

**WELWYN HATFIELD COUNCIL – DEVELOPMENT CONTROL**  
**DELEGATED REPORT**

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| <b>APPLICATION No:</b>   | <b>S6/2011/2825/MA</b>                                       |
| <b>APPLICATION Site:</b> | <b>Coopers Field Stables, Coopers Lane Road,<br/>Northaw</b> |

**NOTATION:**

The site lies within Green Belt, Northaw Common Parkland Landscape Character Area, Wildlife Site 79/002 Northaw Brook Pastures and near a main river (outside of flood risk zones 2 and 3) as designated in the Welwyn Hatfield District Plan 2005.

**DESCRIPTION OF SITE:** The site is agricultural land currently used for the grazing of horses.

**DESCRIPTION OF PROPOSAL:** The proposal is for the erection of a L-shaped building consisting of two stables and a hay store following demolition of the existing timber building.

**RELEVANT PLANNING HISTORY:**

S6/2000/0372/FP Erection Of Six Stables, Tack Room And Feedstore And Access Track Approved 05/06/2000

S6/2009/0616/MA Retention Of Six Poles And Attached Lights Around Perimeter Of Manege Appeal Allowed

**SUMMARY OF POLICIES:**

National Planning Policy

PPS1: Delivering sustainable development

PPG2: Green Belts

PPS7: Sustainable Development in Rural Areas

PPS9: Biodiversity and Geological Conservation

PPG13: Transport

PPG17: Planning for Open Space, Sport and Recreation

PPS25: Development and Flood Risk

East of England Plan 2008

SS1: Achieving Sustainable Development

T14: Parking

ENV2: Landscape Conservation

ENV3: Biodiversity & Earth Heritage

WAT4: Flood Risk Management

Hertfordshire Structure Plan Review  
None.

Welwyn Hatfield District Plan 2005  
SD1: Sustainable Development  
GBSP1: Definition of Green Belt  
RA21: Leisure and Tourism in the Countryside  
RA24: Riding and Livery Stables  
RA10: Landscape Regions and Character Areas  
R3: Energy Efficiency  
R5: Waste Management  
R11: Biodiversity and Development  
R15: Wildlife Sites  
R17: Trees, woodland and hedgerows  
M14: Parking standards for new developments  
D1: Quality of design  
D2: Character and context  
D5: Design for movement  
D7: Safety by Design  
D8: Landscaping  
D9: Access and Design for people with disabilities

**CONSULTATIONS:**

**Herts and Middlesex Wildlife Trust:** No objections and suggest a number of conditions

**Herts Biological Records Centre:** No objections and suggest a number of conditions

**Hertfordshire County Council Policy and Transportation Unit:** No objections

**Natural England:** raise no objections and ask the council to consider impacts on protected species, local wildlife sites and biodiversity enhancements.

**Welwyn Hatfield Access Group:** No response

**TOWN/PARISH COUNCIL COMMENTS:**

Northaw and Cuffley Parish Council: No objections

**REPRESENTATIONS:**

This application has been advertised by site and press notice. No representations have been received. Period expired 20.02.12

**DISCUSSION:**

The main issues are:

1. **The impact upon the Metropolitan Green Belt**
2. **The impact upon the character and appearance of the locality**

### **3. Impact on the Wildlife Site and Protected Species**

#### **5. Other material considerations**

##### **1. The impact upon the Metropolitan Green Belt**

Planning Policy Guidance 17 gives an allowance for sporting and recreational facilities within the Green Belt, provided the development is the minimum necessary and maintains openness. Planning Policy Statement 7 also gives some allowance for small-scale horse related activities in the countryside. Small-scale is defined as involving up to ten horses. When considering the proposal it would provide two isolation stables used in conjunction with the adjoining 6 stables, the proposed development would provide an acceptable small-scale facility within the Green Belt.

The proposed stables would be timber clad and have an agricultural appearance. The stables would reflect the rural setting and would not be more dominant when compared with the former structures. Subject to samples of the proposed materials being agreed, the development would have an appropriate rural appearance.

