

Case Officer: Saffron Loasby

Applicant: DSV United Kingdom Ltd

Proposal: New detached offices and agricultural buildings for a new agricultural seed facility, including access road, parking, landscaping, and associated facilities.

Ward: Cropredy, Sibfords and Wroxton

Councillors: Cllrs Chapman, Reynolds and Webb

Reason for Referral: 1,000+ sq m floor space created

Expiry Date: 13 October 2023

Committee Date: 05 October 2023

SUMMARY RECOMMENDATION: REFUSE PERMISSION

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site lies to the east of the Wardington Road, just south of the village of Wardington and 5 miles northeast of the town of Banbury, in the Cherwell valley, north Oxfordshire.
- 1.2. The site is accessed from an existing private highway junction that currently serves various agricultural buildings, though the site itself is undeveloped, open countryside. The adjacent farm buildings are mostly modern steel framed buildings with exposed concrete panel lower walls, box profile tin clad sides and cement fibre sheet roofs.
- 1.3. The site is currently used for arable crops, which is part of the DSV trial crop land which the company used to rent locally. The site has now been purchased outright by DSV.
- 1.4. The application has been submitted with the following supporting documents:
 - Drainage Statement
 - Transport Appraisal
 - Ecological Appraisal
 - Landscape and Visual Impact Assessment
 - Design and Access Statement

2. CONSTRAINTS

- 2.1. The application site is within the countryside, designated as Category 1 Best and Most versatile land (BMV) and a public right of way (footpath 23 route, code 393/23/10) runs from the village (approx. 730m) north of the application site, through the farm buildings, that are located (approx. 45m) to the east and continues south towards Coton Farm, north of Chacombe. There is a Grade II Listed barn located

approximately 80m east of the edge of the application site and a small pond is marked on the constraints map (albeit not visible when the site visit was carried out).

- 2.2. The site is bound on the south and west by a small, trimmed hedgerow. There is one mature tree located close to the entrance of the site.
- 2.3. The site is in Flood Zone 1 with limited key landscape features on the actual application site. The site is flat and visibility from the site to the village and surrounding countryside is extensive. There are limited tree copses or wooded areas that break up the line of sight and therefore there is predominantly open countryside bar the existing farm structures.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The proposals are for new detached offices and agricultural buildings for a new agricultural seed facility, including access road, parking, landscaping, and associated facilities.
- 3.2. The proposal comprises the erection of 4 main buildings plus a large glasshouse and boiler room. These are described in more detail below.
- 3.3. The office space would be a detached, two storey building. This building would be sited front and centre of the west boundary facing Wardington Road, with a new entrance and car parking hardstanding separating it from the road and existing hedgerow. The form of the building steps in and out on the front and rear elevations. The roof is split between mono-pitches and a central flat roof. The internal staircase has been pushed forward and is fully glazed to the front elevation to help define the entrance. To the rear is a glazed link to buildings 2 and 3. This is also accessible via a spiral staircase and open walkway at first floor.
- 3.4. Internally the ground floor offers 202 sq m of gross internal floor area (GIFA) comprising a lobby and waiting area upon entry, four offices with 8no desk spaces. There is a canteen and staff room, lift, disabled WC, and toilet and shower space.
- 3.5. At first floor the offices comprise a further 190 sq m GIFA, three further offices with 6no desk spaces. A landing/informal meeting area, equipment store, kitchenette, two additional toilets and a meeting room for 10 people.
- 3.6. Materials comprise sheet metal roofing, aluminium windows, a mixture of smooth and profile metal wall cladding on a brick plinth. Braise soleil are proposed around some of the ground floor openings.
- 3.7. Buildings 2 and 3 would be linked together by a large roller shutter door internally. Building 2 measures 20m x 19.5m, is two storeys high and is referred to as the 'small seed processing unit'. It has a mezzanine at first floor comprising storage space, a Laboratory area and milling room. At ground floor there is further office space, toilets and changing facilities. Both floors are accessible via the glazed link to the office building.
- 3.8. Building 3 comprises 35.4m x 20.8m, with a 6m overhanging roof. This is referred to as the 'large seed processing building' and whilst tall only has one ground floor level. Both buildings 2 and 3 measure approximately 8.7m to the ridge and 6m to the eaves. Both buildings comprise similar materials to those of the office building, detail under paragraph 3.6 above. Eighteen rooflights are proposed in building 2 and 43 rooflights in building 3.

