

OS Parcel 8975 North Of Middle Farm And West Of

20/02328/F

Featherbed Lane Mixbury

Case Officer: George Smith

Applicant: PC & IC Rymer Limited

Proposal: Full planning application for the erection of 2 acres of polytunnels and circular coated steel water tank (50m³).

Ward: Fringford And Heyfords

Councillors: Cllr Ian Corkin, Cllr James Macnamara, Cllr Barry Wood

Reason for Referral: Major development

Expiry Date: 18 January 2021

Committee Date: 10 December 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

Planning permission is sought for the erection of 2 acres of polytunnels to the north-west of Middle Farm.

Consultations

No consultees have raised **objections** to the application

The following consultees have raised **no objections** to the application:

- CDC Ecology, OCC Highways, OCC Drainage, OCC Archaeology,

No third party representations have been received.

Planning Policy and Constraints

The application site is approximately 820m metres to the south of Mixbury Conservation Area and approximately 1.8km to the north east of Cottisford Conservation Area. The access to the field off Featherbed Lane runs adjacent to three Grade II listed buildings within the Middle Farm complex, comprising a farmhouse, barn and stable range. The site is in an area of high archaeological interest. The site is also within a Minerals Consultation Area.

Public Footpath 303/11/20 runs past the site to the west, approximately 37m away at the nearest point, whilst Public Footpath 303/18/20 runs to the west of the site in the adjacent field approximately 400m away.

The application has also been assessed against the relevant policies in the National Planning Policy Framework, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Principle of development
- Design, and impact on the character of the area
- Heritage impact
- Residential amenity
- Ecology impact
- Highway safety

The report considers the key planning issues in detail, and Officers conclude that the proposal is unacceptable for the following reasons:

1. Adverse visual/landscape effects
2. Harm to setting of designated heritage assets

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site, which comprises part of an arable field, is situated approximately 820 metres to the south of the village of Mixbury and approximately 430 metres to the south of the Banbury Road. The site is accessed off Featherbed Lane, to the east of the site, and the field would be accessed via an existing track through the Middle Farm complex. The site itself is relatively flat and not bounded by any hedgerow, being located centrally within this field. The wider field is bounded by hedging on the north, east and west boundaries. However, the south boundary is bounded by a fence. The hedging surrounding the site has some gaps in places and also has some trees within it. The surrounding area is agricultural in character and is relatively flat.
- 1.2. The farm is served by Middle Farmhouse, which has the benefit of a flat that is rented out on an AirB&B basis and a dwelling known as Stones Throw which is subject of an agricultural occupancy condition and which is occupied by a worker who used to work on the dairy enterprise. Planning permission was granted under Class Q of the 2015 GDPO for the conversion of a former grain store adjacent Coldharbour Barn to the south of the site to a market dwelling (application reference 18/01955/Q56), and this building has been sold.

2. CONSTRAINTS

- 2.1. The application site is approximately 820m metres to the south of Mixbury Conservation Area and approximately 1.8km to the north east of Cottisford Conservation Area. The access to the field off Featherbed Lane runs adjacent to three Grade II listed buildings within the Middle Farm complex, comprising a farmhouse, barn and stable range. The site is in an area of high archaeological interest. The site is also within a Minerals Consultation Area.
- 2.2. Public Footpath 303/11/20 runs past the site to the west, approximately 37m away at the nearest point, whilst Public Footpath 303/18/20 runs to the west of the site in the adjacent field approximately 400m away.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The applicant seeks permission for 2 acres of polytunnels, located to the northwest of Middle Farm and accessed via a track from Featherbed Lane and through the existing yard for Middle Farm. The polytunnels would be sited relatively centrally in a field currently used for arable farming. There would be 8-rows of polytunnels, each reaching a total height of 6.5m and an eaves height of 4m, with a “Dutch Barn” style roof. The polytunnels would be 105m in length, with each bay being 9.6m wide. A rainwater harvesting tank is also proposed adjacent to the buildings, being circular form, 4.57m in diameter and 3.04m high.

