

**UPDATE 18 March 2026**

**Planning Control Committee Meeting 19 March 2026**

**Item 5.**

**24/01013/HYA**

**Land Surrounding Burloes Cottages, Newmarket Road, Royston, Hertfordshire**

1. The Conservators of Therfield Heath and Greens have submitted a late representation, which is available on the planning application page and attached for ease of reference. This is dealt with in section 5.8 of the committee report.

In response to specific comments in the representation:

- Development proposals do not need to make financial contributions to Therfield Heath on-site mitigation measures. According to the Therfield Heath Mitigation Strategy the priority is to provide on-site mitigation on development sites (known as SANG – Suitable Alternative Natural Greenspace), then contribution of alternative options that meet the objectives of the Mitigation Strategy, with financial contributions to mitigate the impact on the SSSI as a last option.
- In this case of Burloes Cottages Officers recommend that the proposed mitigation of on-site greenspace which comprises about 3ha of SANG; the 2.7km permissive footpath to the field to the south; and a financial contribution of £350 per unit towards Therfield Heath management measures and complies with the test for planning obligations.
- Officers note Natural England's requirement for a condition for an updated Recreation Mitigation Strategy. This had been missed and therefore a new condition should be added, should Members resolve to grant permission. This is agreed with the applicant.

*Prior to or concurrently with the submission of the reserved matters application for Phase 2, a Recreation Mitigation Strategy for the site should be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be implemented in accordance with the approved Strategy.*

*Reason: To ensure the satisfactory management of on-site open space in accordance with adopted Local Plan Policy NE4 and the Therfield Heath SSSI Mitigation Strategy (2022).*

- The letter suggests that the tilted balance set out in para 11(d) of the NPPF should be 'disengaged' for impact on the SSSI. Officers do not agree as the committee report states, the impact on Therfield Heath would be appropriately mitigated.
  - The letter requests that this application is deferred to further review this matter. Given the commentary above, there will be no change to officer recommendation as a result of this representation.
2. Correction to paragraphs 5.8.9 and 5.8.14 that the stated 2.3km permissive footpath is more accurately measured as 2.7km. The route is defined by the plan in the Recreation Mitigation Strategy and will be secured by s106.

3. Email from a representative of the Applicant (Vistry Homes) to all Members of PCC in support of the application. The email was logged on the planning application page.

## **The Conservators of Therfield Heath and Greens**

The Therfield Regulation Trust  
c/o Royston Golf Club, Baldock Rd, Royston, SG8 5BG  
Registered Charity No. 277881  
Chair: Clive Hall



**THERFIELD  
HEATH  
& GREENS**

Monday, 16 March 2026

By email to [planning.control@north-herts.gov.uk](mailto:planning.control@north-herts.gov.uk)  
And [sarah.kasparian@north-herts.gov.uk](mailto:sarah.kasparian@north-herts.gov.uk)

Dear Ms Kasparian

### **24/01013/HYA - Hybrid application for residential development of up to 325 dwellings - Burloes**

The Conservators of Therfield Heath and Greens have recently had sight of your report for the planning committee meeting on March 19<sup>th</sup>.

The Conservators are dismayed by the results of your S106 negotiations in terms of the mitigation measures for Therfield Heath SSSI. Our expectation was outlined in our response to consultation. In reality, (after indexation), you have negotiated a lower level of S106 than when this site last got planning, and before the SSSI Mitigation Strategy became a material planning consideration in 2022. We note that you have agreed 100% funding against what was requested for sport, but against the SSSI you have agreed only 28% of the per dwelling figure and none of the capital figure we requested.

### **Underlying Law**

The Conservators need not remind you that the LPA has a duty under section 28G of the Wildlife and Countryside Act 1981 to further the conservation of the SSSI. As you know this is covered in the NPPF (which refers to Circular 06/2005). You are also aware from the Local Plan that NHC has agreed to enhance the protection of "national sites" via SP12 (paras 4.156 thru 4.169). Unfortunately none of this is coming through in your report. Councillors are required to consider the National Framework and the Local Plan under the Planning and Compulsory Purchase Act 2004.

