

**Barn In OS Parcel 0545 West Of Withycombe Farm
Wigginton****Case Officer:** Matthew Chadwick**Applicant:** Virginia Sweetingham**Proposal:** Erection of one residential dwelling for multi-generational living and landscape enhancements and associated works**Ward:** Deddington**Councillors:** Councillor Hugo Brown
Councillor Mike Kerford-Byrnes
Councillor Bryn Williams**Reason for Referral:** Over 1,000 sq m floor space created**Expiry Date:** 18 January 2021 **Committee Date:** 11 February 2021

This application was deferred by Members at the January Planning Committee meeting so a virtual site visit could take place. This motion was proposed by Councillor Hugo Brown and seconded by Councillor Mike Kerford-Byrnes.

At the time of writing this report, the date for the virtual site visit has not been set but discussions are taking place between the drone survey company, the applicant and the Member that proposed the motion.

Since the January Planning Committee meeting, one further letter of objection has been received. The applicant has submitted a lighting report, to which the Environmental Protection Officer has raised no objections.

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located in the open countryside to the west of the village of Wigginton. The red line for the site includes an access from the main road through Wigginton, an existing agricultural building and an ash plantation approximately 700m from the settlement. Within the plantation is a man-made lake and the dwelling would be constructed to the east of this lake.
- 1.2. The site is currently well screened from views from the public domain, with the most prominent views achieved from the public footpath to the south of the application site (409/6/20). The site itself is relatively flat but the levels of the land rise up to the east and north.

2. CONSTRAINTS

- 2.1. The application site is not within a designated conservation area and is not in close proximity to any listed buildings. The access to the site is positioned opposite the Wigginton Conservation Area. Public footpath 409/6/20 runs across the access to the site and the site lies in an area of naturally elevated levels of arsenic. Ragged Robin and Prickly Poppy have been located in close proximity of the site, which are protected species.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the erection of a single dwelling, plus associated landscaping and the conversion of the existing agricultural building on the site to a machinery store and alterations to the access.
- 3.2. The Design and Access Statement submitted with the planning application states the following:

The fundamental objective of the proposal was to deliver a house of exceptional quality, reflecting the highest standards in architecture whilst being sensitive to the defining characteristics of the local area, and making a significant enhancement to its immediate setting. Overlain onto these objectives was the client's brief to design and deliver a house that is suitable for multigenerational living now and adaptable to changing needs and circumstances in the future.

- 3.3. The proposed dwelling has a floor space of approximately 1127 sq m. The living accommodation for the dwelling would be distributed across two buildings both of two storey scale. The larger of these buildings would be 'L' shaped and would project over the lake; the other building would be located to the south-east of this and would be rectangular in shape. The dwelling would be externally faced in timber.
- 3.4. The garaging for the development would be located in the north of the site. The barn to the south-east of the approved dwelling would be used as a machinery shed. A gravelled access track would be created to give access to the main road to the east. The lake is proposed to be reshaped and the woodland is proposed to be replanted, with views created through the planting to the south and west of the site.

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:

17/00749/F – Reinstatement of farm track – Application Permitted

18/00063/Q56 - Change of use of agricultural building to a dwellinghouse and associated operational development – Application Permitted

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 **24 August 2020**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. We have received letters of objection from 17 households and letters of support from 17 households. The comments raised in objection by third parties are summarised as follows:
 - The development would cause harm to the character and appearance of the area.

- The driveway would cause landscape harm.
- The development would cause harm to the views achieved from nearby public footpaths.
- The development would cause harm to the setting of the conservation area.
- The development would result in light pollution.
- The development is three dwellings, not one.
- The development would not comply with Paragraph 79 of the NPPF.
- The materials are not acceptable.
- The development would result in the loss of a number of trees.
- The development would have an impact on highway safety.
- The development would set a precedent.

The comments raised in support are summarised as follows:

- The design will enhance the landscape of the area.
- The development would result in an enhancement to biodiversity on the site.

6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

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 COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. WIGGINTON PARISH COUNCIL: **Objects.** The proposal would impact on the character and appearance of the countryside. The development could be used as three separate dwellings. There is no information on how the development would be serviced.

