

**Middle Farm
Featherbed Lane
Mixbury
Brackley
NN13 5RN**

19/00423/F

Case Officer: Stuart Howden

Applicant: PR & IC Rymer Ltd

Proposal: Erection of 6no poultry rearing buildings and associated infrastructure

Ward: Fringford And Heyfords

Councillors: Cllr Ian Corkin
Cllr James Macnamara
Cllr Barry Wood

**Reason at
Committee:** Major development

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS/AND THE APPLICANTS ENTERING INTO A SECTION 278 AGREEMENT

Proposal

Planning permission is sought for the erection of a new poultry unit at the western end of the site within the agricultural field. The proposed development includes 6no poultry buildings along with other ancillary buildings and structures. The development is proposed to house up to 50,000 birds per building, with up to 300,000 birds proposed for the site during a flock cycle.

Consultations

The following consultees have raised **objections** to the application:

- Mixbury Parish Council, Finmere Parish Council, Fringford Parish Council and Cottisford Parish Council.

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

- OCC Archaeology, CDC Ecology, Environment Agency, CDC Environmental Protection, OCC Highways, Highways England, OCC Minerals and Waste, Natural England, CDC Rights of Way, OCC Rights of Way and South Northamptonshire District Council.

A petition with 555 signatures opposing the proposal has been received. Furthermore, 274 letters of objection have been received, whilst 3 letters of support have been received.

Planning Policy and Constraints

The site is approximately 650 metres to the south of Mixbury Conservation Area and approximately 1.7KM to the north east of Cottisford Conservation Area. The access to the field off Featherbed Lane runs adjacent to three Grade II listed buildings within the Middle Farm complex, comprising a farmhouse, barn and stable range. The site is in an area of

high archaeological interest. The site is also within a Minerals Consultation Area. Public Footpath 303/18/20 runs adjacent to the western boundary of the site, whilst Public Footpath 303/11/20 runs adjacent to the north eastern corner of the site and crosses the access into the farm field.

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

Conclusion

The key issues arising from the application details are:

- Principle of the Development
- Landscape Impact and Visual Effects
- Heritage Impact
- Highways Safety
- Environmental Pollution and Nuisance
- Ecological Impact & Trees
- Flooding Risk & Drainage
- Other Matters Including Need

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions.

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

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site, which comprises part of an arable field, is situated approximately 660 metres to the south of the village of Mixbury and approximately 270 metres to the south of the Banbury Road. The site is accessed off Featherbed Lane, to the east of the site, and the field would be accessed via an existing track through the Middle Farm complex and a new track to the west of this farmyard. The site itself is relatively flat and is bounded by hedging on the north, east and west boundaries. However, the south boundary is shared with the same field. The hedging surrounding the site has some gaps in places and also has some trees within it. The surrounding area is agricultural in character and is relatively flat. The overall site equates to approximately 7.4 hectares.
- 1.2. The applicants (PJ and IC Rymer Ltd) operate a diversified rural business based at Middle Farm, Mixbury. The business includes an arable enterprise of combinable crops based on 344 hectares (850 acres) of land owned, rented or share farmed and a range of traditional farm buildings which have been converted into offices and let out. All of the harvested crops from the overall land holding are stored at Middle Farm. All the land is in a four crop rotation with the break crop being oil seed rape.
- 1.3. Middle Farm amounts to 182 hectares (450 acres) and is owned by PJ and IC Rymer. The remaining land is rented or share farmed. The farm, which was formerly a dairy unit, has the benefit of modern grain storage buildings together with a number of buildings which were originally utilised for a dairy herd.
- 1.4. The farm is served by Middle Farmhouse which has the benefit of a flat which is rented out on an Air B&B basis and an agriculturally tied dwelling known as Stones Throw which is occupied by a worker who used to work on the dairy enterprise. Planning permission was granted under Class Q of the 2015 GDPO for the conversion of a former grain store adjacent Coldharbour Barn to the south of the site to a market dwelling (application reference 18/01955/Q56), and this building has recently been sold.

2. CONSTRAINTS

- 2.1. The application site is approximately 650 metres to the south of Mixbury Conservation Area and approximately 1.7km to the north east of Cottisford Conservation Area. The access to the field off Featherbed Lane runs adjacent to three Grade II listed buildings within the Middle Farm complex, comprising a farmhouse, barn and stable range. The Grade II listed building of Mixbury Lodge Farmhouse is situated approximately 825 metres to the north east of the site. The Grade II listed Coldharbour Farm is situated approximately 870 metres to the south west of the site. The site is in an area of high archaeological interest. The site is also within a Minerals Consultation Area.
- 2.2. Public Footpath 303/18/20 runs adjacent to the western boundary of the site, whilst Public Footpath 303/11/20 runs adjacent to the north eastern corner of the site and crosses the access into the farm field.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the erection of a new poultry unit at the western end of the site within the agricultural field. The proposed development consists of 6no poultry buildings, each with dimensions of approx. 114 metres x 20.4 metres

with an eaves height of approx. 3 metres and a ridge height of approx. 5.7 metres. The 6 buildings are proposed to run parallel with each other, with a north east to south west orientation. These buildings are of steel frame construction, with the walls being pre-formed concrete to 450mm with polyester coated profile sheeting above the walls and roof which would be coloured olive green.

- 3.2. The buildings would be fitted with high velocity ridge mounted ventilation fans and side inlet vents. Each building would contain a control room on the south west elevations, which would include a specialist computer system which thermostatically controls the desired temperature within the bird housing area, using the heating and ventilation systems. Feeding and lighting is also controlled by the computer system.
- 3.3. The use of the proposed buildings is for the rearing of broilers from day old chicks through to finished table weight. The development is proposed to house up to 50,000 birds per building, with up to 300,000 birds proposed for the site in total. The broiler rearing cycle operates on an all in all out system, and each cycle takes 48 days. The broilers are reared for approximately 38 days following which the poultry buildings are cleaned out in preparation for the next batch of birds.
- 3.4. It is noted that the poultry manure would be removed from the buildings with the process taking approximately 2 hours per building. This process would be undertaken with a mechanical loader. All manure would be loaded from the sheds into trailers which would be sheeted and transported away from the site for disposal as fertiliser. Following the removal of the manure, the buildings are to be washed with high pressure hoses. The inside of the buildings would be drained into sealed underground dirty containment tanks. At the end of each cleanout period, the tanks are to be emptied for disposal
- 3.5. In addition to the six poultry buildings, it is also proposed to build:
 - 12 x 7m high olive green circular feed bins with 2 bins to the south west of each poultry building. These are to be constructed from plastic and coloured olive green.
 - 3 feed blending rooms 4m x 3m between the buildings. These are to be constructed from profile sheet cladding and coloured olive green. These are to be maximum height of approximately 3 metres.
 - 3 ground source heat containers being sited between the poultry houses. These are to be constructed from profile sheet cladding and coloured olive green. 9m x 7m gate house constructed from profile sheet cladding for the walls and roof in olive green.
 - 4m x 4m dead bird building constructed from profile sheet cladding for the walls and roof in olive green.
 - 7.2 m x 3.19m plant room constructed from profile sheet cladding for the walls and roof in olive green.
 - Underground dirty water tank, water tank, treatment plant and 5 gas tanks to the south west of the building. Detailed elevations have not been submitted for the dirty water tank.
- 3.6. The development would utilise the existing site access. An access track from the Middle Farm complex to the field where the buildings are proposed to be sited would be constructed and hardstanding to the south west of the buildings is proposed.
- 3.7. Four passing places are proposed on Featherbed Lane between the site access and the Banbury Road.
- 3.8. The application is accompanied by an Environmental Statement as the application requires an Environmental Impact Assessment.