### **The Natural England conditions are fundamental to the principle of development**

We note that Natural England state:

*"We consider that without appropriate mitigation the application has potential to damage or destroy the interest features for which Therfield Heath Site of Special Scientific Interest (SSSI) and Local Nature Reserve (LNR) has been notified."*

The councillors are duty bound by the Planning Members Code of Good Practice to have all relevant information before them when making a decision. In cases where they don't then it is appropriate that they DEFER or refuse.

We note the applicant has not agreed a revised Recreation Mitigation Strategy as Natural England have requested. It may be the case that you view the conditions imposed by Natural England can be passed on as conditions to be resolved with reserved matters. This however is not possible as explained in planning appeal decision APP/D0840/W/24/3354604 - Land adjacent Chymanter, Halsetown, St Ives.

That decision states:

*"It has been suggested that further assessment of potential impacts on the SSSI, could be secured by condition. However, the Guidelines for Preliminary Ecological Appraisal (CIEEM, Jan 2018) make clear that, in line with Government guidance, ecological surveys should normally be completed and any necessary measures to protect biodiversity identified before permission is granted. Moreover, conditions can only be imposed in relation to Reserved Matters and cannot retrospectively secure evidence or mitigation fundamental to the principle of development."*

It is clear that the issue of is the SSSI going to be harmed or not is fundamental to the principle of development.

#### **The Conservator position**

The Conservators can see no way that a contribution of £350 per dwelling will in any way do enough to mitigate the recreational pressures caused by this development. We strive to exceed expectation with the very limited funding we have and remind you that we receive no funds from the public purse to maintain the SSSI.

We seek your urgent attention to this lack of appropriate mitigation and ask that unless you can negotiate s106 in line with our expectations you must cease to rely upon the Conservators to deliver any on-SSSI mitigation for this development. Our view is that it simply cannot be done for that level of spend.

We note that in agreeing the SSSI Mitigation strategy, NHC agreed that developments **must** provide on-SSSI management measures. You are no longer able to do this.

We remind you that the Conservators are viewed as a competent authority when considering what is and what is not acceptable mitigation for the SSSI they manage. Our view is that you need to recommend to the Councillors that this decision is DEFERRED until such time as the issue of adequate mitigation to prevent harm is resolved.

#### **Appeal Decisions (one from each of 2023, 2024 and 2025)**

In a situation where there is uncertainty if sufficient mitigation is being delivered to a SSSI, previous appeal cases have decided that the tilted balance is NOT engaged NPPF 11(d)i, and that NPPF 193 allows for the presumption against development as grounds for refusal. Councillors, like the Inspectors in those cases, should be applying the precautionary principle. Selected relevant appeal decisions include:

- APP/D0840/W/24/3354604 - Land adjacent Chymanter, Halsetown, St Ives;
- APP/B1930/W/23/3325998 - Land Adjacent 55 Bucknalls Drive, Bricket Wood, Hertfordshire AL2 3XJ; and
- APP/L3245/W/21/3289216 - Footbridge Farm, Tasley, Bridgnorth WV16 5LZ

All three decisions relate to SSSIs that will suffer harm as the result of a nearby development. If mitigation measures are proposed they are either inadequate or their delivery is uncertain causing the Inspector to apply the precautionary principle. In all three cases the Inspector found the unmitigated harm or potential for harm to the SSSI **disengaged** the tilted balance in favour of sustainable development (NPPF 11(d)i). The presumption to refuse planning in NPPF 193 is also given appropriate weight, resulting in each appeal being refused.

### **Conclusion**

The Conservators hope that you will change your recommendation to the PCC to be one of DEFER, so that these issues can be resolved and the application can return to be approved at a later date. If you think such matters can be resolved ahead of the meeting then we will make ourselves available where we can to make this so.

Yours sincerely,



Carol Fossick  
Clerk to the Conservators of Therfield Heath  
Clerk to the Trustees of the Therfield Regulation Trust