CONSULTEES

7.3. CDC ARBORICULTURE: **No objections.**

7.4. CDC BUILDING CONTROL: Comments that a Fire Engineers design will be required to how the proposal meets the requirements for means of escape etc as required under approved document B of the building regulations. A disabled access design statement will be required to show how the proposal complies with the requirements of approved document M of the building regulations

7.5. CDC ECOLOGY: **No objections**, subject to conditions requiring a LEMP and CEMP.

- 7.6. CDC ENVIRONMENTAL HEALTH: **No objections**, subject to conditions relating to contaminated land and electric vehicle charging infrastructure.
- 7.7. OCC HIGHWAYS: **No objections** subject to standard conditions in respect of width of the access, visibility splays and that the parking and turning areas are constructed from porous materials or drain within the site.
- 7.8. CDC LANDSCAPE SERVICES: **No objections**.
- 7.9. CDC RIGHTS OF WAY: **No objections**, subject to standard conditions requiring the protection of the footpath.
- 7.10. OCC RIGHTS OF WAY: **No objections**, subject to standard conditions requiring the protection of the footpath.

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 2015 Local Plan 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
- BSC1 - District Wide Housing Distribution
- BSC4 - Housing Mix
- ESD1 - Mitigating and Adapting to Climate Change
- ESD2 - Energy Hierarchy and Allowable Solutions
- ESD3 - Sustainable Construction
- ESD5 - Renewable Energy
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems (SuDS)
- 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

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 – New dwellings in the countryside
- C8 – Sporadic development in the open countryside
- C28 – Layout, design and external appearance of new development
- C30 – Design control

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
- Landscape impact
- Heritage impact
- Residential amenity
- Highway safety
- Ecology impact
- Flood risk and drainage
- Other matters

Principle of Development

Policy Context

- 9.2. Paragraph 11 of the National Planning Policy Framework states that a presumption of sustainable development should be seen as a golden thread running through decision taking. 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 of 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. Saved Policy H18 of the Cherwell Local Plan 1996 (‘CLP 1996’) states that planning permission will only be granted for the erection of new dwellings beyond the built-up limits of settlements other than those identified under Policy H1 (proposals map policy from CLP 1996) when (i) it is essential for agriculture or other existing undertakings, or (ii) the proposal meets the criteria set out in policy h6 (affordable housing policy from the CLP 1996); and (iii) the proposal would not conflict with other policies in the plan.
- 9.5. Policy ESD1 of the CLP 2015 states that measures will be taken to mitigate the impact of development within the District on climate change. At a strategic level, this will include:
- distributing growth to the most sustainable locations as defined in the Local Plan;

- delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars;
 - designing developments to reduce carbon emissions and use resources more efficiently, including water; and
 - promoting the use of decentralised and renewable or low carbon energy where appropriate.
- 9.6. Policy ESD15 of the CLP 2015 requires new development proposals to provide high quality design. Specifically, development should be designed to deliver high quality safe, attractive, durable and healthy places to live and work in. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.
- 9.7. Paragraph 79 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of a number of circumstances apply. One of these circumstances is Paragraph 79 (e) which is that *'the design is of exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area'*.
- 9.8. Paragraph 129 of the NPPF states that local planning authorities should ensure that they have access to, and make appropriate use of, tools and processes for assessing and improving the design of development. These include workshops to engage the local community, design advice and review arrangements, and assessment frameworks such as Building for Life. These are of most benefit if used as early as possible in the evolution of schemes, and are particularly important for significant projects such as large scale housing and mixed use developments. In assessing applications, local planning authorities should have regard to the outcome from these processes, including any recommendations made by design review panels.

Assessment

- 9.9. The site is outside the built limits of the nearest village (Wigginton, a Category C village, is over 700 metres to the east of the site) and is within the open countryside. The site is therefore a location remote from key facilities, with future occupiers reliant on private transport for access to key services. The proposal therefore conflicts with Policies BSC1 and ESD1 of the CLP 2015 and saved Policy H18 of the CLP 1996.
- 9.10. However, paragraph 79 of the NPPF allows for the principle of isolated new homes in certain particular circumstances, and the application has been submitted on this basis, i.e. the applicant asserts compliance with criterion (e.) of paragraph 79. For a development proposal to be considered acceptable under this policy it must be both (1) truly outstanding or innovative in design and (2) significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.
- 9.11. The application site must also be isolated to be considered under paragraph 79. The NPPF does not provide a clear definition of what 'isolated homes' are. There have been a number of appeal decisions and court cases which have steered decision makers on this matter. Not all of those judgments agree, but relevant factors include

whether the site is within a settlement, its physical separation to a settlement and its proximity to other dwellings and services.