##### **2. The impact upon the character and appearance of the locality**

The proposed development would give the site a more uniform appearance. The existing timber building (7m long by 3m wide) is in a poor state of repair. The proposed development would be partly screened by existing vegetation and would not appear overly prominent. The site can be viewed from a number of areas within the surroundings. The proposed development therefore would not have an adverse impact upon the visual amenity of the Metropolitan Green Belt.

Policy RA24 considers proposals for small scale riding and livery stables and includes a number of criteria. These include the impact on the Green Belt; number, size, height and materials, relationship to existing buildings and the surrounding area, effect on neighbouring properties (smell and noise), effect on environmental assets such as wildlife habitats. A number of these criteria are met as the existing use is for grazing of horses, it replaces an existing building and there are no immediate residential neighbours. The wildlife impact is dealt with separately within this report. It is however, necessary to consider the number, height and materials of the buildings to ensure that they reflect the rural character and landscape.

The application forms indicate that the stables would be finished in timber with a black roof which is considered appropriate for this type of development and rural setting. In relation to the height of the buildings, compared to the previous stables on site, they would be similar. Therefore, the proposed site would not be more prominent or dominant in the surrounding landscape. From the assessment above the proposed development is considered to comply with Policy RA24 of the Welwyn Hatfield District Plan 2005.

### **3. Impact on the Wildlife Site and Protected Species**

The proposed development area lies within a Local Wildlife Site ref 79/002 – *Northaw Brook Pastures*. The Wildlife Site comprises species-rich, marshy, neutral to acidic grassland, adjacent to Northaw Brook. The proposed new buildings are

sited in the eastern corner of the Wildlife Site, in a fenced off section used for horse grazing.

A Biodiversity Report has been submitted – Jones & Sons Environmental Sciences Ltd, June 2011. The report is based on an Extended Phase 1 Habitats Survey and protected species scoping assessment carried out in May 2011.

The presence of protected species is a material consideration, in accordance with PPS9 (Biodiversity and Geological Conservation), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.

Protected species such as great crested newts, otters, dormice and bats benefit from the strictest legal protection. These species are known as European Protected Species ('EPS') and the protection afforded to them derives from the EU Habitats Directive, in addition to the above legislation. Water voles, badgers, reptiles, all wild birds, invertebrates and certain rare plants are protected to a lesser extent under UK domestic law (NERC Act and Wildlife and Countryside Act 1981).

In the UK the requirements of the EU Habitats Directive is implemented by the Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations 2010). Where a European Protected Species ('EPS') might be affected by a development, it is necessary to have regard to Regulation 9(5) of the Conservation Regulations 2010, which states:

*“a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.”*

The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals. These comprise:

- “Deliberate capture or killing or injuring of an EPS”
- “Deliberate taking or destroying of EPS eggs”
- “Deliberate disturbance of a EPS” including in particular any disturbance which is likely –
  - (a) to impair their ability –
    - (i) to survive, to breed or reproduce, or to rear or nurture their young, or,
    - (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or
  - (b) to affect significantly the local distribution or abundance of the species to which they belong
- “Damage or destruction of a EPS breeding site or resting place” (applicable throughout the year).
  - e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
  - e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
  - e.g. dormice nest (breeding site or resting place (where it hibernates)

In some circumstances a person is permitted to 'derogate' from this protection. The Conservation Regulations 2010 establishes a regime for dealing with such derogations via the licensing regime administered by Natural England. The approval of such a license by Natural England may only be granted if three strict "derogation" tests can be met:

- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
- there must be no satisfactory alternative; and
- favourable conservation status of the species must be maintained.

Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat Directive and therefore should give due weight to the presence of an EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should:

- a) Consider whether an offence to an EPS is likely to be committed by the development proposal.
- b) If the answer is yes, consider whether the three "derogation" tests will be met.

