



Messers Mark Cyster
c/o Mr Mark Bouch
10 Churchfield Way
Wye
Ashford
Kent
TN25 5EQ

23 December 2024

PLANNING DECISION NOTICE

APPLICANT:	Messers Mark Cyster
DEVELOPMENT TYPE:	All other minor development
APPLICATION REFERENCE:	24/02820/FULL
PROPOSAL:	Removal of Condition 4 of Planning Permission 24/01490/FULL - Finish of gates
ADDRESS:	Land North of Alderden Manor Farm, Sponden Lane, Sandhurst, Cranbrook, Kent

The Council hereby **GRANTS** permission/consent for the proposal referred to above subject to the following Condition(s):

- (1) The development hereby permitted shall be carried out in accordance with the following approved plans:

From 24/01490/FULL

- Drawing Number 030.D - Proposed Block Plan (received 13/06/24)
- Drawing Number 070.A - Proposed Fence & Gate Plans (received 05/06/24)

Reason: To clarify which plans have been approved.

- (2) No further gates or fencing are to be erected other than those shown on the plan hereby approved unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interest of visual amenity.

- (3) Prior to the installation of any external lighting of the site, details shall be submitted to, and approved in writing by, the Local Planning Authority. The approved external lighting scheme shall be installed in accordance with the approved details, and no further external lighting shall be installed other than has been agreed in writing by the Local Planning Authority.

Reason: In the interest of protecting the character and amenities of the locality, the amenities of adjoining residents, and to protect the appearance of the area/environment and wildlife from light pollution.

The Council's approach to this application:

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Offering pre-application advice.
- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

- The application can be supported for approval.



Carlos Hone
Head of Planning
Tunbridge Wells Borough Council

IMPORTANT: YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

NOTIFICATION TO APPLICANT FOLLOWING REFUSAL OF CONSENT OR GRANT OF CONSENT SUBJECT TO CONDITIONS

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority (LPA) to refuse permission for the proposed development, or to grant it subject to Conditions, then you can appeal to the Secretary of State (SoS) under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 or Control of Advertisements Regulations 1989.

Please see “Development Type” on page 1 of the decision notice to identify which type of appeal is relevant for the following:

- If this is a decision to refuse planning permission for a Householder application or a Minor Commercial application and you want to appeal the decision, or any of the conditions imposed, then you must do so within 12 weeks of the date of this notice.
- In all other cases, you will need to submit your appeal against the decision, or any of the conditions imposed, within 6 months of the date of this notice.

For applications relating to Enforcement Notices:

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice and if you want to appeal against the decision on your application, then you must do so within 28 days of the date of this notice.
- If an enforcement notice is subsequently served and relates to the same or substantially the same land and development and if you want to appeal against the decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder or minor commercial application decision] of the date of this notice, whichever period expires earlier.

Appeals must be made to the Planning Inspectorate and further details can be found at <https://www.planningportal.co.uk/info/200207/appeals>.

The SoS can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The SoS need not consider an appeal if it seems to the SoS that the LPA could not have granted advertisement consent for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

SGN Advisory note

There are a number of risks created by built over gas mains and services; these are:

1. Pipework loading – pipes are at risk from loads applied by the new structure and are more susceptible to interference damage.
2. Gas entry into buildings – pipework proximity increases risk of gas entry in buildings.
3. Leaks arising from previous external pipework able to track directly into main building from unsealed entry.
4. Occupier safety – lack or no fire resistance of pipework, fittings, or meter installation.
5. Means of escape could be impeded by an enclosed meter.

Please note therefore, if you plan to dig, or carry out building work to a property, site, or public highway within our gas network, you must:

1. Check your proposals against the information held at <https://www.linerearchbeforeudig.co.uk/> to assess any risk associated with your development **and**
2. Contact our Plant Protection team to let them know. Plant location enquiries must be made via email, but you can phone us with general plant protection queries. See our contact details below:

Phone 0800 912 1722 / Email plantlocation@sgn.co.uk

In the event of an overbuild on our gas network, the pipework must be altered, you may be temporarily disconnected, and your insurance may be invalidated.

Further information on safe digging practices can be found here:

<https://www.sgn.co.uk/damage-prevention>

Our free Damage Prevention e-Learning only takes 10-15 minutes to complete and highlights the importance of working safely near gas pipelines, giving clear guidance on what to do and who to contact before starting any work

Further information can also be found here:

<https://www.sgn.co.uk/help-and-advice/diggingsafely>

Biodiversity Gain Information

Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended by The Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024) requires that where planning permission is granted, the written notice of the decision must include the following:

There are 3 different scenarios that could apply to your development – these are set out below:

Where the local planning authority considers that approval of a Biodiversity Gain Plan will be required before development commences

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 Tunbridge Wells Borough Council.

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

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

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 and/or the permission could be subject to the biodiversity gain condition.

Biodiversity gain plans are required to be submitted to, and approved by, the planning authority before development may be begun (the overall plan), and before each phase of development may be begun (phase plans).

The Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition are:

- 1. The application for planning permission was made before 12 February 2024.**
- 2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.**
- 3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and**

(i)the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or

(ii)the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not ‘major development’ (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

- i) the application for planning permission was made before 2 April 2024;**
- ii) planning permission is granted which has effect before 2 April 2024; or**
- iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).**

4.2 Development below the de minimis threshold, meaning development which:

- i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and**
- ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).**

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development.

4.5 Self and Custom Build Development, meaning development which:

- i) consists of no more than 9 dwellings;**
- ii) is carried out on a site which has an area no larger than 0.5 hectares; and**
- iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).**

* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

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 and/or Biodiversity gain plans are required to be submitted to, and approved by, the planning authority before development may be begun (the overall plan), and before each phase of development may be begun (phase plans).

Where the local planning authority considers that approval of a Biodiversity Gain Plan will not be required before development commences (eg. Householder development or one of the exemptions set out above.)

Subject to the above criteria, and

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity net gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply.

Where it is not known whether at the time of granting planning permission whether approval if a Biodiversity Gain Plan will be required before development commences (eg. Outline applications)

Subject to the above criteria, and

On the basis of the information provided to determine the application, it is not possible to indicate whether it is considered that this planning permission is one which will require the approval of a biodiversity gain plan before development is begun. This is due to e.g. landscaping, layout and scale of the development has been reserved for subsequent approval so it cannot be determined whether the permission would be subject to the de minimis exemption.

Before commencing development, you should consider whether a Biodiversity Gain Plan needs to be submitted and approved. Commencing development which is subject to the biodiversity gain condition without an approved Biodiversity Gain Plan could result in enforcement action for breach of planning control.

Further information and support can be found at:

<https://www.gov.uk/guidance/biodiversity-net-gain>

<https://tunbridgewells.gov.uk/planning/planning-policy/biodiversity-net-gain>