- 9.12. The site is located over 700m from the nearest dwelling, which is considered to be isolated for the purposes of paragraph 79. However, a Class Q application has been approved in relation to a barn that sits within the red line site area for this application (18/00063/Q56). A legal agreement would therefore be required to ensure that this building would not be converted, because if it were to be converted then the application site would not be truly isolated. The applicant has submitted a draft legal agreement and at the time of writing this report officers are reviewing its content. No positive decision would be issued on this application until a satisfactory legal agreement is agreed between the two parties.
- 9.13. Turning to consider the proposal against paragraph 79 (for the criteria see paras 9.7 and 9.10 above), the planning application has been accompanied by a Design and Access Statement, an Architectural Design Document and the conclusions of The Design Review Panel. The Design Review Panel is an organisation that has provided independent expert appraisal on design quality for the applicant based in Exeter and is comprised of a range of built environment professionals, including architects, urban designers, landscape architects, conservation specialists, ecological or sustainability experts, civil engineers, structural engineers, chartered surveyors, independent town planners and arboriculturalists.
- 9.14. The Design and Access Statement sets out that the applicant's brief was to provide a family dwelling for themselves and their children whilst seeking to achieve the criteria set out in Paragraph 79 of the NPPF. One of the key objectives was to deliver a house that is suitable for multigenerational living now and adaptable to changing needs and circumstances in the future.
- 9.15. The applicant's aspirations were as follows (as set out in the Architectural Design Document):
 - The place should be 'magical', 'wild' and 'natural, informal landscape' that encourages exploring and wandering, and should be especially suited to her small grandchildren who would play in the grounds and potentially swim in the pond.
 - A quirky twist on traditional / vernacular, using natural materials - ideally lots of wood.
 - A design inspired by the log cabin in the woods that Virginia used to own at Swerford
 - To respect and enjoy the natural setting, rather than imposing too much upon it. [NB. Criterion (e.) of para 79 requires a proposal to "significantly enhance its immediate setting".]
 - To improve the poorly managed plantation, but without losing the magic of the woodland setting.
 - For the dwelling to have as small a carbon footprint as possible.
 - The dwelling to ideally be located adjacent to an existing pond and set into a woodland context.
 - Provision made for 3 car parking spaces and 2 visitor spaces with careful consideration for access across the wider site.

- Ecological diversity across the wider site and further observations are to be made concerning the potential presence of rare flora and fauna.
- The barn field located south of the pond is an unimproved meadow (for 10 years) that can be further enhanced and celebrated as part of the overall masterplan.
- A strategy to be developed that will address drainage issues and ameliorate the current drainage ditches across the wider site

9.16. The proposed dwelling has 7 bedrooms, various living, dining and kitchen areas, service areas, balconies and garaging, complete with landscaped gardens and amenity areas around the focal point of the house itself. The dwelling would be constructed externally from larch, red cedar and charred larch cladding and would be of one and a half and two storeys in scale. The dwelling would have sloping roofs with gable projecting elements.

9.17. The energy strategy for the dwelling is set out within the 'Concepts for Heating, Power and Ventilation' document submitted with the application. A multisource heat pump is proposed and solar PV is proposed to service the site. The dwelling and landscape scheme have been designed in such a way to minimise requirements for energy. The use of materials, proximity of trees to the dwelling and fenestration siting are three examples of design features that have been implemented to reduce energy requirements, among many others. The 'Concepts for Heating, Power and Ventilation' document concludes that the site will produce more clean carbon free energy per year that it will consume. The energy strategy alone is not truly outstanding or innovative.

9.18. Proposing a floor area of 1127 sq m, the house has evolved during a design process lasting almost a year and the scheme has been the subject of three different reviews by The Design Review Panel.

9.19. The first review by The Design Review Panel (November 2019) found that the multi-generational living concept could create an innovative and outstanding dwelling on the site, but considered there to be a number of issues with the design of the dwelling whereby it would fall short of the bar set by Paragraph 79. This first review had concerns with the architecture of the central element of the dwelling, its siting and fenestration, the energy strategy and considered that there was a disconnect between the design of the dwelling and the landscape.