- 3.9. Building 4 is referred to as the machinery hall and comprises 35.4m x 21.3m, made up of the same materials, similar dimensions and with 48 rooflights.
- 3.10. Finally, the proposed glasshouse and neighbouring boiler room would be sited along the south boundary of the application site and measure 4m to the eaves, 36m x 12m. This would consist of mostly glass and profile sheet metal.
- 3.11. Associated car parking space would be provided to the far west of the application site with an access from Wardington Road and machine parking and manoeuvring space will be provided to the eastern part of the application site, accessed directly from the farm track.

DSV Ltd, justification for relocation and the proposed development.

- 3.12. Extract from the applicant's website: DSV United Kingdom Ltd [is] part of an International plant breeder based in Germany and with subsidiaries across the world. DSV UK operates from it breeding and trials centre at Wardington in Oxfordshire comprising of around 50ha of land used to breed winter wheat and forages and for National List trials of wheat and grass.
- 3.13. At present the applicant is located on land to the north of the application site at Top Dawkins Farm. The land is shared with the working farm and two of the newest agricultural buildings on site are used for this purpose. DSV are located in the older barns and have a shared access and a glasshouse. A Prior Notification application was recently refused for a portacabin to be located to the south of the existing building, as it did not meet the legislation requirements for this type of application. One of which was that the building was not for agricultural use.
- 3.14. Discussion with the agent has informed officers that the existing buildings comprise a total floor area of 2,305 sq m, including 771 sq m that is currently being rented. If the rented space was included the existing space would be close to that proposed on the application site. The glass house is larger than the existing as it includes the space the polytunnels currently use and a new boiler room.
- 3.15. Land is currently rented by the applicant from four local farmers, two of which are in the village of Wardington, the others being in Edgecote and Great Bourton. One farm, closest to the new and existing sites, has good quality land (management, topography and soil type) for the trials and plant breeding that is carried out, thus remaining local to the existing facilities will enable DSV to continue their research. DSV are increasing the land they rent from farmers as the business grows but the increase in field trials does not equate to an increase in facilities.
- 3.16. Wardington is the only facility in the UK and is currently the HQ of the UK operations. DSV advises this is not proposed to change. Additionally, DSV runs field trials with third parties at multiple locations in the UK. The activity at the new site would not differ from what is currently carried out on the existing site.
- 3.17. The existing site was not originally designed for DSV, and the applicant states DSV lacks the space to carry out business in an efficient manner. The existing site incorporates work carried out on small machines with the large seed handling unit where the forklift operates. The proposal aims to separate these two activities for efficiency and staff safety.
- 3.18. Currently the offices and working areas are within what was originally a cattle barn and as such it is difficult to heat efficiently. DSV states that the new premises would be more environmentally friendly regarding energy consumption; that fire exits and

signage into the existing infrastructure are not optimal, and the new facility would have fire safety built into the design.

- 3.19. It is understood that DSV store seed as part of the business and is very difficult and costly in terms of energy in the existing facility due to damp conditions. The new site would be insulated and include efficient drying systems without having to move seed to third-party storage off-site. The dampness has previously limited the life-span of some of the laboratory equipment such as ovens and delicate measuring devices.
- 3.20. Creating a machinery hall with workshop keeps machinery away from pedestrian working areas and allows the safe and efficient movement of vehicles. Due to lack of space, vehicles are stored in the working space, having to move them outside and out of the way before starting any process, thus having an impact on safety and efficiency.
- 3.21. Staff: At present there are 10 staff working on site with 5 further members working from home. DSV advises the plan is to have all staff under one roof and capacity to hot desk and have meetings on site when needed. Staff on the current site all live within a 10-mile radius (with one in Daventry, 12 miles away). Two members of staff live in the village of Wardington and this year two seasonal staff members were also from the village. DSV Ltd contracts the services of local farmers as well as local cleaners and maintenance staff. Machinery service engineers are also small local business owners. DSV advises that it seeks to support local community and foster relationships with local businesses.
- 3.22. The applicant has advised that it does not intend to rent out office space and that if required a legal agreement related to DSV's sole use would be acceptable.