A LPA failing to do so would be in breach of Regulation 9(5) of the Conservation Regulations 2010 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

The existing site and development, the Ecological Report submitted by the applicant and comments from the consultees indicate is such that there is not a reasonable likelihood of EPS being present on site nor would a EPS offence be likely to occur. It is therefore not necessary to consider the Conservation Regulations 2010 further.

The Natural Environment and Rural Communities Act 2006, The Badgers Act 1992 and PPS9 are relevant for species protected by UK legislation only. PPS9, Key Principles, sub paragraph (vi), details

*"The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. Where granting planning permission would result in significant harm to those interests, local planning authorities will need to be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, local planning authorities should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where a planning decision would result in significant harm to biodiversity and geological interests which cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused."*

The consultant concludes that due to its position and small size relative to the Wildlife Site, the proposal will not compromise the ecological integrity of the Local Wildlife Site and any negative impacts on the habitat will be negligible.

In conclusion, The proposed development will not risk the ecological integrity of the Wildlife Site 79/002 or cause harm to protected species, providing some precautionary mitigation measures are implemented as part of the development. These should be secured as Conditions to any permission granted.

#### **4. Other Material Planning Considerations**

**Flooding:** The location of the proposed stables is outside of indicative flood zones 2 and 3 and as such there is no requirement for a flood risk assessment.

**Highways:** The approved application was assessed by Hertfordshire Planning Transportation and Policy, who have raised no objection over the proposed development. The proposed development would not have an adverse impact upon the safety and free flow of the adjacent highway.

**East of England Plan 2008:** On 10th November 2010, The High Court quashed the decision of the Secretary of State for Communities and Local Government to unilaterally revoke Regional Spatial Strategies in England on two grounds:

That he acted outside his statutory powers in circumventing the need for parliamentary scrutiny of such a fundamental change to the national planning system; and

He failed to consider the likely environmental effects of revoking Regional Strategies

However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Act. In the meantime, the policies in the East of England Plan are re-established and form part of the development plan again and are therefore a material consideration which can be taken into account in reaching a decision. However, the Government's intention to abolish Regional Spatial Strategies is also a material consideration that could be considered to reduce the weight to be attached to policies in Regional Spatial Strategies.

The application has been considered against policies in the East of England Plan, which at the time of this decision forms part of the development plan for the Borough but that the weight accorded to these policies, in light of the above circumstances, has been carefully considered in reaching a decision.

#### **CONCLUSION:**

#### **RECOMMENDATION: APPROVAL WITH CONDITIONS**

#### **CONDITIONS:**

1. C.2.1 Time limit for commencement of development
2. C.13.1 Development in accordance with approved plans /details NH/466/01A, NH/466/02, NH/466/03 dated 5<sup>th</sup> March 2012

3. A restricted area for development works shall be established to protect the rest of the Local Wildlife Site (Ref 79/002) and prevent any harm to protected species that may be present in habitat features around the site. A distance of at least 8 metres must separate the development area from Northaw Brook. A one metre buffer zone is to be instated around all hedgerows, trees and mature vegetation in proximity of the development area. All materials and building works associated with this development are to be kept within the designated area. Outside of the restricted development area, no materials, debris, pollutants, vehicles or machinery associated with this development are to be stored or used within, leached into, access the development site through, or in any other way enter into, the Wildlife Site (Ref 79/002 ) or any identified buffer zones.

Reason: to prevent harm to protected species that may be present, and to prevent any potential immediate or future degradation of the Wildlife Site, including as a result of damage to hedgerows, trees or tree roots, and to comply with Policy R11 - Biodiversity and Development and Policy R15 - Wildlife Sites, of The Welwyn Hatfield District Plan, adopted 2005; Planning Policy Statement 9; and the NERC Biodiversity Duty.

4. Features of ecological value, including trees and hedgerows, should be retained, to preserve and enhance biodiversity on the site. All trees and hedges within the site to be retained shall be protected by 1m high fences for the duration of the building works at a distance equivalent to not less than the crown spread from the trunk, or such other distance/means as may be agreed in writing by the Local Planning Authority. No materials or plant shall be stored, rubbish dumped, fires lit or buildings erected within this fence and no changes in ground level may be made within the spread of the tree or hedge without the prior agreement in writing of the Local Planning Authority

Reason: to protect the existing trees and hedges in accordance with Policy R11 - Biodiversity and Development and Policy R17 - Trees Woodlands and Hedgerows of The Welwyn Hatfield District Plan, adopted 2005.

