

Delegated Report

Condition Discharge Application

Planning Application No:	20260878
Location:	Walnut Hill Nursery Walnut Hill Road Gravesend Kent
Description:	Application for the approval of condition 4 (Soft Landscaping) attached to planning reference number 20250864.
Applicant:	Mr Chris Lawson
Site Visit Date:	Desktop assessment

Submitted Documents/Plans

Application form
Covering letter dated 28/08/2026
Drawing no. 01 Rev. A (Biodiversity Enhancement Plan)
Drawing no. 7300-LLB-XX-XX-D-L-0001 Rev. P02 (Planting Plan)

Relevant Planning History

There is an extensive planning history for this site, but the most relevant application is as follows:

Reference	Description	Decision	Decision Date
2026/018/ COND	Appeal against conditions 3, 4, 5 and 9 of planning permission 20250864	Appeal allowed and planning permission varied	22.07.2026
20250864	Retrospective change of use of main frontage building to Class E (g)(i) office use with associated hard surfacing to create additional parking space.	Permitted	16.01.2026

Development Plan

Gravesham Local Plan Core Strategy (2014)

- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 – Development and Design Principles

As set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012 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

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 (2026), the Council will also seek to replace these.

National Planning Policy Framework (2026)

- Section 5 – Meeting the challenge of climate change
- Section 14 – Achieving well-designed places

Supplementary Planning Guidance

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

Emerging Local Plan as a Material Consideration

Section 38(6) of the Planning and Compulsory Purchase Act 2004 (Planning and Compulsory Purchase Act 2004) and section 70(2) of the Town and Country Planning Act 1990 (Town and Country Planning Act 1990) make it clear that planning applications can only be determined in accordance with the development plan, unless material considerations indicate otherwise.

Decision Making Policy DM4 of the Framework sets out that when considering development proposals, relevant policies may be given weight, however, this is subject 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 compliance of the relevant policies in the emerging plan with the policies for plan-making in this Framework (the closer the policies in the emerging plan to the policies in this Framework, the greater the weight that may be given to them).

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 of the Framework, which from 17 August 2026 Decision Making Policy DM4 of the Framework.

The Council's emerging Local Plan has reached the Regulation 19 Consultation stage, with the consultation having ended on 18 August 2026. The emerging Local Plan does not form part of the Development Plan. The Council is aware that third parties have raised objections to the wider emerging Local Plan and specific policies within it. Therefore, at present the Council cannot categorically state that the emerging Local Plan can be considered sound and consistent with the National Planning Policy Framework (2024) [as an emerging Local Plan being brought forward under the legacy system, it would be examined under the 2024 Framework]. 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

Neighbour Representations

As this is an application for the discharge of a condition there is no requirement to consult neighbouring properties.

Officer's Analysis

Condition 4 (Soft Landscaping) was varied further to an appeal against the condition on the original permission.

Condition 4 states as follows:

Within 3 months of the date of this decision, a scheme of soft landscaping shall be submitted to the local planning authority for approval in writing. The details shall include: i) additional native wildlife-attracting tree and shrub planting within the site to include their quantity, size and arrangements for aftercare; and ii) details of measures to promote biodiversity enhancement including location for bat, bird and hedgehog boxes and log piles.

The development shall be constructed in accordance with the approved details and completed within 3 months of the approval of the landscaping details. Any trees or plants that die, are damaged, removed or become diseased within 5 years from the date of planting shall be replaced with a specimens of a similar size and species during the next available planting season.

As the condition was imposed at appeal, there is no reason for the condition included.

There will be one insect hotel, two bat boxes, two bird boxes, a hedgehog hideaway and a log pile at the front of the site, largely within the existing front boundary treatment. New planting beds are proposed to the front and rear of the building and in the north-western corner of the car park at the rear. There will also be a new specimen shrub in the north-western corner.

The native planting will include acer campestre (field maple), carpinus betulus (hornbeam), cornus sanguinea (common dogwood), Corylus avellana (hazel), Crataegus monogyna (common hawthorn), ilex aquifolium (holly) and viburnum opulus (guelder rose). The submitted planting plan includes quantities, size and maintenance.

It is therefore considered that sufficient detail has been provided to satisfactorily discharge condition 4.

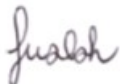
Conclusion

The Local Planning Authority is satisfied with the details submitted in relation to planning permission 20250864 for the retrospective change of use of the main frontage building to Class E (g)(i) office use with associated hard surfacing to create additional parking space. It is considered that condition 4 can be fully discharged.

Recommendation

Approval of details.

(For informatives, see draft Decision)

Case Officer:	Mrs Katherine Parkin	Team Leader:	Mrs Faye Walsh
Signed:		Signed:	
Dated:	8th October 2026	Dated:	08 October 2026

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