4. RELEVANT PLANNING HISTORY

- 4.1. There is no planning history directly relevant to the application site.
- 4.2. However, given the applicant already uses premises locally (approximately 370m to the north of the application site) it is considered appropriate to look at the planning history of this site to fully understand how the site has established over time. The site is shared as part of a working farm and therefore applications on this site are relevant to both Top Dawkins Farm (landowner) and DSV Ltd (the applicant).
- 4.3. **00/01530/F** – Change of use from agricultural to light industrial and office use B1 and warehousing and distribution use B8 – Refused 25/09/2000. (Top Dawkins Farm)
- 4.4. **10/00943/F** – Erection of Venlo glass house – Permitted 10/08/2010. (DSV)
- 4.5. **13/00288/F** – Alterations to the existing access – Permitted 19/04/2013. (DSV)
- 4.6. **15/00161/F** – General Purpose Agricultural building – Permitted 25/03/2015 (Top Dawkins Farm)
- 4.7. **21/01472/AGN** – Erection of general-purpose farm building – Permitted 13/01/2022 (Top Dawkins Farm)
- 4.8. **22/03265/AGN** – Portacabin. Planning Permission required. 22/11/2022 (DSV)

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 central to the village of Wardington, by advertisement in the local newspaper. The final date for comments was **12 June 2023**, 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. WARDINGTON PARISH COUNCIL: **No objection**

OTHER CONSULTEES

- 7.3. BUILDING CONTROL: **No objections** to the application. Confirm a building regulations application will be required for this approval.
- 7.4. CDC ARBORICULTURE: **No objection**. The proposal seeks to retain the boundary hedge, therefore details/information to demonstrate how the existing hedge/trees will be protected throughout the development stages. All trees and structural vegetation must be surveyed and assessed as to value under BS5837 and root protection areas specified. The arboricultural layer should form the basis of detailed landscape proposals. I welcome the proposal to plant trees on the site and should be planted in the next planting season following the completion of the development, and in accordance with hard and soft landscape proposals, a planting specification, design and details to be submitted to the council for approval. An aftercare specification will be necessary to ensure the scheme is going to be successfully established.
- 7.5. OCC HIGHWAYS: Original **objection removed** following further consultation. See documents on file.
- 7.6. Initially OCC was concerned that the new location would not provide safe and suitable access for all users, primarily pedestrians, as there was no safe walking route to the new site. Further negotiation confirming agreement to including an access direct from the site to the existing public footpath (393/23/10) that sits between the application site and the village of Wardington to the north, removed this objection. This was in addition to agreement to make a contribution to replacing the two stiles with kissing gates and potentially improving the surface through a Unilateral Undertaking (UU).
- 7.7. Other OCC concerns raised included an over provision of parking facilities and access visibility with potential removal for existing hedging.
- 7.8. OCC DRAINAGE: **No objections** subject to conditions.
- 7.9. OCC ARCHAEOLOGY: **No objections** subject to conditions
- 7.10. CDC ECOLOGY: **Objection**. In general, there are few protected species issues on site that cannot be dealt with by conditioning a CEMP for Biodiversity.