5. No demolition of buildings, or removal of trees, scrub or hedges, shall be carried out on site between the 1<sup>st</sup> March and 31<sup>st</sup> August inclusive in any year, unless searched beforehand by a suitably qualified ecologist. In the event that nests or nesting birds are found, work affecting that area must be postponed until the young have fledged.

Reason: Nesting birds are protected from disturbance under the Wildlife & Countryside Act 1981 (as amended).

6. No additional external lighting shall be installed or affixed to the building (beyond that shown on the approved drawings) unless the Local Planning Authority has first approved in writing details of position, height, design and intensity. Details of the proposed bulkhead and security lights shall be submitted to the Local Planning Authority and approved before works commence. The design of these lights shall follow the recommendations given in the Bat Conservation Trust's advice note on 'Bats and lighting in the UK'. Any temporary lighting used during

construction should be minimized, directional and prevent light spillage onto sensitive areas.

Reason: to ensure the site and surrounding habitats continue to be suitable for use by bats. All Bats and their roosts are legally protected by the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. If bats are present it is illegal to intentionally kill, injure, capture or disturb individuals, or damage, destroy or obstruct their roosts. It is also an offence accidentally damage or destroy a roost. Bat roosts are legally protected whether or not bats are permanently present.

**Informatives:**

1.A site meeting with an ecologist and contractors prior to commencement is recommended to ensure all parties are conscious of the ecological value of the Local Wildlife Site and nearby habitats; and are aware of the potential for protected species on the site, the relevant legislation, associated responsibilities/obligations and best construction practices to minimise risk of harm or disturbance of protected species.

Reason: to prevent harm to protected species that may be present and to comply with Policy R16 of the Welwyn Hatfield District Plan, adopted 2005; Planning Policy Statement 9 and the NERC Biodiversity Duty.

2.Please ensure the developers are aware of the potential for reptiles, including grass snakes, on site. Should any such species-usage become apparent, a suitably licensed ecologist should be consulted, and mitigation measures proposed and followed. Vegetation and grass within the defined restricted development area should remain mown short (sward height no more than 5cm) until and throughout the construction period, to ensure the area remains unsuitable for grass snakes.

Reason: Reptiles are protected under the Wildlife and Countryside act (1981) as amended which makes it an offence to intentionally kill or injure these species. Also to comply with Policy R11 - Biodiversity and Development and Policy R16 - Protection of Species, of The Welwyn Hatfield District Plan, adopted 2005.

3.The applicant may also wish to consider enhancing the site, through incorporating bird and bat boxes onto the new building/site. Bat boxes (Schwegler 2F, 2FDFP, 1FD, 2FN, 1FS, 1FW, as per local species) can be affixed to mature trees. The boxes should be sited near a source of food; bats feed over gardens, fields, water and in woodlands. Choose a tall mature tree and fix the box at a height of 4 metres above the ground with the access facing south west or south east. The box should not be not too exposed so it will not experience extremes of heat and cold.

Reason: to increase opportunities for wildlife in new developments, in compliance with guidance in paragraphs 5.32 to 5.36 of PPS9, the NERC Biodiversity Duty, and PPS1.

**SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:**



The proposal has been considered against Planning Policy Statement/Guidance 1, 2, 7, 9, 13, 17 and 25, East of England Plan 2008 policies SS1, T14, ENV2, ENV3 and WAT4 and development plan policies SD1, GBSP1, RA21, RA24, RA10, R3, R5, R11, R15, R17, M14, D1, D2, D5, D7, D8 and D9 of the Welwyn Hatfield District Plan 2005, in addition to the Human Rights Act 1998, which, at the time of this decision indicate that the proposal should be approved. Material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be inspected at these offices).