OFFICER REPORT

Case No: 25/01123/S73 **Removal/Variation of Conditions**

Proposal: **Erection of 4 Semi-Detached Agricultural Worker's Dwellings (and Associated Infrastructure): Variation of Condition 8 (BNG) of 24/02406/FUL to vary the wording of the condition to reflect that of 24/02408/FUL**

Location: **Land South East Of Redwood Farm House Caxton Road**

Applicant: **Mr Jamie Baker**

Grid Ref: **529570 257470**

DESCRIPTION OF SITE AND APPLICATION

The application site is Land South-East of Redwood Farmhouse, Caxton Road, Great Gransden.

Permission was granted in April 2025 for the erection of 4 semi-detached agricultural worker's dwellings and associated infrastructure under application reference number 24/02406/FUL.

This application seeks permission to vary condition 8 (Biodiversity Net Gain) to remove the requirement for a habitat management and monitoring plan (HMMP) to be provided (to ensure that the BNG is secured over the required 30-year period) which would be similar to another decision issued by the LPA under reference number 24/02408/FUL at the same site.

Officers have scrutinised the submitted details and have familiarised themselves with the site and surrounding area.

NATIONAL GUIDANCE

The National Planning Policy Framework (December 2024) (NPPF 2024) sets out the three objectives - economic, social and environmental - of the planning system to contribute to the achievement of sustainable development. The NPPF 2024 at paragraph 10 provides as follows: 'So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).'

The NPPF 2024 sets out the Government's planning policies for (amongst other things):

* delivering a sufficient supply of homes;
* building a strong, competitive economy;
* achieving well-designed, beautiful and safe places;
* conserving and enhancing the natural, built and historic environment.

Planning Practice Guidance and the National Design Guide 2021 are also relevant and material considerations.

For full details visit the government website: https://www.gov.uk

PLANNING POLICIES

Huntingdonshire's Local Plan to 2036 (Adopted 15th May 2019)

LP30 Biodiversity and Geodiversity

NATIONAL LEGISLATION & GUIDANCE

Environment Act 2021

Town and Country Planning Act 1990 (Schedule 7a)

Planning Practice Guidance

RELEVANT PLANNING HISTORY

24/02406/FUL - Erection of 4 semi-detached agricultural worker's dwellings and associated infrastructure (Approved)

24/02408/FUL - Extension to an existing barn (Approved)

CONSULTATIONS

Great Gransden Parish Council - Recommend approval.

Greater Cambridge Shared Planning Service - No comments to make.

Middle Level Commissioners - No representations received at the time of determination.

National Grid Plant Protection - No representations received at the time of determination.

Anglian Water - No comments to make - application does not relate to drainage.

UK Power Networks - No representations received at the time of determination.

EDF Energy - No representations received at the time of determination.

Cadent - No representations received at the time of determination.

Wildlife Trust - No representations received at the time of determination.

Environment Agency - No objections/no comments to make.

HDC Operations (Waste) - No representations received at the time of determination.

HDC Environmental Health - No objections.

HDC Arboricultural Team - No representations received at the time of determination.

HDC Urban Design Team - Not related to the service - no comments to make.

HDC Ecology Team - Objection - further details in the proceeding sections of this report.

HDC Landscape Team - No representations received at the time of determination.

Cambridgeshire County Council (CCC) Lead Local Flood Authority (LLFA) - No representations received at the time of determination.

CCC Rights of Way Team - No representations received at the time of determination.

CCC Minerals & Waste Team- No representations received at the time of determination.

CCC Archaeology - No objections/no comments to make.

CCC Highways - Not related to the service - no comments to make.

It is acknowledged that the majority of the above consultations were erroneous as they specialist service does not relate to the content of the application. It seems that all original consultations were repeated. In this instance the comments from the Ecology Officer are most prudent to the determination of the application and are discussed in further detail below.

The adopted Scheme of Delegation allows for applications to amend a planning permission to be delegated.

REPRESENTATIONS

None received at the time of determination.

SUMMARY OF ISSUES

The Planning Practice Guidance (PPG) notes that there are instances where new issues may arise after planning permission has been granted, which require modification of the approved proposals. It advises where these modifications are fundamental or substantial, a new planning application will be required. Where less substantial changes are proposed a non-material amendment application can be submitted, or a minor material amendment (S73 application) where there are relevant conditions that can be varied. There is no statutory definition within the PPG of a 'minor material amendment' but it states that it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

The PPG advises that "Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission unless they have already been discharged". For clarity, as the time of preparing this report, no application to discharge any of the conditions on 24/02406/FUL has been submitted.