7.11. A Biodiversity Assessment has been carried out; however, the actual metric has not been submitted so we are not aware of the detail. The summary appears to demonstrate that in general a net gain could be achieved in both linear and area habitats. I have some concerns that there appears to be very limited buffers to the hedgerows which will limit their biodiversity value and make sympathetic management difficult. Effort should be made to ensure functional hedgerow buffers are retained so that ground flora can be encouraged. A full Ecological management and monitoring plan to include an updated metric (showing timescales for reaching proposed habitat conditions) should be conditioned which shows habitat creation with species and objectives with management and monitoring ongoing for at least 30 years and ongoing measures for the lifetime of the development. This should also include additional enhancements for biodiversity on site such as bat and bird bricks (integrated into the fabric of the buildings where possible), log piles, invertebrate provisions etc.

7.12. CDC ENVIRONMENTAL HEALTH: **No objection** subject to conditions.

7.13. No comments were received from CDC Economic Growth, Landscape Services, Natural England or Thames Water.

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
- SLE1: Employment Development (site not allocated).
- SLE4: Improved Transport and Connections
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD7: Sustainable Drainage Systems
- 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

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- EMP1: Employment Generating Development (retained with regard to rural sites – site allocated).

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)

- Planning Practice Guidance (PPG)

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
- Ecology impact
- Highways
- Other Matters

Principle of Development

Policy Context

- 9.1 Criteria listed below within Policy SLE1 of the CLP 2015 are relevant to the first four key issues. The site is not allocated, and the criteria therefore need to be met to support new employment proposals within rural areas on non-allocated sites. In order to conduct a proper review of the proposal's policy compliance, these criteria are considered separately, within the sub-sections of this Appraisal.
- 9.2 The site is located in the open countryside, on category 1 best and most versatile land and on an un-allocated employment site. Policy SLE1 of the CLP 2015 states that employment development will be focused on existing employment sites and permitted subject to compliance with other policies in the Plan and other material considerations. It continues:
- 9.3 Unless exceptional circumstances are demonstrated, employment development in the rural areas should be located within or on the edge of those villages in Category A (see Policy Villages 1).
- 9.4 New employment proposals within rural areas on non-allocated sites will be supported if they meet the following criteria:
- a. They will be outside of the Green Belt, unless very special circumstances can be demonstrated.
 - b. Sufficient justification is provided to demonstrate why the development should be located in the rural area on a non-allocated site.
 - c. They will be designed to very high standards using sustainable construction and be of an appropriate scale and respect the character of villages and the surroundings.
 - d. They will be small scale unless it can be demonstrated that there will be no significant adverse impacts on the character of a village or surrounding environment.
 - e. The proposal and any associated employment activities can be carried out without undue detriment to residential amenity, the highway network, village character and its setting, the appearance and character of the landscape and the environment generally including on any designated buildings or features (or on any non-designated buildings or features of local importance).

- f. The proposal will not give rise to excessive or inappropriate traffic and will wherever possible contribute to the general aim of reducing the need to travel by private car.
 - g. There are no suitable available plots or premises within existing nearby employment sites in the rural areas.
- 9.5. Policy PSD1 of the CLP 2015, relating to a presumption in favour of sustainable development, seeks to secure development that improves the economic, social and environmental conditions in the area.
- 9.6. Paragraph 85 of the NPPF states that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements... The use of sites that are physically well-related to existing settlements should be encouraged where suitable opportunities exist.