4. RELEVANT PLANNING HISTORY

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

18/00067/SCOP Scoping Opinion - Erection of 6 no. poultry Observations
buildings and associated infrastructure

4.2. The applicant's agent sought the formal opinion of the Local Planning Authority in respect of what information was to be required in the Environment Statement for such a proposal (i.e. poultry unit). The Council's Scoping Opinion requested:

- A Flood Risk Assessment;
- An Odour and Dust Impact Assessment;
- A Noise Impact Assessment;
- An Ecological Survey;
- A Landscape Visual Impact Assessment;
- A Heritage Impact Assessment;
- A Construction Traffic Management Plan;
- A Transport Statement;
- A Waste Management Plan; and
- Details of the likely impacts of the development on ground and water pollution associated with the development and how this will be managed and mitigated

4.3. This information has been included within the Environmental Statement accommodating the planning application before members.

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 3 site notices displayed near the site, by advertisement in the local newspaper, 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 26.04.2019, although comments received after this date and before finalising this report have also been taken into account.

6.2. A petition with 555 signatures opposing the proposal has been received, and 274 letters of objection/concern have been received. The comments raised in these by third parties are summarised as follows:

- Has consideration been given to other diversifications and locations?
- Contrary to Policy ESD13 of the Cherwell Local Plan (2011-2031) Part 1 as it does not respect and enhance the local landscape character.
- Significant harm to the landscape and countryside.
- It would be highly visible given the topography of the area.
- Harm the enjoyment of the nearby Public Right of Ways.
- Contrary to saved Policy AG2 of the Cherwell Local Plan 1996 as it is sited in an area that intrudes into the rural landscape or residential areas.
- The design should not be deemed agricultural, but rather industrial.
- Harm to the significance of the Mixbury and Cottisford Conservation Areas.
- Harm to significance of listed buildings within Middle Farm.

- Archaeological concerns.
- Too much traffic.
- Potential conflict with pedestrians, cyclists and horse riders.
- Featherbed Road is not fit for such development.
- When there are road closures on the main road, HGVs will use unsuitable routes as rat-runs.
- The A421 and local road network does not have the capacity for such additional transport (especially when considering HS2 construction works).
- Odour from unit and spreading of manure.
- Noise from poultry unit and HGVs.
- Conflict with footpath that crosses the site.
- Contrary to saved Policy ENV1 of the Cherwell Local Plan 1996 given odour pollution and concerns (reference has been given to a similar development at Weston on the Green).
- Concerns that modelling in the odour impact assessment is not reflective of reality.
- Unclear where and how the manure is to be stored.
- Contrary to Saved Policy AG3 of Cherwell Local Plan 1996.
- Environmental Assessments do not take into account peak measurements, but averages.
- Would create vermin/pest issues.
- Air pollution/concerns with dust.
- Environmental pollution.
- Noise pollution.
- Light pollution.
- Harm to biodiversity as a result of the emissions.
- Loss of agricultural field.
- The burning of rubbish.
- Does not provide local employment.
- Devaluation of property.
- Moral objections to such intensive agriculture.
- Concern about the disposal of chickens.
- Loss of private view.
- Would create a possible need for on-site housing.

6.3. Three letters of support have been received and the comments received in these by third parties are summarised as follows:

- The applicants would adopt high standards.
- The concerns about the smell are over-exaggerated. The wind does not blow in a northerly direction towards Mixbury. Modern poultry units are developed in a way to avoid this being an issue.
- Smells from manure spreading are very much part of countryside living.
- Many vehicles, including HGVs access Middle Farm already due to the current business activities at the farm and there are no significant highway issues.
- Flies would not be a problem.
- The proposed development needs to comply with statutory legislation and regulations.
- Would help support growth plans in the Avara Brackley Plant and is perfectly located for this.
- There is a demand for such meat.
- It would have indirect employment benefits.

- 6.4. One letter from a third party has been received which makes observations. In summary this sets out that the footpath across the proposed access to the poultry unit should be kept open at all times.
- 6.5. 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/TOWN COUNCILS AND NEIGHBOURHOOD FORUMS

- 7.2. MIXBURY PARISH COUNCIL: **Objects** to the proposal on the following grounds:

- Odour in the village, particularly during mucking out.
- Excessive traffic on Featherbed Lane and on the junction with the A421.
- The impact on Mixbury Conservation Area.
- Devaluation of property prices.

- 7.3. COTTISFORD PARISH COUNCIL: **Objects** to the proposal:

- Ethical concerns.
- Odour concerns.
- Featherbed Lane is unsuitable for HGVs and the junction with the A421 has poor visibility.

- 7.4. FRINGFORD PARISH COUNCIL: **Objects** on the grounds of smell within the Fringford Parish.

- 7.5. FINMERE PARISH COUNCIL: **Objects** to the application:

- Highways safety concerns given:
 - The increase in traffic affecting the local road network; and
 - Featherbed Lane is not suitable for HGV traffic.
- Diesel particulates from HGVs causing pollution.
- Loss of amenity due to traffic increase and passing bays.
- Odour concerns.
- Ethical concerns.

CONSULTEES

- 7.6. ANGLIAN WATER: **No comments received.**
- 7.7. CDC ARBORICULTURE: Require further information before the determination of the application.
- 7.8. OCC ARCHAEOLOGY: **No objections.**
- 7.9. BBO WILDLIFE TRUST: **No comments received.**
- 7.10. CDC CONSERVATION: **No comments received.**
- 7.11. CDC ECOLOGY: **No objections** in principle.

- 7.12. ENVIRONMENT AGENCY: **No objections.**
- 7.13. CDC ENVIRONMENTAL PROTECTION: **No objections** in principle in relation to noise, contaminated land, air quality, odour and light.
- 7.14. HIGHWAYS ENGLAND: **No objections.**
- 7.15. OCC HIGHWAYS: **No objections** subject to conditions and a Section 278 agreement being entered into.
- 7.16. CDC LANDSCAPE: The LVIA is of sufficient detail, but there are concerns with the findings. The LVIA plays down the visual effects of the development. The topography is very flat and does not provide any perceptible screening effect. The development is visually isolated and should be located closer to the existing farm.
- 7.17. OCC MINERALS AND WASTE: **No objections.**
- 7.18. NATURAL ENGLAND: **No objections.**
- 7.19. RAMBLERS ASSOCIATION: **No comments received.**
- 7.20. CDC RIGHTS OF WAY: **No objections** subject to the nearby footpaths not being impacted on.
- 7.21. SOUTH NORTHAMPTONSHIRE DISTRICT COUNCIL **No objections** subject to:
- *“Cherwell District Council, as the Local Planning Authority in this case, being satisfied that the odour and noise impacts on nearby residents can be adequately mitigated; and*
 - *A Construction Traffic Management Plan being submitted to and approved in writing by Cherwell District Council as a condition of granting planning permission.”*
- 7.18. THAMES VALLEY POLICE DESIGN ADVISER: **No comments received.**
- 7.19. CDC WASTE & RECYCLING: **No comments received.**

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 2031 Part 1)

- PSD1 - Presumption in Favour of Sustainable Development
- SLE4 - Improved Transport and Connections
- ESD1 - Mitigating and Adapting to Climate Change
- ESD6 - Sustainable Flood Risk Management

- ESD7 - Sustainable Drainage Systems
- ESD8 - Water Resources
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- ESD17 - Green Infrastructure
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- TR7 - Development attracting traffic on minor roads
- TR10 - Heavy Goods Vehicles
- AG2 - Construction of farm buildings
- AG3 - Siting of new or extension to existing intensive livestock and poultry units
- AG4 - waste disposal from intensive livestock and poultry units
- C8 - Sporadic development in the countryside
- C14 - Countryside management projects
- C28 - Layout, design and external appearance of new development
- ENV1 - Development likely to cause detrimental levels of pollution
- ENV12 - Development on contaminated land

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010
- Noise Policy Statement for England 2010 (NPSE)
- Cherwell Countryside Design Summary (1998)
- Mixbury Conservation Area Appraisal (2017) (MCAA)
- Cottisford Conservation Area Appraisal (2009) (CCAA)
- Oxfordshire Wildlife & Landscape Study (OWLS)
- Historic England: The Setting of Heritage Assets (Historic Environment Good Practice Advice in Planning Note 3 (Second Edition))
- Oxfordshire County Council: Local Transport Plan 4 (2015-2031)
- Developer Contributions SPD (February 2018)

8.4. Council Corporate Priorities

Cherwell District Council’s Business Plan for 2019-20 sets out the Council’s three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning

applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

9. APPRAISAL

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

- Principle of the Development
- Landscape Impact and Visual Effects
- Heritage Impact
- Highways Safety
- Environmental Pollution and Nuisance
- Ecological Impact & Trees
- Flooding Risk & Drainage
- Other Matters Including Need

Principle of the Development

Policy Context

9.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that the decision maker should apply a presumption of sustainable development. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.

