

**WELWYN HATFIELD BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT**  
**DELEGATED REPORT**

<b>APPLICATION No:</b>	<b>S6/2012/2608/MA</b>
<b>APPLICATION Site:</b>	<b>Nyn Park, Well Road</b>

**NOTATION:**

The site lies within the Metropolitan Green Belt and a Landscape Character Area as designated in the Welwyn Hatfield District Plan 2005. Part of the site includes the land which is designated as a Site of Special Scientific Interest (SSSI) and local Wildlife Site in the Welwyn Hatfield District Plan 2005. In addition, a number of trees are protected by a Tree Preservation Order (TPO No.G79, W32, W40 and W41).

**DESCRIPTION OF SITE:**

The Nyn Park Estate has a total area of 129ha (318 acres) and is located to the north of the village of Northaw. It is bound by The Ridgeway to the north, by Well Road and Judge's Hill to the south west and by Vineyards Road to the south east. The estate comprises extensive areas of woodland, much of which results from earlier commercial forestry planting. The northern part of the estate is designated as a Site of Special Interest (Well Wood) and the ancient woodland areas for part of Great Wood to the north of The Ridgeway and are subject of a Tree Preservation Order.

The application site has a complex planning history. At the centre of the estate is the site of the former Nyn House which dated chiefly from the 19<sup>th</sup> Century. This house was largely destroyed by fire in 1963 and was subsequently demolished with the exception of a front entrance porch. A replacement dwelling, known as Well House, was built in 1968. This replacement dwelling was sited close to the estate entrance from Well Road.

In May 2001 planning permission was granted for a large country house under planning reference S6/2000/1639/FP. This new dwelling is currently under construction on the site of the former Nyn House.

Well House (the replacement dwelling) was largely destroyed by fire in March 2011 and a new replacement dwelling, which was approved under planning application S6/2012/0714/FP, is currently under construction in approximately the same siting.

The new country house under construction at the centre of the estate is considered to be the main house due to its size and also because the smaller replacement dwelling (Well House) has been designed to function as office/estate worker facility in association with the wider estate management of Nyn Park. As the new country house is not a replacement dwelling, when built, it will comprise the original building as defined by the NPPF. There is clear intention that the new country house is going to be completed.

The planning permission granted in under reference S6/2000/1639/FP allows for the construction of a country house extending to approximately 32,300sq.ft. plus additional ancillary accommodation including a guest house, swimming pool and underground tennis court. In total the original dwelling, once completed, could extend to about 46,500sq.ft.

Planning permission S6/2000/1639/FP was granted subject to a legal agreement and several of planning conditions. Of particular relevance to this application is condition 4 which removed permitted development rights Class A of Part 2 of Schedule 2 to the Town and Country Planning General Permitted Development Order 1995. As a result, the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure erected within the site or along its boundaries would require planning consent.

#### **DESCRIPTION OF PROPOSAL:**

This application seeks full planning permission for a replacement boundary fence around the perimeter of Nyn Park Estate. The proposed deer fencing would be 2m in height and formed from a cable mesh between fence posts erected approximately 3.8m apart. The fencing would be finished in black. It is also proposed to erect a pair of gates across a secondary access track from Potters Bar Lodge to the south of the site. Gates across the main entrance to Nyn Park are the subject of a separate planning application.

#### **PLANNING HISTORY:**

- S6/2012/2528/FP Installation of entrance gates (Withdrawn 11/03/2013)
- S6/2012/2045/AM Modification of S106 agreement from planning permission S6/2000/1639/FP (Granted 07/12/2012)
- S6/2012/0714/FP Replacement dwelling. Erection of storage building associated with the wider use of site. Demolition of outbuildings including stables and garages (Granted 03/07/2012)
- S6/2000/1639/FP Erection of dwelling house and restoration of Nyn Park estate (Granted 11/05/2001)
- Permitted development rights withdrawn – Classes E & F of Part 1, Class A of Part 2, Class B of Part 4, Class A(a) of Part 6, Class A(a) of Part 7 of schedule 2
- S6/1998/0289/FP Erection of new dwelling (Withdrawn 18/11/1998)
- S6/1995/0560/FP Removal of agricultural occupancy condition (Granted 13/02/1996)
- S6/1984/0090/FP Vehicular access (Granted 05/03/1984)