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:
- 4.2. **19/00423/F** - Erection of 6no poultry rearing buildings and associated infrastructure – Refused

5. PRE-APPLICATION DISCUSSIONS

- 5.1. No pre-application discussions have taken place with regard to this proposal.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **30 October 2020**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No comments have been raised by third parties.

7. RESPONSE TO CONSULTATION

- 7.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council’s website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. MIXBURY PARISH COUNCIL: **No comments received**

OTHER CONSULTEE RESPONSES

- 7.3. CDC ECOLOGY: **No objections** – subject to a condition for biodiversity enhancement
- 7.4. OCC HIGHWAYS: **No objections**
- 7.5. OCC DRAINAGE: **No objections**
- 7.6. OCC ARCHAEOLOGY: **No objections** – subject to conditions for a WSI (Written Scheme of Investigation)

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- PSD1 - Presumption in Favour of Sustainable Development
- SLE4 - Improved Transport and Connections
- ESD1 - Mitigating and Adapting to Climate Change
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems
- ESD8 - Water Resources
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- ESD17 - Green Infrastructure
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- TR7 - Development attracting traffic on minor roads
- TR10 - Heavy Goods Vehicles
- AG2 - Construction of farm buildings
- C8 - Sporadic development in the countryside
- C14 - Countryside management projects
- C28 - Layout, design and external appearance of new development
- ENV1 - Development likely to cause detrimental levels of pollution
- ENV12 - Development on contaminated land

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

9. APPRAISAL

9.1. The key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character of the area
- Heritage impact
- Residential amenity
- Ecology impact

- Highway safety

Principle of the Development

Policy Context

- 9.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that the decision maker should apply a presumption of sustainable development. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 9.3. Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 9.4. The NPPF supports the sustainable growth and expansion of all types of business and enterprise in rural areas (Paragraph 83), both through the conversion of existing buildings and well-designed new buildings. This also includes the development and diversification of agricultural and other land-based rural businesses.

Assessment

- 9.5. Officers have previously reached the conclusion that the agricultural business is established, and that diversification would benefit the enterprise. The applicant currently farms 850 acres of land, a substantial portion of land. In the submission the applicant highlights the benefits of the proposal as support for an expanding agricultural business, economic gain for the local economy including provision of jobs and contribution towards UK-wide food supply.
- 9.6. The information contained within the application fails to demonstrate the size of the existing holding. There is emphasis placed on the expansion of the current business, but officers have not been provided with information on the extent of the business at present or whether these new buildings can be sustained by this existing holding. There is also no information contained within the application to demonstrate why such a large expanse of buildings are required for this purpose.

Conclusion

- 9.7. On this basis, it has not been demonstrated that the polytunnels are necessary to sustain the enterprise. The proposal thus fails to comply with saved Policy AG2 of the CLP 1996 or relevant paragraphs of the NPPF. Notwithstanding this, the overall acceptability of the proposals is also clearly dependant on other matters as discussed below, in particular the proposals' impact on the landscape and character and appearance of the surrounding area and heritage impact.

Visual Effects

Policy Context

- 9.8. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. The NPPG goes on to note that good design is a key aspect of sustainable development, creates better

places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.

9.9. Policy ESD13 of the CLP 2015 notes that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to the local landscape character cannot be avoided. Policy ESD13 also states that: *“Proposals will not be permitted if they would:*

- *Cause undue visual intrusion into the open countryside;*
- *Cause undue harm to important natural landscape features and topography;*
- *Be inconsistent with local character;*
- *Impact on areas judged to have a high level of tranquillity;*
- *Harm the setting of settlements, buildings, structures or other landmark features; or*
- *Harm the historic value of the landscape.”*

9.11. Policy ESD15 of the CLP 2015 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high-quality design. All new development will be required to meet high design standards.”*

9.12. Saved Policy AG2 of the CLP 1996 notes that farm buildings and associated structures requiring planning permission should normally be so sited that they do not intrude into the landscape or into residential areas.