9.3. Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.

9.4. The NPPF supports the sustainable growth and expansion of all types of business and enterprise in rural areas (Paragraph 83), both through the conversion of existing buildings and well-designed new buildings. This also includes the development and diversification of agricultural and other land-based rural businesses.

Assessment

9.5. For the avoidance of doubt it is confirmed by your officers that the proposal is an agricultural use. A similar conclusion was reached by the Planning Inspectorate in relation to a proposed poultry unit near Weston on the Green in 2017 (see 16/01706/F or APP/C3105/W/17/3166498). The Council has sought the advice of an

Agricultural Advisor who, after reviewing the submitted documentation and visiting the site, considers that the proposal is reasonable for the purposes of agriculture.

- 9.6. Given the above and that the proposal would lead to the diversification and expansion of an established agricultural business within a rural area, it is considered that the proposed development could be acceptable in principle. However, the principle of the proposed development in this case is clearly also dependent on other material planning considerations which are discussed below.

Landscape Impact and Visual Effects

Policy Context

- 9.7. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPG goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 9.8. Policy ESD13 of the Cherwell Local Plan (2011-2031) Part 1 notes that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to the local landscape character cannot be avoided. Policy ESD13 also states that: *“Proposals will not be permitted if they would:*
- Cause undue visual intrusion into the open countryside;*
 - Cause undue harm to important natural landscape features and topography;*
 - Be inconsistent with local character;*
 - Impact on areas judged to have a high level of tranquillity;*
 - Harm the setting of settlements, buildings, structures or other landmark features; or*
 - Harm the historic value of the landscape.”*
- 9.11. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.”*
- 9.12. Saved Policy AG2 of the Cherwell Local Plan 1996 notes that farm buildings and associated structures requiring planning permission should normally be so sited that they do not intrude into the landscape or into residential areas.
- 9.13. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.
- 9.14. Saved Policy C8 of the Cherwell Local Plan 1996 notes that sporadic development in the open countryside will generally be resisted if its attractive, open and rural character is to be maintained. Saved Policy C8 applies to all new development proposals beyond the built up limits of settlements, but will be reasonably applied to accommodate the needs of agriculture. The NPPF also advises that the open countryside should be protected for its own sake.

Assessment of Landscape and Visual Impact

- 9.15. The landscape around the site is located within both the Woodland Estate lands character type and the Farmland Plateau character type within the Oxfordshire Wildlife & Landscape Study (OWLS) 2004.
- 9.16. The OWLS notes that the Farmland Plateau is characterised by a high limestone plateau with a distinctive elevated and exposed character, broad skies and long distance views. It is also noted within the OWLS that large scale arable fields dominate the landscape, with some medium-sized plantations partially obscuring the otherwise open views. The OWLS sets out that there are level or gently rolling open ridges dissected by narrow valleys and broader vales.
- 9.17. The OWLS states that the Woodland Estate lands is characterised by arable farming and small villages with a strong vernacular character. The OWLS sets out that the key characteristics comprise rolling topography with localised steep slopes, large blocks of ancient woodland and mixed plantations of variable sizes and a regularly shaped field pattern dominated by arable fields.
- 9.18. From visiting the site, I consider that the site and surrounding land is more typical of the Farmland Plateau character type given the level to gently rolling ridges and the large scale arable fields with long distance views.
- 9.19. The Council's Countryside Design Summary (1998) encourages sensitive and appropriate development across the District and sets out specific advice relevant to this case. This divides the Cherwell District into four broad areas and this site is identified as lying within the Ploughley Limestone Plateau area. The landscape of the area is described as an exposed upland plateau in the north and west (where the site is situated). The Design Summary also sets out that arable is the primary agricultural land use of the area, and that scale varies from a patchwork of fields with well-defined hedgerows and copses, to large-scale fields on well-drained loams of the open plateau. The site is typical of this. The Countryside Design Summary sets out that new development should avoid exposed and prominent locations in this area.
- 9.20. The application is accompanied by a Landscape and Visual Impact Assessment (LVIA), which has considered the potential impacts on the landscape character and amenity of the site and surrounding area. In terms of the visual assessment carried out by LVIA Ltd, fieldwork was undertaken to identify a number of viewpoints (six) in the immediate and wider setting of the site.
- 9.21. The Council's Landscape Officer has reviewed the documentation and states that it is of sufficient detail for a development of this scale.
- 9.22. Regarding the landscape impacts, the LVIA considers that there is medium landscape character sensitivity and that, when considering the scale and nature of the development and its juxtaposition to other agricultural uses, the magnitude of change is small, therefore resulting in a level of landscape effect of *minor*. Unfortunately, Officers do not agree that the level of landscape effect would be *minor*.
- 9.23. The site is considered to have detracting features, and as noted above, is atypical of the Ploughley Limestone Plateau area and Officers consider that the landscape quality, value and sensitivity is *medium*.
- 9.24. Whilst the proposal is for agricultural purposes, the proposed poultry unit is of relatively large scale in terms of built development when compared with other farm

developments in the locality. When considering this and that the proposed development would sit relatively isolated, i.e. away from other farm buildings, it is considered that the proposal would be somewhat uncharacteristic when set within the attributes of the receiving landscape. Thus, it is considered that there is a medium magnitude of change and there would be a moderate landscape effect, which would result in a moderate significance of effect.

- 9.25. In relation to the visual impacts, the site is adjacent to two footpaths as outlined in paragraph 2.2 of this committee report and the proposed development would undoubtedly be visible from these viewpoints.
- 9.26. The LVIA states that with suitable mitigation, the visual effects would be moderate due in most part to dense intervening vegetation between the receptor and the site, the topography in the area and the similar agricultural setting of the proposed scheme.
- 9.27. Officers are in agreement with the Council's Landscape Officer who has noted that the LVIA underestimates the likely visual effects of the proposed development, especially from viewpoint 1 (from Public Footpath 303/11/20 where it joins Featherbed Lane), viewpoint 3 (from Public Footpath 303/11/20 where it joins the A421 (Banbury Road)), viewpoint 4 (from Public Footpath 303/18/20 where it joins the A421 (Banbury Road)) and viewpoint 6 (from Public Footpath 303/19/30 to the south west of the site). Whilst Officers agree with the LVIA that the visual receptor sensitivity for these 6 viewpoints would be high, Officers find it difficult to agree with the findings of the LVIA in that it would have no material change on the four aforementioned viewpoints. Officers consider that the proposed development is likely to have a medium to large magnitude of visual impact from these four viewpoints.
- 9.28. Furthermore, Officers do not agree that the magnitude of visual impact would be *medium* from the two other viewpoints assessed in the LVIA (which are from footpaths adjacent to the site), given the overall scale of the development. Officers consider that the magnitude of change from these viewpoints is instead likely to be *large/very large*.
- 9.29. Contrary to what is argued in the LVIA, Officers consider that the topography is relatively flat and does not provide perceptible screening. The Landscape Officer has also raised concerns with the visually isolated location of the proposal and has noted that this would be noticeable from the viewpoints listed above.
- 9.30. Given the above, officers consider that the development would have a significance of effect of *major/moderate* from the viewpoints selected in the LVIA. The proposed 10 metre screen planting around the development is not considered to be good practice as such formal landscaping would look conspicuous. Should permission be granted, a revised landscaping plan could be conditioned as well as a landscape maintenance plan for a minimum period of 15 years.
- 9.31. It is also worth noting that views of the proposed development would also be gained elsewhere, including the main road into Mixbury from the south, Public Footpath 303/10/20 to the east of the site, Public Footpath 303/13/10 to the south east of the site and the street to Juniper Hill to the west of the site. The magnitude of visual impact from these points is considered to be small to medium and officers consider that the development would have a significance of effect as minor to moderate.
- 9.32. Whilst the proposed development is within close proximity to the relatively busy Banbury Road (A421) and is therefore not in an area of high tranquillity, the proposed development would introduce elements which would generate further

noise, such as transport on the site and along Featherbed Lane and extractor fans on each poultry building. It is therefore considered that the proposed development would have a modest impact upon the tranquillity of the area.

