009)

Emerging Local Plan as a Material Consideration

Paragraph 48 of the Framework makes it clear that planning applications can only be determined in accordance with the development plan, unless material considerations indicate otherwise. An emerging Local Plan, does not form part of the Development. The Framework, at Paragraph 49 allows local planning authorities to give weight to relevant policies in emerging Local Plans, according to:

- The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the Framework, the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given to those policies.

West Oxfordshire District Council v Secretary of State for Housing, Communities and Local Government & Rosconn Strategic Land Ltd [2018] EWHC 3065 (Admin) is a High Court judgement that deals with the weight to be given to a Regulation 19 Local Plan. In this judgement the Court found that the weight to be given to an emerging Local Plan, was a matter of planning judgement, which had to be reached having fully considered the relevant part (Paragraph 49) of the Framework.

The Council's emerging Local Plan, is in the process of being consulted upon (it has reached Regulation 19 stage), the Council is not yet aware of whether third parties will support or object to specific policies within the Plan, or whether they will consider the policies with the emerging Local Plan to be broadly sound and consistent with the NPPF (2024). Taking this into consideration, one can only conclude that at this stage of the process, **limited (i.e. minimal) weight should be afforded to the emerging Regulation 19 Local Plan**. This position would only change once the emerging Local Plan has progressed towards submission and examination, with the Council being fully aware of policies that are subject to unresolved objections and with knowledge of policies that have had their soundness and conformity against the Framework challenged.

This approach accords with the approach taken in a separate High Court case, Gladman Developments Ltd v SSHCLG & Corby Borough Council; & Uttlesford DC [2020] EWHC 518 (Admin) and Court of Appeal [2021] EWCA Civ 104, which was also the subject of a Court of Appeal Ruling [2021] EWCA Civ 104.

Consultations, Publicity and Representations

Consultees

KCC Biodiversity (Latest Comments)

DEEMED CONDITION, CONDITION 7 and CONDITION 8 DISCHARGE

We have been asked to comment on the discharge of conditions 7 and 8 for planning permission 20250479.

Please note that this development requires a 10% mandatory biodiversity net gain under the general

biodiversity gain condition as per Schedule 7A, Section 13(1) of the Town and Country Planning Act 1990 as well.

The general biodiversity gain condition is that the development may not be begun unless—

- (a) a biodiversity gain plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

We have reviewed the submitted documents in relation to conditions 7 and 8, and the general biodiversity gain condition. We note that conditions 8 and 14 have relevance to the biodiversity gain plan.

We note that no application appears to have been made to discharge the deemed condition. We recommend that the description of Condition 7 be updated to make clear that the deemed condition is also a subject of the application, or we advise that a separate application should be made for discharge of the deemed condition to formalise its discharge, as required by legislation.

Sufficient information has been provided for discharge of these conditions.

Table 1: To show a summary of our review of submitted biodiversity net gain information

Percentage Net Gain Required	Percentage Net Gain/Loss Reported for Area Habitats	Percentage Net Gain/Loss Reported for Linear Habitats	Net Gain Proposed: 1 – all on-site; 2 – no significant on-site and off-site; 3 - significant on-site and off-site	On-site 'significant' Net Gains Proposed (Yes/No)
10%	+24.51%	N/A	1 – all on-site	Yes

Detailed Comments

Legislation and government standing advice indicates that the information shown in Table 21 needs to be submitted to and approved by the local planning authority as part of the 'deemed condition' biodiversity gain plan prior to commencement of development.

References to the biodiversity value of any habitat or habitat enhancement are to its value as calculated in accordance with the biodiversity metric. As such, a copy of the completed biodiversity metric calculation tool, in excel spreadsheet format, has been submitted as part of this submission in conjunction with the biodiversity gain plan. The local planning authority must approve the biodiversity gain plan; without approval, the development may not commence.

Table 2: To show the information required for the biodiversity gain plan under legislation and as indicated by government standing advice, and whether the submitted information is sufficient.

Information Needed	Provided	Comments
The steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the on-site habitat and any other habitat. And, (except for onsite irreplaceable habitats) a description of how the biodiversity gain hierarchy will be followed and where to the extent any actions (in order of priority) in that hierarchy are not followed and the reason for that.	Yes	The applicant is required by law to deliver biodiversity gains in accordance with the biodiversity gain hierarchy, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 Section 37A. We are satisfied that the applicant has appropriately applied the hierarchy to this development.
The relevant date , for the purposes of calculating the pre-development biodiversity value of onsite habitats and if proposing an earlier date, the reasons for using this earlier date.	Yes	With the original application, the applicant has provided the date of 14 th April 2025 as the date of the pre-development biodiversity value calculation, which is the date the metric was completed based on a desk study. This is considered acceptable to inform the application.
The completed biodiversity metric calculation tool(s) , stating the publication date of the tool(s), and showing the calculation of the pre-development onsite value on the relevant date , and post-development biodiversity value. And, evidence that biodiversity	Yes	We are satisfied with the details contained in the submitted biodiversity metric calculation tool. A detailed landscaping plan has been submitted.