9.13. Saved Policy C28 of the CLP 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.

9.14. Saved Policy C8 of the CLP1996 notes that sporadic development in the open countryside will generally be resisted if its attractive, open and rural character is to be maintained. Saved Policy C8 applies to all new development proposals beyond the built-up limits of settlements but will be reasonably applied to accommodate the needs of agriculture. The NPPF also advises that the open countryside should be protected for its own sake.

Assessment

9.15. The landscape around the site is located within both the Woodland Estatelands character type and the Farmland Plateau character type within the Oxfordshire Wildlife & Landscape Study (OWLS) 2004.

9.16. The OWLS notes that the Farmland Plateau is characterised by a high limestone plateau with a distinctive elevated and exposed character, broad skies and long distance views. It is also noted within the OWLS that large-scale arable fields dominate the landscape, with some medium-sized plantations partially obscuring the otherwise open views. The OWLS sets out that there are level or gently rolling open ridges dissected by narrow valleys and broader vales.

9.17. The OWLS states that the Woodland Estatelands is characterised by arable farming and small villages with a strong vernacular character. The OWLS sets out that the key characteristics comprise rolling topography with localised steep slopes, large blocks of ancient woodland and mixed plantations of variable sizes and a regularly shaped field patten dominated by arable fields.

- 9.18. From visiting the site, the site and surrounding land is more typical of the Farmland Plateau character type, given the level or gently rolling ridges and the large-scale arable fields which are afforded long distance views.
- 9.19. The application is accompanied by a Landscape and Visual Impact Assessment (LVIA), which assesses the potential impacts on the landscape character and amenity of the site and surrounding area. The authors undertook fieldwork to identify 14 viewpoints in the immediate and wider setting of the site.
- 9.20. The LVIA concludes that there is medium landscape character sensitivity and that, when considering the scale and nature of the development and its juxtaposition to other agricultural uses, the magnitude of change is small, therefore resulting in a level of landscape effect of *minor/moderate*.
- 9.21. Officers do not agree that the level of landscape effect would be *minor*.
- 9.22. Whilst the proposed use is for agricultural purposes, the polytunnels would cover a substantial area of the field, totalling 2 acres in footprint (8,093.71 sq m).
- 9.23. The polytunnels would be clearly visible from the surrounding landscape. The LVIA identifies three viewpoints that would be significantly compromised by the proposed development. Two of these are from the adjacent footpath, which is c.37m away at its nearest point. The 3rd viewpoint significantly impacted would be from the garden of Farm Cottage. The report also identifies a further two viewpoints; however, it states that boundary planting means that this impact would lessen to 'not significant' after planting matures at year 15 of the planting schedule.
- 9.24. Views of the proposed development would also be gained elsewhere, including from the main road into Mixbury from the south, Public Footpath 303/10/20 to the east of the site, Public Footpath 303/13/10 to the south east of the site and the street to Juniper Hill to the west of the site
- 9.25. It is acknowledged that the LVIA sets out a mitigation measures to better assimilate the development into the landscape. However, and particularly given the size and scale of the polytunnels collectively, the proposed development would still remain clearly visible from key viewpoints along the adjacent footpath, whilst there would also be good visibility from further afield, which could not be offset by on-site or boundary planting.

Conclusion

- 9.26. The addition of these sizeable new structures and associated infrastructure would undoubtedly have a harmful impact upon the rural character and appearance of the landscape. From the above, it is considered that the proposal would cause moderate harm to the landscape character of the area. In addition, whilst it is accepted views of the site would be localised, it is considered that there would be significant harm to the immediate locality and harm to the enjoyment of users of the nearby Public Rights of Way.
- 9.27. The proposal is therefore considered to be contrary to Policies ESD13 and ESD15 of the CLP 2015 and saved Policies AG2, C8 and C28 of the CLP 1996 and related paragraphs of the NPPF.