- 9.33. Furthermore, the highway improvements to Featherbed Lane in order to make the development acceptable from a highways safety perspective would result in more hardstanding on this highway as well as the potential loss of some trees, and this would have a negative urbanising impact upon this narrow rural lane.
- 9.34. Concerns from third parties have been raised regarding light pollution. Whilst Officers consider that there would be some harm with the addition of lighting in the open countryside in order to facilitate the poultry unit, the application notes that lighting would not be required for 24 hours a day. Nonetheless, should permission be granted officers consider further details of the lighting are required.

Conclusion

- 9.35. The addition of this sizeable new building complex and associated infrastructure would undoubtedly have a harmful impact upon the rural character and appearance of the landscape. From the above, it is considered that the proposal would cause moderate harm to the landscape character of the area. In addition, whilst it is accepted views of the site would be localised, it is considered that there would be significant harm to the immediate locality and harm to the enjoyment of users of the nearby Public Rights of Way. Furthermore, it is considered that there would be some additional harm upon the tranquillity of the area.
- 9.36. The proposal is therefore considered to be contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and saved Policies AG2, C8 and C28 of the Cherwell Local Plan 1996
- 9.37. As such, in order to overcome the overall harm identified, these agricultural buildings must (i) be needed, (ii) be designed and constructed for agricultural purposes and (iii) the location of the unit would need to be sufficiently justified. This will be discussed later on in the report.

Heritage Impact

Legislative and Policy Context

- 9.38. The application site is approximately 650 metres to the south of Mixbury Conservation Area and approximately 1.7KM to the north east of Cottisford Conservation Area. The access to the field off Featherbed Lane runs adjacent to three Grade II listed buildings within the Middle Farm complex, comprising a farmhouse, barn and stable range. The Grade II listed building of Mixbury Lodge Farmhouse is situated approximately 825 metres to the north east of the site. The Grade II listed Coldharbour Farm is situated approximately 870 metres to the south west of the site. The site is in an area of high archaeological interest.
- 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. Paragraph 189 of the NPPF states that: *“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance.”*
- 9.42. 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 Cherwell Local Plan (2011-2031) Part 1 echoes this guidance.
- 9.43. Paragraph 196 of the NPPF states that: *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*
- 9.44. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that new development proposals should: *“Conserve, sustain and enhance designated ‘heritage assets’ (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG.”*
- 9.45. On the matter of setting, the PPG states: *“A thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it...Setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not.”*
- 9.46. The PPG goes on to state that: *“The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places.”*

Assessment

- 9.47. Mixbury Conservation Area is the closest conservation area to the site and is approximately 650 metres to the north. The settlement of Mixbury was constructed as a planned model village and it has retained this essential character. The village street remains remarkably homogenous with the essential form of the buildings retained and a strong degree of uniformity in the form of the details. The central core of the existing settlement is entirely residential, with the historic church located to the east. The model village aspect of Mixbury is of historical and architectural interest and makes a considerable contribution to the significance of the Mixbury Conservation Area.
- 9.48. Mixbury Conservation Area is set in a slight dip in the landscape and views of the proposed development would most likely only be visible from the southern exit from

the village. Whilst, the footpaths adjacent the development site gain views of this conservation area, these are not outlined as being positive or important views within the MCAA and one does not gain an appreciation of the model village character of Mixbury from these footpaths given the distance and intervening vegetation. Officers therefore do not consider that these views from the footpaths adjacent the site make a great contribution to the significance of this village.

- 9.49. Given the overall scale of the built development on the site and the distance between the site and the Mixbury Conservation Area, it is considered that the built development on the site would not over-dominate Mixbury Conservation Area or materially alter the way this conservation area is experienced. It is therefore considered that the built element of this proposed development would not cause harm to the significance of the Mixbury Conservation Area or its setting.
- 9.50. Whilst the proposal would likely result in some further noise, this would unlikely be materially different from before when in Mixbury given the busy A421 which sits in between the site and Mixbury.
- 9.51. Whilst there is potential for odour from the proposed development to impact upon the significance of the Mixbury Conservation Area, the modelling within the noise report predicts that, at all nearby residences and commercial premises, the odour exposure would fall significantly below the Environment Agency's benchmark for moderately offensive odours and the Council's Environmental Protection Officer is content with these findings. Given this and that the village is within an agricultural setting, it is considered that the odour resulting from the proposed development would not cause harm to the significance of this conservation area.
- 9.52. It is therefore considered that the proposed development would not cause harm to the significance of the Mixbury Conservation Area or its setting.
- 9.53. The next nearest conservation area is Cottisford which is approximately 1.7km to the south west of the site. Given the overall scale of built development on the site, the proposed use, intervening trees and the relatively large distance of the site from this conservation area, Officers do not consider that the proposal would materially alter the way Cottisford Conservation Area is experienced. Thus, it is considered that the proposed development would not cause harm to the significance of Cottisford Conservation Area or its setting.
- 9.54. The site is within close proximity to the Middle Farm complex which accommodates three Grade II listed buildings. The access to the unit would run adjacent to these listed buildings and the unit itself would be approximately 200 metres away from the nearest listed building within this complex. The classical farmhouse and extensive barn and stable ranges are thought to be late 18th Century in date and are of limestone and slate roofed. These are all of historical and architectural interest and are situated to the south of the farmyard complex. Four modern agricultural buildings are located to the north of this same complex. The farmyard is surrounded by open countryside which makes a pleasant rural setting for the complex and gives one a greater understanding of the farm complex, therefore contributing the significance of the listed buildings at Middle Farm.
- 9.55. The Heritage Statement submitted alongside the application states that there is already access to farm buildings within the site and that the provision of the access and additional traffic movements should not perceptibly affect the appreciation of this asset. Furthermore, the Heritage Statement sets out that to the east, vegetation and modern farm buildings screen the listed buildings at Middle Farm from the main site area.

