

Planning Statement

11 Dean Court, Hedge End, Southampton, SO30 4EG

Variation of Conditions 2 and 3 (Approved Drawings and Materials) of Planning Application F/21/89959. Erection of a detached two story four – bedroom dwelling with parking following demolition of existing bungalow.

Section 73 Justification Statement

Planning Permission Ref: F/21/89959 : Section 73 – Variation of Condition(s)

1. Introduction

This statement supports a Section 73 application seeking to vary the approved plans and materials associated with planning permission F/21/89959. The purpose of the application is to secure approval for an amended scheme while retaining the benefit of the extant permission, which has already been lawfully implemented.

The amendments sought do not alter the fundamental nature or description of the development. They therefore fall squarely within the scope of Section 73 of the Town and Country Planning Act 1990.

2. Legislative Framework – Section 73

Section 73 allows an applicant to seek permission for the development of land without complying with conditions attached to an existing planning permission.

This includes:

- Varying approved plans
- Updating drawings
- Making material but acceptable changes to the design

Case law (including *Finney v Welsh Ministers* and *R v Coventry City Council ex p. Arrowcroft*) confirms that Section 73 is appropriate where:

- The description of development remains unchanged, and
- The resulting development is not fundamentally different in character.

The proposed amendments meet both tests.

3. Description of Development

The description of development approved under F/21/89959 remains entirely appropriate and is not altered by the proposed changes. The amended scheme continues to deliver the same form of development in the same location, with the same overall purpose and land use.

As the description is unchanged, the application is lawfully capable of being determined under Section 73.

4. Nature of the Proposed Amendments

The amendments relate solely to the detailed design, layout of the approved scheme and materials. They do not:

- Change the land use
- Increase the site area
- Introduce new development outside the approved red line
- Alter the fundamental scale or nature of the proposal
- Create a materially different form of development

The changes are therefore appropriately considered as a variation of condition rather than a new standalone planning application.

5. Implementation of the Existing Permission

The original permission has been lawfully implemented through the demolition of the former building on the site. This constitutes a material operation under Section 56 of the Town and Country Planning Act 1990.

As a result:

- The permission is extant in perpetuity
- The Section 73 application relates to a live and implemented consent
- The transitional exemption for Biodiversity Net Gain (BNG) remains applicable

6. Biodiversity Net Gain Transitional Exemption

The development benefits from the transitional exemption under:

The Biodiversity Gain Requirements (Transitional Provisions) Regulations 2024 (SI 2024/48) Regulation 3 confirms that:

- Any planning application submitted before 12 February 2024 is exempt from mandatory BNG
- Variations to existing permissions remain covered by the transitional arrangements

As this Section 73 application varies an existing pre-12 February 2024 permission, the BNG condition in Schedule 7A does not apply.

No Biodiversity Gain Plan or metric calculation is required.

7. Conclusion

The proposed amendments:

- Do not alter the description of development
- Do not create a fundamentally different scheme
- Fall entirely within the scope of Section 73
- Relate to a permission that has already been lawfully implemented
- Retain the BNG transitional exemption under SI 2024/48

The application is therefore lawfully and appropriately submitted under Section 73, and the Local Planning Authority is respectfully invited to approve the varied plans.



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2nd February 2026

RE: Biodiversity Net Gain (BNG) exemption for 11 Dean Court, Hedge End, Southampton, SO30 4EG

Dear Robert,

LC Ecological Services Ltd was commissioned by BPS Design Consultants Limited to review the requirements for a biodiversity net gain (BNG) assessment for the proposed amendments to the approved planning application (F/21/89959) at 11 Dean Court, Hedge End, Southampton, SO30 4EG (Grid reference: SU 48973 13215).

Baseline habitats

A site visit was undertaken by senior ecologist Ben Willers on the 20th January 2026. The site was mapped in accordance with the UK Habitat Classification survey methodology (UK Habs, 2023). A map is shown in appendix I with photographs in appendix II. The site supports (u1c, g4) artificial, unsealed surface colonised by modified grassland, (u1f) sparsely vegetated urban land of ruderals, and (32) scattered trees.

The proposals will result in the loss of these habitats which has colonised on site since the demolition of the property.

De minimis exemption

It is considered that this site meets the threshold of the de minimis exemption as the site was granted planning by Eastleigh Borough Council under planning application F/21/89959. The property was demolished and therefore, the works had started under this approval. The de minimis exemption applies to this site as it is under an existing planning application and works were carried out prior to February 12th 2024.

I do hope this is comprehensive however, if you do have any further queries or require any additional information, please don't hesitate to contact me.

Best Wishes,

Sophie Higgins, BSc (Hons), MSc, MCIEEM
Principal Ecologist

Appendix I : UK Habs Classification Map



Appendix II : Photographs



Photo 1 : View of the site looking north-west showing rubble with colonised modified grassland.



Photo 2 : View of the site looking south-east showing ruderals on a rubble pile.

New Materials

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- **Standing seam metal clad porch covering.**
- **Grey Windows and Doors**
- **Grey interlocking roof tiles**