		The amenity grassland seed mix proposed within the landscaping plan is acceptable given the metric calculations. The Kent Local Nature Recovery Strategy (LNRS) was published in November 2025 and must now be used to produce biodiversity net gain metrics submitted in support of the deemed condition discharge. The site falls within an ACIB (Area that Could Become of Particular Importance for Biodiversity). This can affect the strategic significance scoring within the metric calculation tool. The baseline habitat strategic significance scoring within the metric calculations submitted as part of the parent permission is correct. We accept the post-development strategic significance scores currently applied in the metric calculations. Scrutiny will need to be applied at the time of the discharge of condition 14 to ensure that no changes occur which alter the biodiversity net gain plan. Once development has started, we do not understand that it will be possible to submit another biodiversity gain plan for approval.
Pre-development and post-development plans showing the location of onsite habitat (including any irreplaceable habitat) on the relevant date , and drawn to an identified scale and showing the direction of North.	Yes	
A description of any irreplaceable habitat on the land to which the plan relates which exist on the relevant date , and any part of the development for which planning permission is granted where the onsite habitat of that part is irreplaceable habitat, arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.	N/A	None present on site
If habitat degradation has taken place: - o a statement to this effect, - o the date immediately before the degradation activity, - o the completed biodiversity tool showing the calculation of the biodiversity value of the onsite habitat on that date, and - o any available supporting evidence for the value.	Yes	The applicant indicated that no on-site habitat degradation has occurred since 30 th January 2020. This is corroborated by a review of aerial imagery (Google Earth Pro, accessed February 2026).
Where any registered off-site biodiversity gain is specified in the plan and allocated to the development: o The registered off-site biodiversity gain is so allocated (and, if the allocation is conditional, that any conditions attaching to the allocation have been met or will	N/A	



gain objective can be met.



The post-development habitat plan within the latest HMMP matches the detailed landscaping plan.



The submitted landscape plan provides a seed mix for the other neutral grassland and this is considered acceptable given the metric calculations.

development begins), and o The registered off-site biodiversity gain has the biodiversity value specified in the plan in relation to the development.		
Evidence that any biodiversity credits specified in the plan have been purchased.	N/A	
Name and address of the person completing the Plan, and (if different) the person submitting the Plan.	Yes	
A description of the development and planning permission reference number (to which the Plan relates).	Yes	
A description of arrangements for maintenance and monitoring of habitat enhancement to which paragraph 9(3) of Schedule 7A to the 1990 Act applies (habitat enhancement which must be maintained for at least 30 years after the development is completed).	Yes	As part of the submission material for condition 8, an HMMP has been submitted.

Officer's Analysis

Condition 7 of 20250479 is as follows:

7. *The Biodiversity Gain Plan shall be prepared in accordance with the Biodiversity Net Gain Assessment (Ref: 179061_R01_JW) dated 14 April 2025 and prepared by Tyler Grange.*

Reason: In order to safeguard ecology and biodiversity in accordance with paragraph 193 of the National Planning Policy Framework 2024

It is noted that the application nor the condition wording specifically refers to the deemed condition. Nonetheless, it is still a separate requirement. Conditions on previously approved applications cannot be reworded without submission of an application to vary the condition. The lack of specific conditions applied to a decision does not remove the obligation to discharge the deemed condition. However, the purposes of condition 7 as in this case and the deemed condition are ultimately the same but this approval does not discharge the deemed consent requirement, simply condition 7.

In England, biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). This statutory framework is referred to as 'biodiversity net gain' in Planning Practice Guidance to distinguish it from other or more general biodiversity gains.

Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits.

The biodiversity gain condition is a pre-commencement condition: once planning permission has been granted, a Biodiversity Gain Plan must be submitted and approved by the planning authority before commencement of the development. There are exemptions and transitional arrangements which disapply

the condition from certain planning permissions, as well as special modifications for planning permissions for phased development and the treatment of irreplaceable habitats. The statutory framework for Biodiversity net gain also includes provisions about information requirements for planning applications and the treatment of the condition on decision notices on the grant of planning permission.

The relevant primary legislation for the statutory framework for biodiversity net gain is principally set out under Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990. This legislation was inserted into the 1990 Act by Schedule 14 of the Environment Act 2021, and was amended by the Levelling Up and Regeneration Act 2023. The Biodiversity Gain (Town and Country Planning) (Consequential Amendments) Regulations 2024 made consequential amendments to other parts of the 1990 Act.

Part 2 of schedule 7A of the Act sets out the required condition:
General condition of planning permission

13(1) Every planning permission granted for the development of land in England shall be deemed to have been granted subject to the condition in sub-paragraph (2).

(2) The condition is that the development may not be begun unless—

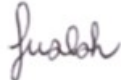
- (a) a biodiversity gain plan has been submitted to the planning authority (see paragraph 14), and
- (b) the planning authority has approved the plan (see paragraph 15).

The Council Ecologist has confirmed that the information submitted is accepted. The condition can therefore be discharged.

Conclusion & Recommendation

It is concluded that satisfactory information has been provided to discharge condition 7 for planning decision 20250479.

(see draft Decision)

Case Officer:	Mrs Lisa Fisher	Team Leader:	Mrs Faye Walsh
Signed:		Signed:	
Dated:	23 rd June 2026	Dated:	24 June 2026