- 9.56. Regarding the impact of the built development upon the significance of the listed buildings at Middle Farm, Officers consider that the Heritage Statement downplays the impact of this element of the development upon the significance of these listed buildings at Middle Farm. To the east of the existing farmyard complex is open countryside and views of the rear of these buildings can be appreciated from both public footpaths to the west of the site (Public Footpaths 303/11/20 and 303/18/20). The existing complex is considered to be relatively modest in scale and typical of agricultural development in the locality.
- 9.57. Given the overall scale of the built development, which would be relatively large in comparison to other farm developments in the locality and would be larger in area than the existing farmyard at Middle Farm, and given its relatively close proximity to these listed buildings within Middle Farm it is considered that the proposed development would somewhat erode the rural setting of these listed buildings, and this would be noticeable from the nearby footpaths to the west. This proposal is therefore considered to cause *less than substantial* harm to the significance of these three listed buildings within the Middle Farm complex and their setting.
- 9.58. Given the relatively limited amount of vehicular activity proposed (this being 196 two way HGV movements over a flock cycle (48 days)) and considering the existing activity on the site, Officers agree that the vehicular movements would not materially alter how these heritage assets at Middle Farm are experienced. Regarding smell, the odour report submitted alongside the application sets out that the exposure from these buildings Middle Farm would fall below the Environment Agency's benchmark for moderately offensive odour. Whilst Officers do note there would be smells within Middle Farm it is considered that this would not cause harm to the significance of the listed buildings within this complex.
- 9.59. In relation to other heritage assets, including the Grade II listed buildings of Mixbury Lodge Farmhouse and Coldharbour Farm, it is considered that the proposal would not cause harm to the significance of these heritage assets or their setting given the overall scale of built development on the site, the proposed use, intervening trees and the relatively large distance of the site from these other heritage assets. It is also considered that the level of activity as a result of the proposal would not be so significant as to materially alter the setting of these other heritage assets, nor would the odour from the proposed use.
- 9.60. The site is in an area of high archaeological interest. An archaeological evaluation has been undertaken and a report has been submitted alongside this application. This study recorded archaeological features on the site in the form of a probable prehistoric enclosure. This enclosure is located to the north west of the proposed development and only a very small section of this enclosure would be affected by this proposal. This is located in an area where the evaluation trenches have already recorded the enclosure ditch.
- 9.61. No archaeological deposits were recorded within the area of the proposed development and therefore this development is unlikely to have an impact on any surviving archaeology. The County Council Archaeologist has raised no concerns with the report and states that no further archaeological recording would be required.

Conclusion

- 9.62. It is considered that the proposal would cause less than substantial harm to the three listed buildings within the Middle Farm complex as it would somewhat erode its pleasant rural setting by virtue of the scale of the proposed intensive agricultural development and its relatively close proximity to these listed buildings. Whilst the

level of harm is not considered to be 'serious', public benefits will need to outweigh this identified harm as outlined in Paragraph 196 of the NPPF for the development to be acceptable. This will be discussed further on in this report.

Highways Safety

Policy Context

- 9.63. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that: *"New development proposals 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."*
- 9.64. Policy SLE4 of the Cherwell Local Plan (2011-2031) Part 1 states that: *"New development in the District will be required to provide financial and/or in-kind contributions to mitigate the transport impacts of development."* Policy SLE4 also 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...Development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported."*
- 9.65. Saved Policy TR7 states that: *"Development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads will not normally be permitted."*
- 9.66. Saved Policy TR10 states that: *"Development that would generate frequent Heavy Goods Vehicle movements through residential areas or on unsuitable urban or rural roads will not be permitted."*

Assessment

- 9.67. The documentation supporting this application notes that the proposed poultry unit will produce standard birds, based on a 48 day growing cycle, including days at the end of the cycle for cleanout and preparation of the buildings for the incoming flock. The Transport Statement notes that the poultry unit would generate an additional 196 two way HGV movement over a flock cycle (98 in, 98 out). The supporting documentation sets out that the finished birds are removed in three uplifts, on days 32, 37 and 38 of the cycle.
- 9.68. The Transport Statement sets out that that the busiest periods in terms of HGV generation of the site will be on days 32, 37 and 38 where the birds are removed and taken to the factory. The Transport Statement goes on to note, that at its peak, this being days 37 and 38, the development would generate 28 two way HGV movements (14 in, 14 out). The statement notes that the additional 28 two-way movements would increase the HGV flows along Featherbed Lane by 17.9%. The Transport Statement displays that on the majority of operational days (43 days of the 48 day flock cycle) the site would generate between zero and 4 two-way movements.
- 9.69. Featherbed Lane is currently signed as having a 7.5t limit, except for loading therefore the proposed increase in HGV traffic would require some improvement works as noted by OCC Highways as local highway authority ('LHA').
- 9.70. The LHA states that the creation/formalisation of passing bays on Featherbed Lane is necessary given the proposed increase in HGV traffic. Four 18m x 3m passing bays are now proposed along Featherbed Lane up to the A421 and OCC are

content with these plans. When considering the passing bays on Featherbed Lane along with likely volume of HGVs resulting from the proposal, the LHA does not consider that the amount of traffic proposed should cause detrimental harm to the safe and efficient operation of this highway. However, the LHA notes that these should be created prior to commencement of construction on site to protect the verges during construction. This work will require a Section 278 agreement.

- 9.71. Furthermore, the LHA and the Highways Agency do not consider that the proposal would unduly impact upon the safe and efficient operation of the surrounding road network.
- 9.72. The LHA notes that the vision splays are acceptable to and from the site, and that the applicant can track the access. Access on to the A421 has caused concerns from third parties, but the LHA is content with this access.
- 9.73. The Transport Statement notes that all deliveries will enter Featherbed Lane from the A421 and leave Featherbed Lane onto the A421. This is obviously the most desirable route, especially with the addition of passing places and it is considered necessary to condition a routing strategy for HGVs as the use of another route to and from the site could cause highway safety issues.
- 9.74. The Transport Statement states that prior to the construction of the proposed poultry units, a Construction Traffic Management Plan (CTMP) should be submitted to the Local Planning Authority. This could be secured by condition of any permission given.
- 9.75. In relation to parking and turning areas on the site, officers are content that there is adequate space on the site for parking and manoeuvring.
- 9.76. Regarding the Public Rights of Way, OCC and CDC Rights of Way have raised no concerns with the location of the poultry sheds. The access road to the site would run directly across Public Footpath 303/11/20 and footpath warning signs and pedestrian gates are proposed in the interests of the safety of footpath users and OCC Rights of Way has raised no objections to this. Further details of this can be conditioned should permission be given.

Conclusion

- 9.77. Subject to conditions and a Section 278 agreement, it is considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network or the safety of the nearby Public Rights of Way.

Environmental Pollution and Nuisance

Policy Context

- 9.78. Saved Policy ENV1 of the adopted Cherwell Local Plan states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke other type of environmental pollution will not normally be permitted.
- 9.79. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that: *“Development should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.*
- 9.80. Saved Policy AG3 of the adopted Cherwell Local Plan notes that in the interests of the avoidance of pollution, new intensive livestock and poultry units or extension to

existing units that require planning permission will be resisted where they would have a materially detrimental effect on nearby settlements or dwellings due to smell.

- 9.81. Saved Policy AG4 of the Cherwell Local Plan 1996 states that proposals for new intensive livestock or poultry units or extensions to existing units as may be permitted in the plan area will be required to include suitable provision for waste disposal. The text supporting saved Policy AG4 notes that when inadequate provision is made for waste disposal, there is a serious risk of smell problems or pollution to watercourses and ponds.
- 9.82. Paragraph 183 of the NPPF states that: *“The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.”*

Assessment

- 9.83. Importantly, such a development requires an Integrated Pollution Prevention and Control (IPPC) permit from the Environment Agency, and such a permit was granted to operate this proposed installation on 16th April this year. The IPPC permit covers issues such as on site noise, emissions (including odour) and waste generated on site and their management as well as issues of concern in relation to the surrounding environment. The above said, the Local Planning Authority will need to be satisfied that the proposed use can be regulated effectively, without undue environmental harm.
- 9.84. Undoubtedly, the proposed development is of a nature that has the potential to produce noise and odours. There are some residences and commercial properties in the areas surrounding the site of the proposed poultry unit. The closest residential dwellings to the siting of these buildings are at:
- Middle Farmhouse, approximately 270 metres to the south east of the poultry unit;
 - The stone barn at Middle Farm which accommodates businesses, approximately 260 metres to the south east of the poultry unit;
 - Stones Throw, approximately 270 metres to the east of the poultry unit;
 - 1 Mixbury Lodge, approximately 550 metres to the north east of the poultry unit;
 - Those within the settlement of Mixbury, approximately 650 metres to the north of the poultry unit;
 - Mixbury Farm Lode, approximately 825 metres to the north east of the poultry unit;
 - Coldharbour Farm, approximately 870 metres to the south of the poultry unit; and
 - Monks House Barn, approximately 1.2KM to the west of the poultry unit.