#### **SUMMARY OF DEVELOPMENT PLAN POLICIES:**

National Planning Policy Framework, March 2012  
Circular 03/09: Costs Awards in Appeals and Other Planning Proceedings

Welwyn Hatfield District Plan 2005  
GBSP1: Definition of Green Belt  
SD1: Sustainable Development

R3: Energy Efficiency  
R11: Biodiversity and Development  
RA10: Landscape Regions and Character Areas  
RA25: Public Rights of Way  
D1: Quality of Design  
D2: Character and Context  
D3: Continuity and Enclosure  
D7: Safety by Design  
D8: Landscaping

Welwyn Hatfield District Plan, Supplementary Design Guidance, February 2005

### **CONSULTATIONS:**

Hertfordshire County Council Transport Programmes and Strategy Department: Does not wish to restrict the grant of planning permission subject to suggested planning conditions and informatives.

Natural England: There is not likely to be an adverse effect on this site as a result of the proposal being carried out in strict accordance with the details of the application submitted. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. In addition, Natural England Expect the LPA to assess and consider the possible impacts on biodiversity, protected species, local wildlife sites and on the local landscape character.

Welwyn Hatfield Borough Landscaping Team: No objection. Deer are a real problem when both managing the SSSI woodland and when trying to establish young planting and I welcome this measure to control their territory. Any young trees lost should be replaced by others but mature trees should be spared. The fence line should deviate to prevent the felling of mature specimens should the erection of the replacement fence prove difficult. There is considerable scope to lay existing vegetation to form a thick hedge against the new fence.

Hertfordshire Biological Records Centre: Data held by HBRC on the Nyn Estate indicates that significant parts of the site are of ecological interest. Summary of comments and recommendations:

- a) The proposal states that the new fencing is to be set behind the existing hedge lines and that the hedges will be retained and further planted to infill gaps. We are happy with this arrangement as existing hedge lines will be kept and enhanced.
- b) Parts of the existing boundary for example within Well Wood and The Vineyard Wildlife Site, appear to be wooded and without boundary hedgerows. Works must cause as little disturbance as possible to the ground flora which is often at its most diverse around the perimeter of woodlands. In addition, ancient features such as boundary banks may also be present and these should be protected.
- c) If there is the requirement to remove any trees and shrubbery nesting birds need to be taken into account. Birds nest in a wide variety of habitats. Many species nest in trees, in holes and crevices in the trunk, or high up in the canopy. Others nest in the vegetation that grows up trees, such as ivy. Bushes, hedgerows and scrub, such as bramble and tall ruderal vegetation are also used as breeding sites, and several species nest on the ground amongst the tall vegetation. The nesting season covers the period from March to the end of August. However,

some species of bird may nest well outside this period and some species of bird may breed in any month of the year, depending on prevailing weather conditions at the time. Therefore we advise that the removal of trees and shrubs should be carried out during the period October-February only; to protect breeding birds, their nests, eggs and young. If this is not possible then a pre-development (same day) search of the area should be made by a suitably experienced ecologist for breeding birds and their nests. If active nests are found, then clearance work must be delayed until the juvenile birds have left the nest and are fully independent.

- d) As Well Wood is part of a SSSI Natural England must be informed of the proposals, as the works may impact the SSSI.

Herts & Middlesex Wildlife Trust: No response (consultation expired 21/01/2013)

### **TOWN/PARISH COUNCIL COMMENTS:**

Northaw and Cuffley Parish Council: *"The PC have no objection"*

### **REPRESENTATIONS:**

The application was advertised by site notice and neighbour notification letters. Five representations were received from neighbouring occupiers commenting on the proposals. Summary of comments:

- Concerns that the fencing will prevent access for all wildlife
- The fence would have an adverse visual impact on the predominantly rural environment
- At road boundaries a set-back would lessen the visual impact
- At boundaries with properties a set-back is necessary to allow hedge growth and maintenance
- The height of the fence should respect existing fences to maintain visual amenity
- Fencing would have an intrusive visual impact on the graveyard
- A fence that is green in colour would have less visual impact

### **DISCUSSION:**

The main issues are:

1. Whether the proposal is appropriate development in the Green Belt and the impact on the character and openness of the Green Belt
2. The impact of the proposal on the residential amenity of neighbouring properties
3. Impact on the highway
4. Landscaping
5. Other material considerations

#### **1. Whether the proposal is appropriate development in the Green Belt and the impact on the character and openness of the Green Belt**

The main issue for consideration is whether the impact of the fencing is acceptable in the Green Belt location. The general policies controlling development in the countryside apply with equal force in Green Belts but there is, in addition, a general presumption against inappropriate development within them. As with previous Green Belt policy, the National Planning Policy Framework (NPPF) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved

except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The main issues are therefore:

- Whether the fence and gates should be regarded as a building for the purposes of the NPPF and development plan policy;
- If so, whether or not the proposal would amount to inappropriate development in the Green Belt;
- The effect of the development proposed on the openness and the character and appearance of the Green Belt
- Whether there are other considerations which clearly outweigh the harm to the Green Belt and any other harm thereby justifying the development on the basis of very special circumstances.

***Whether the fence and gates should be regarded as a building for the purposes of the NPPF and development plan policy:***

In seeking to apply the advice in the NPPF and the policies in the development plan, it is important to first establish what type of development is involved and therefore which part of the NPPF is relevant. "Buildings" are defined in s.336 of The Town and Country Planning Act 1990 as "any structure or erection, and any part of a building as so defined, but does not include plant or machinery comprised in a building". This definition normally includes any man-made above-ground structures, such as walls and fences. The proposal is therefore considered to comprise a building for the purposes of the NPPF and development plan policy.

***Whether or not the proposal would amount to inappropriate development in the Green Belt:***

The NPPF accepts that within the Green Belt the construction of new buildings should be regarded as inappropriate development. Exceptions to this include buildings for agriculture and forestry; provision of appropriate facilities for outdoor sport and outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

Fences and gates do not fall within the types of development that are defined as appropriate and therefore, in accordance with paragraph 87 of the NPPF, such development should not be approved, except in very special circumstances.

***The effect of the development proposed on the openness and the character and appearance of the Green Belt:***

The NPPF identifies in paragraph 79 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Green Belt openness results from the absence of built development, consequently, a loss of Green Belt openness occurs regardless of whether the additional built form would be readily visible or cause any harm to the appearance of the Green Belt.

In terms of character, there is a degree of variation around the perimeter of the site. To the north the site is bounded by The Ridge Way which is densely wooded on both sides; to the north east the site boundary forms a transition point between woodland and predominantly open countryside; to the east is Vineyards Road and a ribbon of houses set within spacious and well landscaped plots; to the south is the village of Northaw; to the south west the site is more open in character and bounded by Judges Hill; and to the west the site is bounded by Well Road which is predominately wooded or screened by vegetation but also features the main entrance to Nyn Park as well as Potters Bar Lodge, Hatfield Lodge and Well House (under construction).

The substantial openness around the application site contributes to the Green Belt character of the locality and its visual amenity. In the interests of visual amenity, permitted development rights for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure were removed by condition following the grant of planning permission S6/2000/1639/FP. Notwithstanding this, it is reasonable to expect that the application site would be protected through some form of boundary treatment. Planting is the most favourable solution in this type of location, however, it is accepted that there are practical limitations in terms of the time it takes to establish a hedgerow, its function and maintenance.

The proposal is for an open wire mesh which is 2m high finished in a black. Existing landscaping and new planting would, for the most part, screen the fence from public viewpoints, however, there are areas where the proposed fencing would be visible and exposed, in particular, where established hedgerows do not exist or where there are no ditches, banks or other significant landscape features to separate the fence from the highway.

A close boarded fence or wall would be a solid barrier and a dominant feature within the landscape, the effect of which would be to close down views resulting in significant harm to the openness and the character of the Green Belt. However, in this case, the open wire fence is lightweight in appearance and is a common feature on agricultural land in the countryside. The design is simple and functional and allows views of the wider countryside to be maintained through the fencing and between the posts. The proposal would, therefore, not have a significant adverse affect on the overall openness or rural character of the area.