Assessment

- 9.7. Policy SLE1 of the CLP 2015 relates to employment development, defined as B Use Classes, and has a strong urban focus. In the rural areas it states that unless exceptional circumstances are demonstrated, employment development would need to be located within or on the edge of Category A villages. The proposal is approximately two miles from the nearest Cat A village (Cropredy), with farmland dividing the two. It therefore fails to meet the requirement to be within or on the edge of a Category A village. Wardington is classified as a Cat B village. No exceptional circumstances have been demonstrated.
- 9.8. In terms of the sustainability of the location, if accessing the site on foot there are no public footpaths along the main roads for 0.5 miles (0.7km) and no street lighting for on the walk along Wardington Road to the bus stop on Mount Pleasant. The public right of way accessed from the same point and across open countryside measures approximately the same distance and also unlit. At present there are also two stiles to cross on this route. Walkable / wheeling neighbourhoods are defined within Manual for Streets (MfS) as up to about 800m and bus stops should be within 400m. It is understood that the No. 200 bus service that ran between Daventry and Banbury, calling at Wardington was cut in April of last year. At present this is insufficient as an adequate means of commuting to and from work. As such, the development would promote a reliance on the car.
- 9.9. Paragraphs 84 and 85 of the NPPF sit alongside the Local Plan policies which allows for such development where it is adequately justified. The NPPF is not considered to be interpreted as unconditional support for the provision and expansion of rural businesses or farm diversification in geographically unsustainable locations and still needs to be balanced against other objectives such as reducing the need to travel, reducing car dependency and associated carbon reductions. Policy SLE1, and ESD1 which sits alongside this, is therefore considered to be consistent with the NPPF and given full weight.
- 9.10. In addition to the policy requirement to demonstrate exceptional circumstances, Policy SLE1 goes on to note that new employment proposals within rural areas on non-allocated sites will be considered against a list of criteria. These are also considered to be relevant to the assessment of whether the location has been adequately justified. Below is an assessment of the proposal against the most relevant these criteria:
- 9.11. *Be outside of the Green Belt* – The proposal meets this criterion.

- 9.12. *Sufficient justification has been provided to demonstrate why the development should be located in a rural area on a non-allocated site* – The applicant advises that the new development must be next to the fields it uses for its research. However, we would question this given the distance of the existing site to Edgecote and Great Bourton, both approximately 2km from the application site.
- 9.13. *High quality design, appropriate in scale and respect the character of the villages and surroundings* – Officers agree that buildings 2 to 4 are well designed and respect the character of the agricultural area. There are concerns regarding the proposed office building, its scale, need, future functions and concerns regarding the scale of the proposal as a whole. The assessment of the impact on the character and appearance is outlined later in the report.
- 9.14. *No detrimental impact on amenity or highway network* – The Local Highway Authority has raised concerns that appear could be overcome with an agreement to invest in footpath improvements. However, officers have concerns with the sustainability of the location along with the *in principle* policy conflict; officers are also of the view that improvements to the footpath, whilst a planning gain would not justify or satisfactorily mitigate the locational sustainability concerns, and also having concerns regarding the visual impact of future footpath improvements in the countryside. See the Highway Safety sub heading below.
- 9.15. *No suitable available plots or premises within existing nearby employment sites in rural area* – No information has been provided in this regard to justify the rural location. The submission documents advise there are no other suitable locations but does not demonstrate what research has been carried out to make this claim. Additionally, no justification is provided as to why smaller buildings cannot be considered across a wider area rather than building them all in one location.
- 9.16. Policy SLE1 goes on to note that the Local Plan has an urban focus, and that justification will be required for new sites in rural areas, and this should include applicants demonstrating a need for and benefits of employment development in a particular location and explaining why the proposed development should not be located at the towns.
- 9.17. It is also noted that the application form states that the proposal is a Class E use. Officers disagree that it would be – our view is that the use is a Class B use. But if it is Class E, then Policy SLE2 is relevant and the site's poor sustainability credentials would be key, especially its distance from towns and Category A villages, and the same conclusions would be reached on the acceptability of the principle of development as the Policy SLE1 assessment above.

Conclusion

- 9.18. The spatial strategy of a Local Plan is to direct growth towards the most suitable locations and to limit growth in rural areas. This proposal fails to comply with that spatial strategy. It has not been demonstrated that exceptional circumstances have been met as required by SLE1 or that sufficient justification has been provided for providing this scale of development in a rural location. Very substantial harm would therefore arise as a result of the proposed siting of the development, in conflict with the spatial strategy, with Policies SLE1, ESD1 and PSD1 of the CLP 2015 and with the provisions of the NPPF.

Design and impact on the character of the area

Policy context

9.19. Policy ESD13 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. It 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 features, be inconsistent with local character, harm the setting of settlements, or harm the historic value of the landscape. Policy ESD15 states successful design is founded upon an understanding and respect of an area's unique built and natural context and should contribute to an area's character respecting the traditional form, scale and massing of buildings.