Assessment of Noise

- 9.85. A Noise Impact Assessment, which reviews plant (for example ventilation) and transport noise (for example unloading and loading) generated from the proposed development, has been submitted alongside the application. The Noise Impact Assessment (NIA) submitted alongside the application has been conducted to determine the typical background noise levels at the nearest dwellings to the proposed broiler units.

- 9.86. The NIA states that the fans are to be thermostatically controlled, with the total number of fans operating at any one time dependent on the bird's ventilation requirements. The document states the high stage (100% ridge extract fans operating) would typically only be triggered when the external temperature exceeds 23° and that during the evening and night, this temperature is not expected to be exceeded (20:00-07:00). The NIA concludes that the nearest residential receptors would experience, at worst, low to negligible levels of noise as a result of the extractor fans.
- 9.87. In addition, the NIA states that the majority of transport movements will only occur between 7AM and 8PM. The NIA concludes that the nearest residential receptors would experience, at worst, very low to negligible levels of noise as a result of the transport activities.
- 9.88. The Council's Environmental Protection Officer has reviewed the NIA and has noted that this establishes that the noise generated by both the operation of the poultry buildings and transportation related to their function would not generate noise that is beyond the applicable WHO guidelines.
- 9.89. Given the above it is considered that the proposed development would result in No Observed Adverse Effect as set out in the Noise Policy Statement for England (2010) and is therefore acceptable on noise grounds.
- 9.90. It is worth noting that the IPPC permit covers that matter of noise pollution beyond the installation boundary. Given the above, officers consider that proposed poultry unit can be regulated effectively, without producing materially detrimental levels of noise pollution.

Assessment of Odour

- 9.91. The Odour Impact Assessment notes that peak odour emission rates are likely to occur when the housing is cleared of spent litter at the end of each crop. The application notes that the time taken to perform the operation is usually around two hours per shed and it is normal to maintain ventilation during this time. The Odour Impact Assessment notes that there are measures that can be taken to minimise odour production whilst the housing is being cleared of spent litter and there is usually some discretion as to when the operation is carried out; therefore, to avoid high odour levels at nearby sensitive receptors, it may be possible to time the operation to coincide with winds blowing in a favourable direction.
- 9.92. The Odour Impact Assessment uses computer modelling to assess the impact of odour emissions from the proposed broiler chicken rearing buildings. The odour emission rates from the proposed poultry houses have been assessed and quantified based upon an emissions model that takes into account the internal odour concentrations and ventilation rates of the poultry building. The odour emission rates obtained were then used as inputs to an atmospheric dispersion model which calculates exposure levels in the surrounding area.
- 9.93. The Odour Impact Assessment concludes that the result of the modelling indicate that the 98th percentile hourly mean odour concentration at all nearby residential properties and commercial businesses would be below the Environment Agency's benchmark for moderately offensive odours. Thus, based on this, such odours should not give rise to a significant proportion of complaints when referring to research by UK Water Industry Research (UKWIR).
- 9.94. Regarding waste management, the application states that the method of disposal of the poultry manure produced by the development is through export from the

application site, and spreading on land owned by the operator (thus the manure is not to be stored on the application site), with any surpluses to be sold to other arable farmers.

- 9.95. Concerns have been raised by third parties regarding the storage of manure created by the proposal in terms of odour and the potential issues this may create in terms of pests. The manure is proposed to be stored on heaps on other fields within the units and then spread at the appropriate time. The applicants' agent has noted that manure has always been stored in such a way on the unit, but that the applicants currently import poultry manure. Thus, the practice of storing and spreading manure on the farm would not change, but the source of the manure would change as it would be produced on the farm rather than imported.
- 9.96. It is worth noting that the spreading of manure as a sustainable fertilizer is controlled by the Nitrate Pollution Prevention Regulations 2015, and the DEFRA Code – Protecting our Water, Soil and Air: A Code of Good Agricultural Practice (CoGAP).
- 9.97. The application notes that whilst it is not possible to provide an assessment which quantifies the impacts of manure spreading on amenity, the DEFRA Code sets out the mitigation measures to ensure that the impacts of manure spreading are minimized. For example, the timing of application and restrictions on where it shall be applied
- 9.98. A Waste Management Plan (WMP) has been submitted alongside the application. It is noted that subject to risk assessment, soil analysis, and cropping patterns, manure may be spread as a fertilizer on this land, following the requirements of the Nitrate Pollution Prevention Regulations 2015 and CoGAP.
- 9.99. It is also worth noting that exporting manure to other farmers is an acceptable practice under the NVZ and Environmental Permitting Regulations.
- 9.100. The Council's Environmental Protection Officer has reviewed the detailed Odour Impact Assessment and has raised no objections in relation to odour pollution. The Environmental Protection Officer has stated that the Odour Impact Assessment sufficiently establishes that the odour at the nearest sensitive receptors will be within the applicable guidelines.
- 9.101. Whilst there is potential for odour, officers see no reason to disagree with this assessment from the Environmental Protection Officer. Officers are also aware that the Environmental Permit will ensure that odour and waste arising from the proposal is controlled by the Environment Agency to statutory standards and this is a significant consideration. Thus, Officers are satisfied that the proposed poultry unit can be regulated effectively, without causing materially detrimental levels of odour pollution to nearby receptors.
- 9.102. Whilst it is acknowledged that third parties have raised concerns with the use of this modelling to represent the odour impacts of the proposal, Officers consider the submitted evidence to be robust. Furthermore, no alternative technical evidence of harm has been provided to counter the applicant's submission.
- 9.103. Officers consider it highly appropriate to refer Members to an appeal within the district from 2017 for a similar sized poultry unit (see 16/01706/F and APP/C3105/W/17/3166498). Modelling was utilised when formulating the Odour Impact Assessment, and this outlined that the proposal would not cause materially detrimental levels of odour pollution to nearby receptors. However, the application was refused by the Council in relation to odour emissions despite the Council's Environmental Protection Officer not objecting to the application on this matter. The

appeal was subsequently allowed as the Inspector was satisfied with the submitted Odour Impact Assessment. The Inspector was also mindful of the advice within paragraph 183 of the NPPF in that the operation of the enterprise and any emissions would be tightly controlled by an Environmental Permit that has been issued by the Environment Agency. Costs were also awarded to the appellant as it was considered that the Council's failure to produce evidence to substantiate this reason for refusal amounted to unreasonable behaviour.

9.104. Concerns have been raised from third parties regarding fly infestation. However, the Environmental Statement notes that fly infestation is not a problem associated with modern broiler units as flies breed in damp litter, and new modern poultry houses with biomass heating systems maintain dry litter conditions. The buildings are occupied for 38 days, following which the litter is removed and the buildings power washed. The applicant's agent therefore notes that the environment is not suited to flies. Officers see no reason to disagree with this especially as fly infestation would not be in the best interests of the proposed business.

9.105. Concerns have also been raised from third parties regarding vermin. The proposed development is required to operate a pest control protocol and have formal pest control contracts in place. Furthermore, the submission notes that the design of the development includes sealed buildings which are vermin proof and enclosed feeding systems with no external storage of feedstuffs which could attract vermin.

Assessment of Pollution to Watercourses & Ponds

9.106. The spreading of waste has the potential to negatively impact upon watercourses and ponds. Officers have referred to the waste management strategy above in the assessment of odour section and a detailed WMP has been submitted alongside the application. As referred to above, the spreading of manure is controlled by the Nitrate Pollution Prevention Regulations 2015. Furthermore, an IPPC Permit has been granted to the applicant and the environmental permitted regime consists of a risk assessment of the fields on which the manure would be spread.

9.107. The proposal would generate dirty water as a result of the washing out process for the sheds. The IPPC permit requires that this is contained within an approved containment system. The effluent of containment system must conform to the requirements of Schedule 2 of 'The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010. The inside of the poultry buildings are sealed and drained into a dirty water containment tank. The application notes that at the end of each cleaning process, the dirty water tank is to be emptied by vacuum tanker. It is expected that the dirty water is spread to land in accordance with the provisions of the Nitrate Pollution Prevention Regulations 2015.