A neighbour expressed concern that the fence would be black rather than green in colour. As the fence would be set-back from the highway it will be unobtrusive provided the colour is dark, therefore, black is considered to be acceptable.

The proposed gates are of a reasonable height which corresponds with that of the fence, they would be set-back approximately 50m from the highway and also have an open bar design. As such, the visual impact of the gates would be minimal and not intrusive.

To conclude, the proposals are aimed at re-establishing a tidy and managed boundary which would maintain the character and visual amenity of the Green Belt. The impact of the proposal on the openness of the Green Belt is considered acceptable, as the fence and gates have been designed to allow views through into the site and are of a height which is functional without being excessive. Although no additional harm would be added in this regard, this does not add weight in favour of the development; it merely reduces the amount of 'other harm' against it. The

absence of harm in one respect cannot outweigh harm in another. Such factors are essentially neutral in the final balance.

***Whether there are other considerations which clearly outweigh the harm to the Green Belt and any other harm thereby justifying the development on the basis of very special circumstances:***

Substantial weight must be given to the harm to the Green Belt by reason of the inappropriateness of the proposed development. No very special circumstances have been advanced by the applicant, however, there are factors that can reasonably be taken into account as being material considerations.

It is relevant that the vast majority of the fencing proposed, and the gates, would usually fall within permitted development rights outside the control of planning. However in this case, permitted development rights were removed by condition following the grant of planning permission S6/2000/1639/FP in the interests of visual amenity. The effect of the development on visual amenity has been discussed under the previous section of this report and is considered acceptable, therefore, the proposal would not conflict with the reason for removing permitted development rights. This carries some weight in favour of the proposal but does not apply to the sections of fence that would not have otherwise fallen within permitted development i.e. where the fence adjoins a highway.

Turning to the benefits of the proposal, deer have been identified by the applicant and the Council's Landscaping Team as a problem when both managing the SSSI woodland and when trying to establish young planting. Controlling the deer population would have significant benefits in terms of maintaining and enhancing the SSSI which carries significant weight in favour of the proposal.

In similar respect, the deer population is also having a negative impact on the implementation of the landscape restoration works that are required under the obligations contained within the S106 Agreement. The report to Planning Control Committee for application S6/2000/1639/FP, which proposed the erection of a new dwelling, states that the environmental and ecological gains accruing from the restoration of the estate were considered very special circumstances sufficient to outweigh the harm to the Green Belt by reason of inappropriate development. Therefore, the benefit of the proposed deer fencing in terms of the successful implementation of the landscape restoration works is considered to carry significant weight in favour of the current proposal.

Cumulatively, when the weight is added together for all these points, it is considered that they represent very special circumstances which clearly outweigh the harm by virtue of the developments inappropriateness. The development therefore complies with the National Planning Policy Framework.

## **2. The impact of the proposal on the residential amenity of neighbouring properties**

No objections were received from neighbours although five representations were received commenting on the proposals. Northaw and Cuffley Parish Council did not object. In response to the comments from neighbours, the applicant submitted additional drawings and provided written confirmation in respect of a number of queries raised.

The impact of the proposed development on the residential amenity of neighbouring occupiers is considered in terms of the impact on access to day/sun/sky light, privacy and overbearing impact. Giving consideration to the scale of the proposal and the setting, it is considered that the proposed fence and gates would not have an impact on light amenity or the level of privacy afforded to the neighbouring residences and would not appear visually overbearing. The fence would maintain 1.5m separation distance from the boundaries with neighbouring properties to allow for maintenance of fences and hedgerows. In terms of visual amenity, a fence 2m in height is considered reasonable given the separation distance from neighbouring properties, the open design of the fence and the fact the built enclosures up to 2m in height would usually fall within permitted development rights outside the control of planning. Overall, it is considered that the amenity of the adjoining occupiers would be maintained to an acceptable level in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance 2005 (Statement of Council Policy).

### **3. Impact on the highway**

Hertfordshire County Council Transport Programmes and Strategy Department were consulted on this application and do not wish to restrict the grant of planning permission subject to suggested planning conditions and informatives.