9.20. The second review by The Design Review Panel (February 2020) concluded that the design of the scheme had developed and that the proposals would now significantly enhance their immediate setting and be sensitive to the defining characteristics of the local area, but that the proposals would still not yet meet paragraph 79 in that would not be truly outstanding or innovative. The review panel stated that the multi-generational living aspects should have a greater influence over the design of the scheme and that this concept should link closer to the re-wilding concept.

9.21. The third review by The Design Review Panel (April 2020) concluded that the design of the scheme had developed to a stage that it now complied with paragraph 79. The separation but inter-dependence of the three blocks of the building was now considered to be clear and relationship between the built form and landscape had improved significantly from the earlier iterations of the scheme.

9.22. The outstanding quality of the design of the building has emerged from a thorough and detailed analysis of the site and a collaboration between many different

disciplines, including architecture, landscape, ecology, arboriculture, drainage and planning. The architecture of the building, the landscaping, the proposed materials and the ecological improvements all contribute to this outstanding design. It is considered that the proposals when considered as a whole would significantly enhance the setting in both the short and long term.

- 9.23. The multi-generational living concept is embedded in the design of the building, which promotes high levels of sustainability, and both adaptable and flexible future living arrangements, which is considered to be an innovative approach to design.
- 9.24. Paragraph 129 of the NPPF states that in assessing applications local planning authorities should have regard to the outcome from these processes, including any recommendations made by design review panels. Having considered the submitted plans and documents, the findings of The Design Review Panel and the criteria set out within NPPF paragraph 79, it is considered that the that the development proposed is a very high quality scheme that has been carefully considered and takes into account the context and setting of the development. The proposal raises standards of sustainability and design more generally and overall meets the criteria of paragraph 79 (e) of the NPPF. It is important that conditions are imposed to ensure that the detailing and final finish can be controlled and built to the high standard intended and that the landscaping is provided as proposed.

Conclusion

- 9.25. Having regard to the conclusions of The Design Review Panel, it is considered that the design of the dwelling is of exceptional quality, truly outstanding and innovative and would raise standards of design architecturally and that the proposal's design would draw on and reflect the defining characteristics of the site. The outstanding quality of the design would significantly enhance the setting in both the short and long term and the multi-generational living concept is considered to be innovative which would contribute to flexible and adaptable ways of living in the future. It is therefore considered that the proposals comply with paragraph 79 of the NPPF and that the principle of development is acceptable.

Landscape impact

Policy context

- 9.26. Policy ESD13 of the CLP 2015 states that opportunities will be sought to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management or enhancement of existing landscapes, features or habitats and where appropriate the creation of new ones, including the planting of woodlands, trees and hedgerows.
- 9.27. The policy goes on to state that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. 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.

9.28. Policy ESD15 of the CLP 2015 states that development should contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views, in particular within designated landscapes, within the Cherwell Valley and within conservation areas and their setting

Assessment

9.29. The site lies beyond the built-up limits of the village in an area of open countryside. Local plan policies require for development to not cause visual intrusion in the open countryside and to respect local landscape features. Paragraph 170 of the NPPF is consistent with this and seeks for the protection of the open countryside.

9.30. The applicant has undertaken a Landscape and Visual Impact Assessment (LVIA) which has been considered by the Council's landscape architect. Landscape character is the physical make up and condition of the landscape itself and the visual amenity is the way in which the site is experienced.

9.31. The LVIA provides an assessment of the landscape setting by the applicant. This sets out the following:

- The site sits within in a rural context. The surrounding fields have remnants of ridge and furrow and are predominately improved grassland. The field boundaries are unmanaged hedgerows with a number of large mature hedgerow trees, predominately oak and ash.
- The man made pond is fed by an overgrown, unmanaged stream to the north of the site. The pond is rectangular in shape, has an unnatural character and is in poor condition due to lack of management. The water flows out of the pond on the south side and is directed along the field boundaries via man made ditches.
- The southern section of the site is an open agricultural field. The grassland is diverse and has the potential to become a nationally important damp meadow habitat. A public footpath crosses the field to the south of the stream.
- Visibility of the site is largely from the south along with an isolated view from the east. Views from the north and west are limited by the existing topography along with the intervening tree cover (along the dismantled railway), or the boundary planting on site itself. There are no views beyond 1.5km distance.