9.108. The concrete apron to the south of the poultry houses is to be fitted with a diverter valve, which is a requirement of the Environment Agency Permit, to ensure that during periods where the apron can become contaminated (during cleanout), all contaminated water can be diverted to the sealed dirty water containment system.

9.109. Given the above, Officers are satisfied that that the proposed poultry unit can be regulated effectively, without causing materially detrimental levels of pollution to watercourses and ponds.

Assessment of Air Quality and Dust

9.110. Concerns have been raised in relation to dust pollution and the potential for poor air quality. The assessment of dust from poultry farms formed part of a DEFRA research project. The results of DEFRA project AC0104 confirmed with research

that dust was diluted over short distances of 100m to normal background levels. As there are no receptors within 100 metres it is considered that the proposal does not pose a risk of public health issues. The matter of air quality is also addressed as part of the Environment Agency A permit for the site.

Assessment of Lighting

- 9.111. The application notes that the development does not require 24 hour external lighting, but that there are 3 days over each flock cycle, when night time catching operations will be undertaken and lighting on the site will be required. Motion sensor trigger lighting would be provided for any staff needing to visit the site during hours of darkness.
- 9.112. However, limited information of the lighting has actually been submitted alongside the application. Nonetheless, Officers are confident that such a scheme could be implemented without causing materially detrimental levels of light pollution. Thus, should permission be granted, it is recommended a condition is attached requesting full details of the external lighting. Care would need to be taken to ensure that the level of lighting is not excessive.

Conclusion

- 9.113. Given the above, officers consider that the proposal can be regulated effectively without causing materially detrimental levels of pollution.

Ecology Impact & Trees

Legislative context

- 9.114. 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.
- 9.115. 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.
- 9.116. 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.
- 9.117. 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.

9.118. 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

9.119. 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.

9.120. Paragraph 175 states that when determining planning applications, local planning authorities 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.

9.121. 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.

9.122. Policy ESD10 of the Cherwell Local Plan (2011-2031) 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.

9.123. This policy is 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.

- 9.124. 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 Local Planning Authorities 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.
- 9.125. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 requires new development to respect local topography and landscape features including significant trees, hedgerows and views. Policy ESD10 has similar requirements including the objective of protecting existing trees as well as increasing the number of trees overall within the District.

Assessment

- 9.126. Natural England's Standing Advice states that a Local Planning Authority (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.
- 9.127. 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').
- 9.128. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard there are several mature trees and hedgerows within and adjacent the site, which therefore has the potential to be suitable habitat for bats and breeding birds.
- 9.129. In order for the LPA to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, LPSs must firstly assess whether an offence under the Regulations is likely to be committed. If so, the LPA should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.130. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 9.131. The application is supported by a Preliminary Ecological Report (PEA) which outlines potential impacts on site and looks for protected species. It does not include a Thames Valley Environmental Records Centre data search which the Council's Ecologist has noted would be expected and therefore includes no information on any adjacent records of protected species.

- 9.132. The PEA also does not include any information or assessment of impacts on surrounding protected or priority habitats, which the Ecologist has stated would be expected.
- 9.133. The PEA concludes that there would be little impact on protected species on site (and the Council's Ecologist concurs with such findings) and that the majority of the habitats on site are of little ecological value.
- 9.134. Despite what is noted above, an assessment of wider impacts has been subsequently made through the ammonia report (which the Council's Ecologist notes is the principle issue when looking at wider impacts on ecology in this case). This has considered ammonia deposition on protected and notable sites in the vicinity and concludes that they are sufficiently far away for level to be below the Environment Agency's threshold. Natural England has reviewed the ammonia report and is content that the proposed development would not damage or destroy the interest features for which the nearest SSSI (Tingewick Meadows) has been notified and therefore has no objection. After the reviewing the documentation, the Council's Ecologist has stated that it appears that Local Wildlife Sites and Ancient Woodlands do not require an assessment of cumulative impacts from other sources.
- 9.135. However, the Council's Ecologist comments that it is likely that there would be impacts from ammonia on the hedgerows (and the proposed newly planted vegetation) on site and therefore potentially severe impacts on their overall condition. The Ecologist also states that it could be concluded that there could be some level of impact on the nearest woodland from the site (approximately 300 metres to the west of the site), which is noted as a Section 41/Priority woodland. The Ecologist has noted that an assessment of this has not been made but it seems likely that taking these factors into account that a net loss for biodiversity may be inevitable on site with the current plans.
- 9.136. Given the above, the Ecologist considers that the applicant should be asked to go a bit further in providing a buffer to the hedgerows and to the wider countryside. The applicants have submitted an illustrative planting plan and the ecological report recommends that they include some measures for hedgehogs and both bird and bat boxes which would be of benefit in this location, but should permission be granted the Ecologist has stated that they would hope to see a greater level of landscaping within a Landscape and Ecological Management Scheme to acknowledge these additional impacts on site during the operation of the unit and help achieve a net gain for biodiversity on site as per policy and NPPF guidance. The Ecologist states that such a document should include the locations and details of the boxes outlined in the ecological report.
- 9.137. Furthermore, the Ecologist states that there would need to be a full lighting strategy to ensure the installed lighting does not impact wildlife using the boundaries of the site and adhere to the recommendations of the Bat Conservation Trust guidelines 2018. This could be secured by condition of any permission given.
- 9.138. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will 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.
- 9.139. Regarding the impact upon trees, the Council's Arboroculturalist notes that there are a number of trees within the hedgerows bordering the site, as well as the access

road leading from the existing farm. The Arboriculturalist raises concerns regarding the lack of reference to these trees or hedges, and whether they are to be retained or not within this proposal. Given this, the Arboriculturalist comments that a tree report, impact assessment and method statement are all required before the application can be properly assessed in this regard.

9.140. In relation to the hedgerows that border the field the poultry unit is proposed to be sited in, the nearest poultry house to one of these hedges would be approximately 20 metres away. Given this distance and the overall height of the poultry houses, Officers are satisfied that the proposed poultry houses and other buildings associated with the development would not adversely damage the bordering hedgerow and trees.

9.141. Regarding the impact upon the hedgerow near the proposed access track, this track would be approximately 6 metres away from the hedgerow and the three trees within it. Officers have visited the site and consider that the three trees within the hedgerow are of some amenity value despite not being protected. Officers consider that harm to these trees can be avoided subject to suitable construction techniques. Further information of this could be conditioned should permission be granted.

9.142. The applicant's agent has also noted that there is no intention of removing any trees or hedgerows as part of this proposal.

Conclusion

9.143. Subject to conditions, it is considered that adverse effects to trees and biodiversity can be avoided.

Flooding Risk & Drainage

Policy Context

9.144. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.

9.145. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

Assessment

9.146. A site-specific Flood Risk Assessment (FRA) has been submitted alongside the application. The Environment Agency's flood maps indicate that none of the proposed development is within a higher risk flood zone and is within Flood Zone 1. The FRA finds a low flood risk for the site and the Environment Agency has raised no objections to the proposal on the ground of flooding risk.

9.147. The FRA notes that main source of flood risk is from surface water flooding. The FRA notes that at the moment infiltration is the dominant process of drainage at the location of the proposed sheds and drainage is considered to be slowly permeable. A surface water management plan is provided within the FRA so as to prevent increasing the flooding risk elsewhere.

9.148. The FRA notes that runoff could be managed by using infiltration and infiltration testing confirmed this is possible. The FRA sets out that the surface water from impermeable surfaces would be routed into infiltration trenches, feeding a soakaway to the south west of the sheds, to ensure that there would not be any increase in the rate of runoff or associated flood risk elsewhere.