The proposal includes fencing adjacent to the public right of way (Footpath Northaw 005) which leads to Griffins Hole well. The plans are not detailed enough to show how the proposed fencing will impact on this Right of Way, therefore, Hertfordshire County Council Transport Programmes and Strategy Department recommend the inclusion of a planning condition to ensure that the fencing would not reduce the width of the existing Right of Way. Details of all work to this part of the boundary should be agreed with the Rights of way unit of Hertfordshire County Council prior to the commencement of development.

### **4. Landscaping**

The Council's Landscaping Team support the proposal and have confirmed that deer are a problem when both managing the SSSI woodland and when trying to establish young planting. In addition to the benefits of controlling the deer population, the proposals are aimed at re-establishing a tidy and managed boundary. The proposed fence would largely follow established fence lines. Where existing hedging, trees or ditches exist, the fence would be positioned behind these features. The Council's Landscaping Team suggested that any young trees lost as a result of the development should be replaced and that the fence line should deviate to prevent the felling of mature specimens should the erection of the replacement fence prove difficult. This could be controlled by an appropriately worded planning condition.

There is considerable scope to lay existing vegetation to form a thick hedge against the new fence which would provide additional screening. Some hedge laying work has already been undertaken and additional works will be considered under the obligation to landscape the site contained within the S106 Agreement.

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

**Sustainable Development:** The applicant has completed a sustainability checklist which highlights that the scheme generally responds positively to the topic areas that are required to be considered in accordance with policies SD1 and R3 of the Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance, 2005.



**Protected Species:** The presence of protected species is a material consideration, in accordance with the National Planning Policy, 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) and as amended through The Conservation of Habitats and Species (Amendment) Regulations 2012. Where a European Protected Species ('EPS') might be affected by a development, it is necessary to have regard to Regulation 9(1) of the Amended Conservation Regulations 2012, which states:

*“a competent authority must exercise their functions which are relevant to nature conservation, including marine conservation, so as to secure compliance with the requirements of the Directives.”*

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(1) of the Amended Conservation Regulations 2012 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

Natural England were consulted on this application and advised that there is not likely to be an adverse effect on the SSSI. In respect of the possible impact on biodiversity, protected species, local wildlife sites, Hertfordshire Biological Records Centre and Herts Middlesex Wildlife Trust were consulted.

Hertfordshire Biological Records Centre advised that significant parts of the site are of ecological interest, in particular, where there is a requirement to remove any trees and shrubbery nesting birds need to be taken into account. Birds nest in a wide variety of habitats. Many species nest in trees, in holes and crevices in the trunk, or high up in the canopy. Others nest in the vegetation that grows up trees, such as ivy. Bushes, hedgerows and scrub, such as bramble and tall ruderal vegetation are also used as breeding sites, and several species nest on the ground amongst the tall vegetation. The nesting season covers the period from March to the end of August. However, some species of bird may nest well outside this period and some species of bird may breed in any month of the year, depending on prevailing weather conditions at the time.

As a precautionary measure, Hertfordshire Biological Records Centre recommend that the removal of trees and shrubs should be carried out during the period of October to end of February inclusive; to protect breeding birds, their nests, eggs and young. If this is not possible then a pre-development (same day) search of the area should be made by a suitably experienced ecologist for breeding birds and their nests. If active nests are found, then clearance work must be delayed until the juvenile birds have left the nest and are fully independent. Overall it is considered that subject to planning conditions requiring the implementation of the suggested mitigation measures, the proposed development would not be detrimental to the SSSI or local wildlife sites, biodiversity and protected species.

### **CONCLUSION:**

Fences and gates do not fall within the types of development that are defined as appropriate and therefore, in accordance with paragraph 87 of the NPPF, such development should not be approved, except in very special circumstances. The proposals are aimed at re-establishing a tidy and managed boundary which would maintain the character and visual amenity of the Green Belt. The impact of the proposal on the openness of the Green Belt is considered acceptable, as the fence and gates have been designed to allow views through into the site and are of a height which is functional without being excessive. Although no additional harm would be added in this regard, this does not add weight in favour of the development;

it merely reduces the amount of 'other harm' against it. However, it is considered that the very special circumstances identified in this report clearly outweigh the harm by virtue of the developments inappropriateness. The development therefore complies with the National Planning Policy Framework.