Impact due to scale and visibility of the proposal

9.20. It is understood that the existing site (comprising approximately 0.45ha) is not entirely fit for purpose for the growth of DSV. However, the proposal comprises not only in excess of 2,000 sq m of new floor area but also two large parking and turning areas. The scheme proposes two separate vehicular accesses, up to 30 car parking spaces, manoeuvrability for large farm vehicles and a considerable amount of associated hardstanding. The buildings proposed for development, whilst agricultural in character, are closely comparable to the buildings located on the farm site to the east in terms of floor area. These buildings are very apparent from several surrounding views and by reason of its scale and design the proposal would have a significant impact on the wider countryside and landscape character. With the addition of a two-storey office building aimed at creating an 'entrance' and a far more formalised layout it is clearly a different design approach to that of the existing and neighbouring farm sites, having a more urban character.

9.21. The application site is within 100m of a listed barn; however, given the immediate farm surroundings it is considered to be detached enough in distance to not cause harm to its immediate or wider setting.

9.22. The scheme suggests retention of the existing hedges, except for where further visibility is needed at the access point. New hedge planting is proposed along the north and east boundaries, although no information has been submitted with regard to future landscaping beyond the Proposed Block Plan drawing. Whilst it is appreciated that the landscape character does not lend itself to large screening tree belts some mitigation should be further considered and is referred to in the conclusions of the submitted Landscape and Visual Impact Assessment (LVIA). This document also advises hedges should be improved and enhanced, allowing growth to 3m, additional structural planting to the north elevation and wider landscape planting to mitigate the proposed buildings on the wider landscape.

9.23. Officers mostly agree with the content in the submitted LVIA, but disagree with the assessment given specifically to Views 5, 6, 17 and 21. Whilst most have been given minor to negligible outcomes, this is based on the existing neighbouring farm buildings as a backdrop or continuation of development. In some instances (View 6) the continuation of farm buildings includes the existing DSV site, the existing farm buildings to the east and the expanse of the proposed development as one long continuation of built form that is vast in scale and considered to have an adverse impact on the countryside.

9.24. Figure 8 'Visual Envelope' of the LVIA (pg 11 of Appendix 1) shows clearly the openness of the site and expanse of surrounding landscape whereby the proposed development would have predominantly unobstructed views.

Conclusion

- 9.25. It is considered that, whilst officers agree partially with the content of the submitted LVIA, the scale and design of the proposed development would result in substantial harm on the rural character and appearance of the area. This would be in conflict with Policies ESD13 and ESD15 of the CLP 2015, and Government guidance in the NPPF.

Ecology Impact

Legislative context

- 9.26. 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.
- 9.27. 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.
- 9.28. 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.
- 9.29. 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.
- 9.30. 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

- 9.31. 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.
- 9.32. 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.
- 9.33. 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.
- 9.34. 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.
- 9.35. 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.
- 9.36. 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.
- 9.37. 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

- 9.38. 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:
 - a. 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:

- b. 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
- c. 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')

9.39. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the applicant has submitted an ecological assessment. In general, there are few protected species issues on site that cannot be dealt with by conditioning a CEMP for Biodiversity.

9.40. A Biodiversity Assessment has been carried out; however, the actual metric has not been submitted so we are not aware of the detail. The summary appears to demonstrate that in general a net gain could be achieved in both linear and area habitats. However, some concern is that there appears to be very limited buffers to the hedgerows which would limit their biodiversity value and make sympathetic management difficult. Effort should be made to ensure functional hedgerow buffers are retained so that ground flora can be encouraged. A full Ecological management and monitoring plan to include an updated metric (showing timescales for reaching proposed habitat conditions) should be conditioned which shows habitat creation with species and objectives with management and monitoring ongoing for at least 30 years and ongoing measures for the lifetime of the development. This should also include additional enhancements for biodiversity on site such as bat and bird bricks (integrated into the fabric of the buildings where possible), log piles, invertebrate provisions).