Heritage Impact

Legislative and policy context

- 9.28. The site affects the setting of a Grade II listed buildings (Middle Farmhouse, Barn and Abutting Stables Building), with the access to the site passing the barn and stables buildings from Featherbed Lane. The Mixbury Conservation Area is located approximately 820m to the north.
- 9.29. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.30. Likewise Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore, significant weight must be given to these matters in the assessment of this planning application.
- 9.31. Paragraph 189 of the NPPF states that: "In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance."
- 9.32. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Policy ESD15 of the CLP 2015 echoes this guidance.
- 9.33. Paragraph 196 of the NPPF states that: *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."*
- 9.34. Policy ESD15 of the CLP 2015 states that new development proposals should: *"Conserve, sustain and enhance designated 'heritage assets' (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG."*
- 9.35. On the matter of setting, the PPG states: *"A thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it...Setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not."*
- 9.36. The PPG goes on to state that: *"The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places."*

Assessment

- 9.37. Mixbury Conservation Area is the closest conservation area to the site and is approximately 650 metres to the north. The settlement of Mixbury was constructed as a planned model village and it has retained this essential character. The village street remains remarkably homogenous with the essential form of the buildings retained and a strong degree of uniformity in the form of the details. The central core of the existing settlement is entirely residential, with the historic church located to the east. The model village aspect of Mixbury is of historical and architectural interest and makes a considerable contribution to the significance of the Mixbury Conservation Area.
- 9.38. Mixbury Conservation Area is set in a slight dip in the landscape and views of the proposed development would most likely only be visible from the southern exit from the village. Whilst the footpaths adjacent the development site gain views of this conservation area, these are not outlined as being positive or important views within the MCAA and one does not gain an appreciation of the model village character of Mixbury from these footpaths given the distance and intervening vegetation. Officers therefore do not consider that these views from the footpaths adjacent the site make a great contribution to the significance of the village conservation area.
- 9.39. Given the overall scale of the built development on the site and the distance between the site and the Mixbury Conservation Area, it is considered that the proposed development would not over-dominate Mixbury Conservation Area or materially alter the way this conservation area is experienced. It is therefore considered that the built element of this proposed development would not cause harm to the significance of the Mixbury Conservation Area or its setting.
- 9.40. The site is within close proximity to the Middle Farm complex which accommodates three Grade II listed buildings. The access to the unit would run adjacent to these listed buildings and the unit itself would be approximately 90 metres away from the nearest listed building within this complex. The classical farmhouse and extensive barn and stable ranges are thought to be late 18th Century in date and are of limestone and slate roofed. These are all of historical and architectural interest and are situated to the south of the farmyard complex. Four modern agricultural buildings are located to the north of this same complex. The farmyard is surrounded by open countryside which makes a pleasant rural setting for the complex and gives one a greater understanding of the farm complex, therefore contributing to the significance of the listed buildings at Middle Farm.
- 9.41. Given the overall scale of the built development, which would be relatively large in comparison to other farm developments in the locality and would be larger in area than the existing farmyard at Middle Farm, and given its relatively close proximity to these listed buildings within Middle Farm, it is considered that the proposed development would erode the rural setting of these listed buildings, and this would be noticeable from the nearby footpaths the west. The listed buildings and proposed polytunnels would also be clearly visible in the same vista from the footpath to the west and given their scale which would over-dominate the listed buildings, would cause harm to their significance through change to their settings. This harm is considered to be *less than substantial* harm.
- 9.42. The site is in an area of high archaeological interest. The County Council Archaeologist has raised no objection to this proposal, but requests that conditions be attached for a Written Scheme of Investigation to be completed. Officers see no reason to disagree with this and such conditions can be imposed on any planning permission given.

Conclusion

- 9.43. It is considered that the proposal would cause *less than substantial* harm to the three listed buildings within the Middle Farm complex as it would erode its pleasant rural setting by virtue of the scale of the proposed intensive agricultural development and its relatively close proximity to these listed buildings. This harm will need to be weighed in the planning balance. In this regard, public benefits will need to outweigh this identified harm as outlined in paragraph 196 of the NPPF for the development to be acceptable.