(Section 3.4 of the LVIA, prepared by Seed Landscape Design Ltd dated August 2020)

9.32. The LVIA looks at four different viewpoints. In the case of three of these viewpoints, it finds that the proposal would have no visual impact. It concludes that from Viewpoint 3 (Public Footpath 409/6/20) that there would be a minor adverse impact. All of the boundary hedgerow trees would be retained. The central section of the overgrown boundary hedgerow would be laid, this would open up glimpsed views

into the site. Parts of the meadow and snap shots of the house would become visible.

- 9.33. The LVIA states that there would be no significant impact during the construction phase. It is stated that the boundary landscape works are to be implemented prior to any construction works and the materials / management compound is to be sited in the north of the site. Further details of this can be secured through a Construction Management Plan and subject to this condition, officers consider that the development would not cause harm in this regard
- 9.34. The dwelling has a very large floor space but a low form and has been positioned in the site to reduce landscape impact. The use of timber as a building material would also help the development to assimilate into the wider landscape given its setting within a woodland plantation.
- 9.35. The proposed landscaping scheme seeks to replace the existing Ash woodland with a mixed native woodland. The current plantation is suffering from Ash Dieback and it is stated in the LVIA that the landscaping proposals would result in a 35% ecological net gain (would need to be secured through conditions), with works to the lake to improve hydrology also proposed.
- 9.36. The Council's Landscape Officer (CLO) agrees with the findings of the LVIA. The CLO advises that there would be no significant long-term landscape impact. Views would be achieved of the dwelling from Public Footpath 409/6/20; however, these views would only be glimpsed and there would not be harm in this regard.

Conclusion

- 9.37. Paragraph 79 of the NPPF requires for development to significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. Given the conclusions of the LVIA, the comments of the Council's Landscape Officer and my own findings, it is considered that subject to conditions the development would comply with both the criteria of Paragraph 79 and Policies ESD13 and ESD15 of the CLP 2015.

Heritage Impact

- 9.38. The access to the site is opposite to the Wigginton Conservation Area. The dwelling itself would be approximately 700m from the conservation area.
- 9.39. 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.*
- 9.40. 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.
- 9.41. 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.

- 9.42. The site is a significant distance away from the conservation area. Concerns have been raised in the consultation process regarding the light pollution from the proposed dwelling.
- 9.43. The site is well screened from the public domain by vegetation and topography. That being said, unrestricted lighting of the site would cause harm to the rural character of the countryside and the setting of the Wigginton Conservation Area. It is clear that a dwelling of this scale would require some lighting and therefore a lighting scheme would need to be required by condition.
- 9.44. Subject to the submission of an appropriate lighting scheme, the proposed development would not cause harm to the setting or significance of the Wigginton Conservation Area.

Residential amenity

- 9.45. Policy ESD15 of the CLP 2015 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy outlook, natural lighting, ventilation, and indoor and outdoor space.
- 9.46. As previously stated in this report, the site is over 700m away from the nearest dwelling. Given this separation distance, it is considered that the development would not have an impact with regard to a loss of light, overlooking or overdomination. The most significant impact could be light pollution from the dwelling; however, as set out in the previous section of this report, a condition requiring a lighting scheme would make the development acceptable in this regard.
- 9.47. A lighting report has been submitted with the application. The Environmental Protection Officer has raised no objections to this and therefore it is considered that the development would be acceptable in this regard.
- 9.48. Subject to conditions, the proposed development would not cause harm to the amenities of neighbours and would therefore comply with Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF.

Highway safety

- 9.49. Policy SLE4 of CLP 2015 states that all development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. Encouragement will be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.
- 9.50. The Highways Officer has offered no objections to the development, subject to conditions relating to the access, vision splays and the parking and turning areas. The access track to the site has been previously approved under 17/00749/F, however at time of the site visit this had only been built approximately halfway to the location of the proposed dwelling. The plans submitted with the application indicate that the driveway will be 3m wide Spray tar and chip tyre. It is considered that further details are required of the access and a condition shall be included in this regard.

- 9.51. Subject to conditions, the proposed development would not cause harm to the safety of the local highway network and thus complies with Policy SLE4 of CLP 2015 and Government guidance contained within the NPPF.