The plans are not detailed enough to show how the proposed fencing will impact on Public Right of way Footpath Northaw 005, therefore, the inclusion of a planning condition to ensure that the fencing would not reduce the width of the existing Right of Way is recommended.

There would be no significant harm to the amenity enjoyed by the occupiers of neighbouring properties. Subject to planning conditions requiring the implementation of mitigation measures, the proposed development would not be detrimental to the SSSI or local wildlife sites, biodiversity and protected species.

## **RECOMMENDATION: APPROVAL WITH CONDITIONS**

### **CONDITIONS:**

1. C.2.1 – Time Limit
2. C.13.1 – The development/works shall not be started and completed other than in accordance with the approved plans and details APL-EC-012-126-01 Issue 0 received and dated 20 December 2012 & APL-EC-012-126-10 Rev 0 & APL-EC-012-126-11 Rev 0 & APL-EC-012-126-12 Rev 0 & APL-EC-012-126-13 Rev 0 & APL-EC-012-126-14 Rev 0 & APL-EC-012-126-15 received and dated 29 January 2013 & APL-EC-012-126-02 Issue A received and dated 19 March 2013

### **PRE-DEVELOPMENT**

3. No vegetation clearance works shall be carried out on site between the 1<sup>st</sup> March and the 30<sup>th</sup> September inclusive in any year, unless otherwise approved in writing by the local planning authority.

REASON: To protect wintering, roosting, feeding, resting, breeding birds in accordance with the Wildlife and Countryside Act 1981 (As amended) and Policy R11 of the Welwyn Hatfield District Plan 2005.

4. No development shall commence until a scheme for the proposed fencing adjacent to the Public Right of way Footpath Northaw 005 has been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.

REASON: To ensure that the existing right of way is maintained in accordance with Policy RA25 of the Welwyn Hatfield District Plan 2005

### **POST DEVELOPMENT**

5. The hedges, trees, bushes and saplings marked on the attached plan numbered APL-EC-012-126-01 Issue 0 & APL-EC-012-126-02 Issue A & APL-EC-012-126-10 Rev 0 & APL-EC-012-126-11 Rev 0 & APL-EC-012-126-12 Rev 0 & APL-EC-012-126-13 Rev 0 & APL-EC-012-126-14 Rev 0 & APL-EC-012-126-15 shall be retained unless the local planning authority gives its written consent to their removal or variation. Should any part of the hedge, tree, bush or sapling die, be removed or become seriously damaged or

diseased, it shall be replaced during the following planting season by another tree, bush or sapling planted in accordance with a specification previously approved in writing by the local planning authority.

REASON: To protect the existing planting in the interests of visual amenity in accordance with Policy D8 of the Welwyn Hatfield District Plan 2005.

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

The proposal has been considered against the National Planning Policy Framework and Development Plan Policies GBSP1, SD1, R3, R11, RA10, D1, D2, D3, D7 and D8 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. The decision has also been made taking into account, where practicable and appropriate the requirements of paragraphs 186-187 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be inspected at these offices).

**INFORMATIVES:**

1. Notwithstanding the requirements of condition 3 above, if vegetation clearance works are proposed between the 1<sup>st</sup> March and the 30<sup>th</sup> September, and approved in writing by the local planning authority, then a pre-development (same day) search of the area should be made by a suitably experienced ecologist for breeding birds and their nests. If active nests are found, then clearance work must be delayed until the juvenile birds have left the nest and are fully independent.
2. The Public Right of Way should remain unobstructed by vehicles, machinery, materials, tools and any other aspects of the construction during works.
3. The safety of the public using the route and any other routes to be used by construction traffic should be a paramount concern during works, safe passage past the site should be maintained at all times.
4. The condition of the route should not deteriorate as a result of these works. Any adverse affects to the surface from traffic, machinery or materials (especially overspills of cement & concrete) to be made good by the applicant to the satisfaction of this Authority.
5. All materials to be removed at the end of the construction and not left on the Highway or Highway verges.

If informatives 2-5 above cannot reasonably be achieved then a Temporary Traffic Regulation Order would be required to close the affected route and divert users for any periods necessary to allow works to proceed. A fee would be payable to Hertfordshire County Council for such an order.

**Signature of author..... Date.....**