Residential amenity

- 9.44. Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015, which states that: 'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'.
- 9.45. The dwelling most affected by this proposal would be *Middle Farm Bungalow* to the east. This dwelling is located approximately 70m away. Officers consider that this distance involved means the proposal would not cause any significant harm to this neighbour through over-domination or loss of light. It is acknowledged that it would likely block a pleasant view over the vast landscape; however, occupiers do not have a right to a view in planning terms i.e. this is not a material consideration for the decision maker.
- 9.46. The proposal is therefore acceptable on these grounds, compliant with local and national policy.

Ecology Impact

Legislative context

- 9.47. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.48. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.49. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.

9.50. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:

- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
- (2) That there is no satisfactory alternative.
- (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

9.51. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

9.52. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

9.53. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

9.54. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

9.55. Policy ESD10 of the CLP 2015 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.

- 9.56. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.57. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.58. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.59. The Council's Ecology Officer (CE) has commented that although the polytunnels cover a relatively large area it is within the middle of an arable field and well away from the hedgerows and any field edges, there are no particular protected species issues.
- 9.60. The CE adds that there may be some loss of habitat to farmland birds not least from increased disturbance, so there should be an enhancement for biodiversity on or adjacent to the site in order to achieve an overall net gain for biodiversity as per policy – additional planting may be appropriate or a larger wildlife friendly field margin to the hedgerows. The CE therefore recommends that a biodiversity enhancement scheme should be conditioned.
- 9.61. Officers see no reason to disagree with this assessment and recommend that this condition is attached to any consent given. Subject to said condition, the proposal accords with Policy ESD10 of the CLP 2015.

Highway safety

- 9.62. Policy ESD15 of the CLP 2015 states, amongst other matters, that new development proposals should: *be designed to deliver high quality safe...places to live and work in*. This is consistent with Paragraph 110 of the NPPF which states that: *developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles*.
- 9.63. The local highway authority raises no objections to the proposed development, advising that it is unlikely to have any notable impact on the local highway network as it would be a small intensification. Officers see no reason to disagree with this view. The proposal is therefore considered acceptable in this regard.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.

- 10.2. The addition of this sizeable new building complex would undoubtedly have a harmful impact upon the rural character and appearance of the landscape. Officers consider that the proposal would cause moderate harm to the landscape character of the area. In addition, whilst it is accepted views of the site will be relatively localised, Officers consider that there would be significant harm to the immediate locality and harm to the enjoyment of users of the nearby Public Rights of Way. Furthermore, it is considered that there would be some additional harm upon the tranquillity of the area. The proposal is therefore considered to be contrary to Policies ESD13 and ESD15 of the CLP 2015 and saved Policies AG2, C8 and C28 of the CLP 1996.
- 10.3. In addition, it is considered that the proposal would cause harm to the significance of three listed buildings within the Middle Farm complex as it would somewhat erode its pleasant rural setting by virtue of the scale of the proposed intensive agricultural development and its relatively close proximity to these listed buildings. The proposal therefore conflicts with Policy ESD15 of the CLP 2015. The applicant has failed to submit sufficient information to demonstrate that there are public benefits which would outweigh this identified harm caused. Therefore, the proposal is hereby recommended for refusal, for the reasons set out below.

11. RECOMMENDATION

RECOMMENDATION - **REFUSAL** FOR THE REASONS SET OUT BELOW

- 1 By virtue of its scale and siting, the proposal would result in significant and demonstrable harm to the character and appearance of the area, and harm to the landscape character of the area, the enjoyment of users of the nearby Public Right of Way and to the tranquillity of the area, and this harm significantly and demonstrably outweighs the need for the proposal and the benefits arising from the proposal. Diversification of the farm has already taken place and it has not been satisfactorily demonstrated that this scale of further diversification is needed in order to keep the farm business viable. The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies AG2, C8 and C28 of the Cherwell Local Plan 1996 and government guidance in the National Planning Policy Framework.
- 2 By virtue of its scale and siting, the proposal would result in harm to the setting of the listed buildings at Middle Farm. This harm which would be 'less than substantial' is not outweighed by public benefits arising from the proposal. The proposal is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the National Planning Policy Framework, including paragraph 196.

CASE OFFICER: George Smith

TEL: 01295 221899