

20 February 2026

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**NOTIFICATION OF DECISION OF THE LOCAL PLANNING AUTHORITY: Town and Country Planning Act 1990 (as amended)**

**Case Reference** PA/2025/2104  
**Site Address** Wittersham Cemetery, The Street, Wittersham, TN30 7EA  
**Proposal** Change of use from Agricultural Land to Cemetery Extension for use as a Burial Ground.

**DECISION: PLANNING PERMISSION IS GRANTED** in accordance with the application and plans subject to the following conditions:

**Conditions:**

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

**Reason:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

| <b>Description</b>  | <b>Date</b>      |
|---|------------------|
| Detailed Plan   | 12 November 2025 |
| Location Plan   | 14 November 2025 |
| Arboricultural Report, The Mayhew Consultancy Ltd, Jan 2026 | 26 January 2026  |

**Reason:** For the avoidance of doubt and in the interests of proper planning.

- 3 Prior to any work commencing on site, the following vegetation clearance scheme shall be carried out:  
- Any cutting of the vegetation should be undertaken during the active season for reptiles

(April to early October inclusive) in any given year.

- The works area should be mowed using hand held machinery only (to 20cm height minimum), during sunny conditions in order to force the animals out of the area; A second cut should be given to ground level, 2 days following the first cut, during sunny conditions;
- The height of vegetation should be kept lower than 5cm until the start of the works
- If any reptiles or GCN are observed during development, works have to stop immediately and the applicant must contact their ecologist for further advice

**Reason:** To ensure no harm occurs to reptiles and GCN during the proposed development.

- 4 The cemetery extension shall not be used until the habitat creation and enhancement works are fully completed in accordance with the approved Biodiversity Gain Plan, or where the development is to proceed in phases, the Overall Biodiversity Gain Plan and relevant Phase Biodiversity Gain Plan(s); and written documentary evidence in the form of a BNG Completion Notice, has been submitted to, and approved in writing by the local planning authority.

**Reason:** To ensure that the approved habitat creation and/or enhancements are delivered in accordance with the approved Biodiversity Gain Plan; and that the biodiversity gain objective of 10% has been satisfied.

- 5 When working adjacent to site trees, the method set out within the Arboricultural Report, The Mayhew Consultancy Ltd, January 2026 shall be followed at all times.

**Reason:** To avoid harm to site trees.

#### **Informatives:**

- In accordance with paragraph 39 of the NPPF, Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions.

ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application,
- where possible suggesting solutions to secure a successful outcome,
- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance, the applicant/agent was updated of any issues after the initial site visit.

The applicant/ agent responded by submitting additional supporting information which were found to be acceptable and permission was granted.

The application was dealt with/approved without delay.

#### **Biodiversity Net Gain**

- 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 Ashford Borough Council.

There are statutory exemptions which mean that the biodiversity gain condition does not always apply and these are set out in The Biodiversity Gain Requirements Exemptions Regulations 2024.

**This permission will require the approval of a Biodiversity Gain Plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.**

For a template and guidance on the contents of the Biodiversity Gain Plan that must be submitted and agreed by the Council prior to the commencement of the approved development please follow the link: [Submit a biodiversity gain plan - GOV.UK](https://www.gov.uk/guidance/submit-a-biodiversity-gain-plan) (www.gov.uk)

Applicants will need to ensure that the Biodiversity Gain Plan to be submitted to the local planning authority for approvals is prepared in general conformity with the approved habitat plans.

### **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.

**Signed**



Simon Cole  
Assistant Director - Planning and Development

### **Important Notes**

## 1 **Limitation of Permission**

This decision is for planning purposes only and for no other purpose including Building Regulations. Separate approval may be required for these works.

**Advice is available from the Building Control Section** - 01233 330282 Email [building.control@ashford.gov.uk](mailto:building.control@ashford.gov.uk)

Where plans for the erection or extension of a building are submitted for Building Regulations approval, Section 53 of the County of Kent Act 1981 requires that the Plans are rejected unless they show;

- a. adequate means of access for the Fire Brigade to the building or buildings as extended and;
- b. that the building and extension will not render inadequate, existing means of access for the Fire Brigade to a neighbouring building.

**The Fire Prevention Officer** can be contacted at Ashford Fire Station Henwood, Ashford, Kent TN24 8YF

This grant of planning permission does not give any legal right to carry out the development on, over or under the land of another person or contrary to the rights of any such person. If there is any doubt the applicant should seek his/her own independent legal advice before implementing the planning permission. Your attention is also drawn to the Party Walls Act

## 2 **Appeals to the Secretary of State**

If you are unhappy with the disclosed Decision to grant permission subject to conditions, you may appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

Details of how to appeal can be obtained from the Planning Inspectorate, Customer Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or via their website at <https://www.gov.uk/government/publications/planning-appeals-procedural-guide>

## 3 **Beneficial Use**

If permission to develop land is granted subject to conditions, whether by the Borough Council or by the Secretary of State and you, as owner of the land, claim that it has become incapable of reasonable beneficial use, you may serve on the Borough Council a Purchase Notice requiring the Borough Council to purchase your interest in the land in accordance with the provision of Part IV of the Town and Country Planning Act 1990.

Before following this course of action it is suggested that you seek the advice of a Planning Consultant or a Solicitor.

## 4 **Discharging of Conditions**

Some conditions attached to the grant of permission may require you to submit details and/or information before you start work. The necessary forms can be found on the Council's website. Please note that we aim to deal with these requests within 8 weeks.

There is a fee for 'Approval of details reserved by a condition'. These fees are set by Government and the current level can be found at <https://1app.planningportal.co.uk/FeeCalculator/Standalone?region=1>