Condition 8 of permission reference 24/02406/FUL reads:

Prior to the commencement of development, a Biodiversity Net Gain Plan shall be submitted to and approved in writing by the Local Planning Authority demonstrating a scheme for biodiversity net gain to achieve 10% biodiversity net gain (BNG). These details shall include:

a) A Biodiversity Net Gain Plan Template which provides details on how the development will achieve 10% biodiversity net gain (BNG). The details shall include but not be limited to; net gain strategy, irreplaceable habitats, on-site habitat enhancements, off-site habitat enhancements, statutory biodiversity credits and trading summary;

b) A Biodiversity Method Statement which provides details of how the recommendations contained in the submitted Biodiversity Net Gain Assessment (rev 03- ref: BCEnv.24.0059. AP056965) by Brown & Co dated 22nd November 2024 will be carried out. The details shall include but not be limited to; specification, location, timing, an implementation programme.

c) A management and monitoring plan for on-site and off-site biodiversity net gain including 30-year objectives, management responsibilities, maintenance schedules and a methodology to carry out monitoring in years 2, 5, 10, 20 and 30 from commencement of development, to ensure the BNG is progressing towards achieving its objectives;

d) How contingencies and/or remedial action will be identified, agreed with the Local Planning Authority and implemented where the plan is not meeting the BNG requirements. The development shall be carried out in accordance with the approved details.
The key issue to be considered as part of this application is:

*Provision of biodiversity net gain over the required 30-year period in accordance with the legislation and relevant local policies set out in the preceding sections of this report.

*Biodiversity and accordance with legislation

The application has been submitted with the intention to omit the requirement for a habitat management and monitoring plan to be submitted as per part c the condition. The basis for this is a decision issued under application reference number 24/02408/FUL which granted permission for an extension to an agricultural barn. Condition 4 of that permission requested only a Biodiversity Method Statement detailing how recommendations for biodiversity enhancement, mitigation, licensing etc would be carried out. Condition 5 of that permission was a compliance condition requiring that the submitted scheme for BNG would be implemented and maintained over the required 30-year period. This decision was issued as the proposed BNG was not considered to be 'significant' and the LPA exercised some discretion (albeit erroneously) given the merits of the application in relation to the rural economy. It must be recognised at this stage that this was an 'on balance' decision and not a decision which the Council's Ecology Officer was in support of.

In this case, the argument has been presented that the area of proposed modified grassland (to achieve the BNG) would be of a similar scale to that proposed under the 24/02408/FUL application and as such, the same consideration should apply. HDC's Ecology Officer has reviewed the submission and wholly disagrees that this is the case concluding that the condition should not be varied to exclude the requirement for a HMMP. He observes that DEFRA has published guidance which (amongst other matters) recognises what are considered 'significant' on-site enhancements with habitat creation or enhancement where distinctiveness is increased relative to the distinctiveness of the habitat before development. It goes on to advise that the maintenance of these must be secured with a legal agreement (planning condition applies) to secure the enhancements over a 30-year period. This does not solely apply to the grassland as the proposed BNG for 24/02406/FUL included the planting of 13 individual trees (a moderate distinctiveness habitat) on land that was previously cereal crops (low distinctiveness). As this represents habitat creation where distinctiveness is increased relative to the distinctiveness of the habitat before, it is classed as significant and requires a HMMP. Given that under the 24/02408/Ful application the grassland was to be modified from poor to good (thereby classed as significant) the council's Ecology Officer considers that a HMMP should have also been conditioned.

HDC's Ecology Officer recognises the complexities and intricacies of BNG legislation and accepts that errors may occur (especially in its infancy).

Officers have considered the details of the submission, the 24/02408/FUL application and the advice of the Ecology Officer as a specialist in this field. It is acknowledged that different conditions relating to BNG have been placed on two different applications, however each planning application must be determined on its own merits, and if the council has made an error on one application this is not a justification to repeat that error.

The Councils Ecology Officer considers that the planting of 13 individual trees (a moderate distinctiveness habitat) on land that was previously cereal crops (low distinctiveness) represents habitat creation where distinctiveness is increased relative to the distinctiveness of the habitat

before, a significant enhancement under DEFRA guidance. The DEFRA guidance advises that the maintenance of these must be secured with a legal agreement to secure the enhancements over a 30-year period. As such the enhancement is classed as significant and requires a HMMP and as such the application to vary the condition wording should be refused.

CONCLUSION

The proposed amendment to vary condition 8 would result in a development which would fail to secure the management and monitoring of the proposed BNG over the required 30-year period. As such, it would fail to accord with Policy LP30 of the Huntingdonshire Local Plan to 2036 and Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) and should be refused.

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CONTACT OFFICER:
Enquiries about this report to **Kevin Simpson**