Conclusion

9.41. Officers are satisfied, on the basis of the advice from the Council's Ecologist 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.

Highways

9.42 Paragraph 110 of the NPPF states that in assessing specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users;*
- c) the design of streets, parking areas, and other transport elements and the content of associated design standards reflects the current national guidance, including the National Design Guide and the National Model Design Code; and*
- d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

9.43 In addition, paragraph 111 highlights that development "should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

- 9.44 The proposed development would be accessed from an existing access serving the agricultural uses to the east i.e., no new access onto the highway. The Local Highway Authority has no objection to the proposals and based on the LHA's views there is no objection to the scheme on highway safety grounds, subject to conditions and agreement via a Unilateral Undertaking to connect the footpath with the site and improvement to the public footpath. These would comprise replacing the existing stiles with kissing gates and improvement to the path to prevent mud build up.
- 9.45 Given the LHA's comments it would be difficult to include a reason for refusal on highway safety. Officers are concerned over the sustainability of this site for cyclists, pedestrians and future growth or future occupiers of the building, but this is a matter relating to the principle of development and not highway safety (see earlier section of this report).

Other matters

- 9.45. The proposal is located away from residential properties and would not appear to adversely impact on their amenity. An application is currently under consultation for a new dwelling on the neighbouring farm site to the east of the existing agricultural farm buildings under planning references 23/02331/F and 23/02332/LB. Whilst a material consideration, given the immediate surrounding uses the new buildings are unlikely to give rise to an adverse impact on neighbour amenity.
- 9.46. Regarding drainage and flood risk, the site is not in Flood Zones 2 or 3, and the lead local flood authority has no objection; the proposal is thus considered acceptable in this regard.
- 9.47. The applicant has expressed agreement to legally tying the new buildings to the specific business use. However, officers are concerned with the scale of the buildings and the principle of and impact of the use classes (office, research and development, storage and distribution) in this rural location on an unallocated site in an unsustainable location.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The economic objective of the NPPF would be partially satisfied because the proposal would allow an existing rural based business to expand and grow. However, conversely, this would allow another business to relocate into the old building thus potentially creating further intensification over and above that of the existing business to the detriment the countryside and adversely impacting on sustainability. As such, some weight is to be afforded to economic benefits.
- 10.2. The social objective of the NPPF seeks the provision of strong, vibrant and healthy communities. Insufficient evidence has been provided to demonstrate that the existing business could not be housed elsewhere, thus still providing local jobs within the locality closer to more sustainable locations. The proposal cannot be given any positive weight on social grounds due to the inappropriate location for the development.
- 10.3. The environmental objective of the NPPF seeks to protect and enhance our natural environment. The proposal fails to do this because it does not respect the Local Plan's spatial strategy, to the detriment of the local rural area. This harm is given substantial weight.

10.4. On balance, the proposal does not represent sustainable development because it fails to accord with the provisions of the NPPF, the policies of the Local Plan and other policy guidance. As such, it is recommended for refusal.

11. RECOMMENDATION

REFUSAL FOR THE REASONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE REASON(S) AS DEEMED NECESSARY)

1. The proposal represents unsustainable development because it conflicts with the spatial strategy of Cherwell Local Plan 2011-2031 by proposing development on an unallocated site. The scale and nature of the use is considered inappropriate in this rural location and the application fails to demonstrate exceptional circumstances or adequate justification for why the development should be the size and scale proposed and located on an unallocated rural site. Given its location remote from towns, larger villages and key amenities, the proposal would be sited in a geographically unsustainable location and would promote reliance on the private car. In addition, by reason of its scale and design, the proposal would have an adverse effect on the character and appearance of the area. The proposal therefore conflicts with Policies PSD1, ESD1 and SLE1 of the Cherwell Local Plan 2011-2031 and Government guidance in the National Planning Policy Framework.

CASE OFFICER: Saffron Loasby

TEL: 01295 221611