

Planning Control Committee – 03/04/25

Application 24/02606/FP – Land west of Tuthill House, Kelshall Tops, Therfield

Updates following the publication of the committee report

- 1.0 There is an error in the published report as the bio-diversity net gain (BNG) conditions recommended in the report have not been included. The proposed conditions, referred to within the report and recommended for inclusion on the decision are:

1. *No development shall take place (including any ground works, site clearance) until a Biodiversity Method*

Statement has been submitted to and approved in writing by the local planning authority. The Statement shall be informed by the November 2024 Ecological Assessment Report and include the following:

- a) Review of site potential and constraints.*
- b) Details of any necessary working methods to prevent harm to wildlife.*
- c) Type and source of materials to be used where appropriate.*
- d) Persons responsible for implementing the works*

The Method Statement must include a timetable for the delivery of measure on site and any agreed measures are to remain on site thereafter.

2. *No development shall take place until an Ecological Enhancement Plan (EEP) for the creation of new wildlife features such as hibernacula, the inclusion of integrated bird/bat and bee boxes in buildings/structures, as informed by the November 2024 Ecological Assessment Report, has been submitted to and approved in writing by the local planning authority. The agreed measures are to be implemented on site prior to the first occupation of the first dwellinghouse hereby approved and shall remain on site thereafter.*

3. *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 North Herts Council.

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

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 are considered to apply.

4. *No development shall take place until the details of the boundary treatment for the habitat protection area and access to this area, are submitted to, and agreed in writing by, the LPA and these details shall be implemented on site before the first occupation of the first dwelling hereby approved and thereafter shall remain on site.*

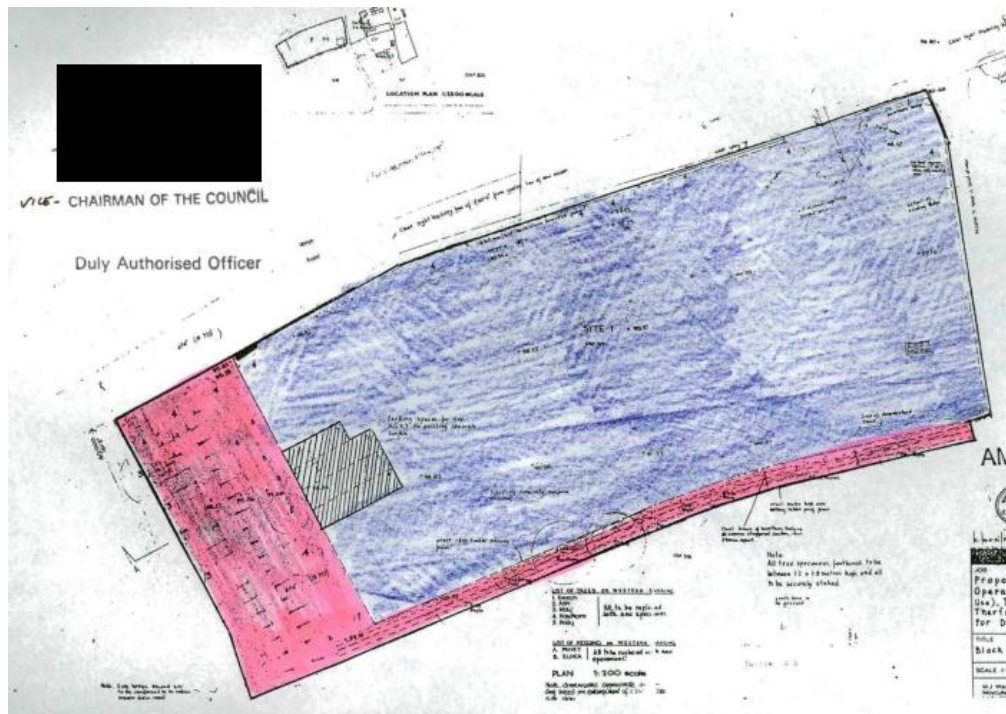
2.0 Further to the publication of the report there has been some further information on the S106. A copy of the original S106 has been provided. Paragraph 4.3.11 of the committee report sets out the restrictions of the original S106 agreement which are:

1. not to use any part of the land coloured red on the attached Plan for any purpose other than as a landscaped area.

2. Not to use that part of the Land coloured blue on the attached plan for any purpose other than the storage of agricultural vehicles machinery and equipment which are used by the Owner in connection with the business carried out on the Land.

3. Not to use that part of the Land hatched black on the attached Plan for any purpose other than for parking of four heavy goods vehicles owner and operated by the Owner of the Land coloured blue.

2.1 A copy of the plan this refers to has now been located and is:



- 2.2 The proposed site layout plan for this application shows the landscaping areas required in this S106 obligation would be retained in this proposed development layout:



2.3 The new S106 agreement or Deed of Variation will need to ensure that:

1. The landscaped areas as protected by the original S106, which would remain landscaped areas in the proposed site layout, are retained as such.
2. The HGV and agricultural machinery parking restrictions are removed. However, as the original S106 agreement related to planning permission (ref: 92/00143/1) for the use of the land for the open storage of agricultural vehicles as a depot for 4 HGVs, if planning permission is granted for the proposed three dwelling houses with their private gardens, the requirements of the original S106 with regards to the HGV parking and agricultural vehicle parking would be superseded and these restrictions of the original S106 would in effect fall away.
3. However, a clause would be needed to secure the retention of the western end of the site as the protected BNG area for 30 years and for a one off BNG monitoring payment of £3710.00 to be paid to the LPA before occupation of any of the dwellinghouses.