Ecology Impact

Legislative context

- 9.52. 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.
- 9.53. 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.
- 9.54. The Regulations provide for the control of potentially damaging operations, whereby consent from the appropriate nature conservation body 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.
- 9.55. 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.
- 9.56. 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, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

- 9.57. 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.
- 9.58. 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.
- 9.59. 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.
- 9.60. 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.
- 9.61. 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.
- 9.62. 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.
- 9.63. The Planning Practice Guidance (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

- 9.64. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

9.65. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains semi-improved grassland, a fragment of semi-natural woodland, some plantation woodland and a man-made pond. There are is a single farm building within the application site which is proposed to be converted to a machinery store building.

9.66. The application is supported by a detailed protected species survey which concluded that bats, nesting birds and reptiles are present on the site.

9.67. The Council's Ecology Officer has offered no objections, subject to conditions requiring a Landscape Environmental Management Plan (LEMP) and a Construction Environment Management Plan, The LEMP would need to include types, locations, design and numbers of all additional features to be included for wildlife as outlined in the ecological reports (bird boxes/bricks, bat bricks, measures for reptiles, barn owl nesting site). Subject to these conditions, it is considered that the proposals would result in a net gain to biodiversity on the site.

Conclusion

9.68. Officers are satisfied, on the basis of the information submitted and advice from the Council's Ecology Officer, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land would continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged. The proposed development therefore complies with Policy ESD10 of the CLP 2015 and Government guidance contained within the NPPF.

Flood risk and drainage

9.69. Policy ESD6 of CLP 2015 states that the Council will manage and reduce flood risk in the District through using a sequential approach to development; locating vulnerable developments in areas at lower risk of flooding. Development proposals will be assessed according to the sequential approach and where necessary the exceptions test as set out in the NPPF and NPPG. Development will only be permitted in areas of flood risk when there are no reasonably available sites in areas of lower flood risk and the benefits of the development outweigh the risks from flooding.

9.70. Policy ESD7 of CLP 2015 requires the use of Sustainable Urban Drainage Systems to manage surface water drainage systems.

9.71. The site is located in Flood Zone 1, which is the area at lowest risk of flooding. The majority of the dwelling would be sited in close proximity to the pond on the site, whilst some of the dwelling would project over the pond. The site of the proposed dwelling has been modified in the last 20 years to form a pond and plantation. The

watercourse entering the pond at present is unmanaged, the pond includes still areas and the surrounding trees have caused the pond to become stagnant.

- 9.72. The application proposes to clean out the pond, adjust its shape and improve the management of the watercourses and ditches through maintenance of the existing features. There are no proposals to divert the watercourses or ditches.
- 9.73. A SuDS strategy is proposed for the development, which would include swales and permeable surfaces within the site. The landscaping has been integrated with the drainage design to create this drainage scheme. The rainwater landing on the site is managed by infiltration where possible, and the runoff from the main roofs is mainly attenuated by the swale/rill, with a small area attenuated in the large pond.
- 9.74. The foul water drainage would be conveyed to a proprietary package treatment works within the site, as there is no existing foul drainage on site, and no foul sewers in the vicinity of the site.
- 9.75. The drainage strategy is considered to provide a SuDS strategy that would be safe for its lifetime and would comply with local and national guidance with regard to drainage and flood risk.
- 9.76. It is considered that the proposed development would not be at risk of flooding or increase the risk of flooding elsewhere and, subject to conditions, would comply with Policies ESD6 and ESD7 of CLP 2015 and Government guidance contained within the NPPF.

Other matters

- 9.77. The Environmental Protection Officer (EPO) has no objections subject to the inclusion of the full contaminated land conditions. Given the agricultural history of the site, these conditions are considered to be reasonable and necessary.
- 9.78. The EPO has also recommended the inclusion of a condition relating to EV charging infrastructure. Paragraph 110 (e) of the NPPF states that development proposals should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. It is therefore considered that this condition would be reasonable and necessary.
- 9.79. The Council's Arboricultural Officer has offered no objections but has requested a number of areas of clarification. An amended Arboricultural Assessment would need to be required by condition and to include these areas of clarification.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. Section 38(6) of the Planning and Compulsory Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise.
- 10.2. For the reasons set out in this report the proposal conflicts with the relevant policies of the Development Plan, namely Policies BSC1 and ESD1 of the CLP 2015 and saved Policy H18 of the CLP 1996.
- 10.3. However, it is considered that the proposed development complies with the criteria set out in paragraph 79(e) of the NPPF and that the development would be truly outstanding and innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas and it would

significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

10.4. The proposed development would not cause harm to the setting or significance of the Wigginton Conservation Area, would not cause harm to the safety of the local highway network or the amenities of neighbours.

10.5. It is therefore considered that the proposed development is acceptable, subject to the conditions set out below.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) **AND THE COMPLETION OF A UNILATERAL UNDERTAKING UNDER SECTION 106** OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a) That application 18/00063/Q56 shall not be implemented
- b) The use of the building as one dwelling only

CONDITIONS

Time Limit

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Site Location Plan (117-L-01); Proposed Site and Roof Plan (117-P-01 Rev D); Proposed Ground Floor Plan (117-P-02 Rev D); Proposed First Floor Plan (117-P-03 Rev D); Elevations (117-E-01 Rev E); Stone Barn in NW of Damp Meadow Plans and Elevations as Proposed (117-B-02 Rev A)

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

3. No development shall commence above slab level unless and until samples of the timber to be used externally in the construction of the walls and roof of the development have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall not be carried out other than in accordance with the samples so approved and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area and to comply with

Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. No development shall commence unless and until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,

- (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

- (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps,

- (d) means of enclosure.

The development shall not be carried out other than in accordance with the approved landscaping scheme and the development shall not be occupied until the hard landscape elements of the approved scheme have been carried out and the hard landscape elements shall be retained as such thereafter.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the buildings or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. The dwelling hereby approved shall not be occupied unless and until the existing means of access between the land and the highway has been improved, formed, laid out and constructed strictly in accordance with Oxfordshire County Council's guidance.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

7. The vision splays shall not be obstructed by any object, structure, planting or

other material of a height exceeding 0.9 m measured from the carriageway level.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

8. Prior to the first occupation of the development hereby approved, the parking and manoeuvring areas shall be provided in accordance with the plan approved (drawing no. 117-P-02 D) and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. Thereafter, the parking and manoeuvring area shall be retained in accordance with this condition and shall be unobstructed except for the parking and manoeuvring of vehicles at all times.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government guidance contained within the National Planning Policy Framework

9. No development shall commence unless and until full specification details of the proposed access drive including construction, surfacing, layout, drainage and road markings, have been submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the dwelling the development shall be constructed in accordance with the approved details.

Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government guidance contained within the National Planning Policy Framework.

10. No development shall commence unless and until a Landscape and Ecological Management Plan (LEMP), which shall include types, locations, design and numbers of all additional features to be included for wildlife as set out in the Preliminary Ecological Appraisal prepared by ecologybydesign dated August 2019, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with approved LEMP.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

11. No development shall commence unless and until a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with approved CEMP.

Reason - To ensure the environment is protected during construction in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

12. A scheme for the provision of vehicular electric charging points to serve the development shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. The vehicular electric charging points shall be provided in accordance with the approved details prior

to the first occupation of the unit they serve and retained as such thereafter.

Reason - To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

13. Prior to the commencement of the development hereby permitted a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model shall be carried out by a competent person and in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*' and shall be submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

14. If a potential risk from contamination is identified as a result of the work carried out under condition 13, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

15. If contamination is found by undertaking the work carried out under condition 14, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development

can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

16. If remedial works have been identified in condition 15, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 15. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

17. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

18. No development shall commence unless and until full details of the external lighting have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details and shall be retained as such thereafter.

Reason - To safeguard the character and appearance of the area and surrounding landscape and heritage assets and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

19. Notwithstanding the submitted details, no development shall commence unless and until an amended Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local

Plan 1996 and Government guidance contained within the National Planning Policy Framework.

20. Notwithstanding the provisions of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the approved dwelling shall not be extended, nor shall any structures be erected within the curtilage of the said dwelling, without the grant of further specific planning permission from the Local Planning Authority.

Reason: To ensure and retain the satisfactory appearance of the completed development and to enable the Local Planning Authority to retain planning control over the development of this site to protect the character of the wider landscape and countryside and in the interests of sustainable development and to comply with Policies BSC1, ESD1, ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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