9.149. In order to manage the residual risk of exceedance, the FRA notes that outflow from the soakaway is proposed to be directed towards the east, where an existing ditch would convey it southward, to an existing pond. The FRA notes that this ditch has formerly been dry and that the pond has normally been dry or had shallow water in its lower parts. The FRA states that there is an emergency outflow at the southern margin of the pond but no record of it ever having spilled. In absence of comments from OCC Drainage, Officers see no reason to doubt the findings and conclusions with the FRA regarding drainage. However, a detailed drainage plan or to scale details of the soakaway have not been provided and this could be conditioned should permission be granted.

Conclusion

9.150. Subject to further details, it is considered that the proposed development would not increase the flooding risk on the site or elsewhere and therefore accords with Policies ESD6 and ESD7 of the Cherwell Local Plan (2011-2031) Part 1.

Other Matters Including Need

Need

9.151. The Design and Access Statement submitted alongside the application discusses the need for the development. This states that the existing business sector within the applicants operate (i.e. arable cropping producing combinable crops) is reliant on European and Government subsidies and in light of the Brexit vote, these subsidies have not been guaranteed to farmers beyond 2020.

9.152. It is noted that the applicants have a son, and as part of ensuring the continuity and future economic viability of their business they have taken the decision to undertake an investment in a diversification project (this being the proposed poultry unit). Should the application be approved, it is intended that the son of the applicants will join the business with the eventual aim that he will run the unit once he has gained sufficient experience from a manager it is proposed to employ to run the unit initially.

9.153. The Design and Access Statement sets out there is long term growth in the poultry farming sector hence to desire to diversify. Furthermore, it is argued the grain wheat produced on the farm would be blended into the poultry feed and the manure produced by the farm would be recycled as fertiliser to support the arable enterprise (instead of fertiliser being bought in).

9.154. The applicants have reached a provisional agreement with Messrs Faccendas who operate a large factory at Brackley some 5.7 miles from the site of the site and who are undertaking a major investment in their Brackley plant and actively sourcing farmers to supply the plant.

9.155. The Council has sought the advice of an Agricultural Adviser (AA) who has reviewed the submitted documentation (including profit and loss accounts and figures for forecast returns to the business from the investment made) and has visited the site. The AA notes that whilst the profit and loss accounts appear healthy, they are not significantly so given that income is derived from nine office rentals.

The Council's AA also understood the concerns in relation to Brexit and subsidies noted above. The Council's AA was satisfied with the information they reviewed and concludes that the proposal is a sustainable development from a financial perspective and that it is likely to allow the farm to remain viable and sustainable for the next 25 years.

- 9.156. Regarding the other potential diversification options, it is noted by the applicants' agent that the only growth market in UK agriculture at present is in intensive poultry meat production.
- 9.157. Given the above, officers are content that there is sufficient justification for the proposed diversification of the current business and that the proposed poultry unit is likely to ensure that the agricultural business remains viable and sustainable in the long term.

The Possibility of Alternative Locations

- 9.158. The Design and Access Statement provides very limited information for the siting of the proposed poultry unit, notably why fields closer to existing buildings have been discounted. As noted already, the isolation of the unit from other built development is a concern. Following this, Officers requested further information regarding the reasoning for the siting and a detailed response was provided later by the applicant's agent. This provided information on why other fields closer to the farmyard complex were discounted. Officers also requested further information of the agricultural unit to understand where else the proposed poultry unit could be sited under the applicants' control and this was provided by the applicant's agent.
- 9.159. In summary, due to the nature of the development (intensive livestock), there are a number of locational constraints to this development which need to be satisfied, and not just from a planning point of view. For instance, an IPPC Permit is required from the Environment Agency in order to operate such a development. The response from the applicant's agent highlights that consideration was given to heritage assets, public rights of way users, residential amenity, amenity of the businesses within Middle Farm, environmental pollution and ecology in relation to the siting of the unit.
- 9.160. Officers consider that the reasoning provided for the siting of the proposed poultry unit on this relatively isolated parcel of land within the applicants' holding, having regard to other matters such as environmental pollution, impact on heritage assets and ecological, is considered to be sufficient to justify the siting of the proposed poultry unit. Officers therefore consider that the proposed poultry unit would be sited as close as reasonably practical to buildings on this agricultural unit.

Electric Vehicles

- 9.161. The Council's Environmental Protection Officer comments that they would wish to see the provision for electric charging points, but given the nature of the development this is not considered reasonable to request as a condition.

Comments by Third Parties

- 9.162. Third parties have raised concerns with the need for residential accommodation should permission be granted. It is worth noting that Mr Rymer (one of the applicants) informed the Council's AA that they will not be seeking further accommodation on the farm as they have the benefit of the farm's flat and an existing tied dwelling (i.e. a dwelling subject of an occupancy restriction) as well as three dwellings that they own in Brackley, Evenly and Mixbury.

- 9.163. Third parties have raised concerns in relation to the loss of agricultural land. The site has an agricultural land classification of grade 3, which is good to moderate agricultural land. However, this land is not considered to be within the higher quality grade 1 or 2 land; therefore the proposal would not result in the unnecessary loss of best most versatile land.
- 9.164. Third parties have raised concerns in relation to the morality of this intensive farming practice. Whilst these concerns are understood, moral objections to a proposal are not material planning considerations.
- 9.165. A third party has raised concerns that chicken carcasses would not be treated properly. For any birds that die, a dead bird shed has been provided on the site and there is a vehicle which will pick these up and dispose of them in a suitable way.
- 9.166. A third party has raised concerns about the burning of materials on the farm, but there are strict regulations on what materials can be burnt in the open.
- 9.167. Third parties have also raised concerns that do not constitute material planning considerations in this case including:
- Devaluation of property; and
 - Loss of private view.

Human Rights and Equalities

- 9.168. The Human Rights Act 1998 ("HRA") sets out fundamental freedoms which have been laid out by the European Convention on Human Rights ("ECHR"). In making any decisions, Cherwell District Council ("the Council") should have due regard to and take into account any implications that may arise under the HRA. As a public authority, it is unlawful for the Council to act in a manner which is incompatible with the ECHR.
- 9.169. The rights under the ECHR which the Council views as being the most likely to affect planning matters are: Article 6 (the right to a fair trial); Article 8 (right to respect for private and family life); Article 14 (prohibition of discrimination); and Article 1 of the First Protocol (protection of property).

Article 6

- 9.170. Officers have considered these matters and have resolved that, whilst there are potential rights in play, these will not be affected by the application due to the application being publicised by way of neighbour letter, site notice and in the local press giving affected third parties the opportunity to comment on the application and their views taken into account when considering the application. In this case any comments/concerns raised by third parties are listed above and have been taken into account in assessing the application. In addition, third parties were invited to the public meeting of the Planning Committee and had the opportunity to speak. Furthermore should a third party be concerned about the way the application was decided they could complain to the Local Government Ombudsman or if they question the lawfulness of a decision can appeal to the Courts for Judicial Review of the application.

Article 8 and Article 1 of the First Protocol

- 9.171. Officers have considered the duties under both Article 8 and Article 1 of the First Protocol and have resolved that the application does respect the private and family life of neighbours and does not fail to protect the neighbours' property.

Article 14

- 9.172. Officers have considered that, in the event that the application is granted planning permission, there will not be any discrimination (or potential discrimination) on neighbours.

Duty under The Equalities Act 2010

- 9.173. S149 of the Equalities Act 2010 ("EA") sets out what is known as the Public Sector Equality Duty ("PSED"). Under the PSED, the Council, as a public authority, must have due regard to the need to, inter alia, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and has to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.
- 9.174. Officers have considered the application and resolved that none of the protected characteristics is affected or potentially affected by the application.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.
- 10.2. The addition of this sizeable new building complex and associated infrastructure would undoubtedly have a harmful impact upon the rural character and appearance of the landscape. Officers consider that the proposal would cause moderate harm to the landscape character of the area. In addition, whilst it is accepted views of the site will be relatively localised, Officers consider that there would be significant harm to the immediate locality and harm to the enjoyment of users of the nearby Public Rights of Way. Furthermore, it is considered that there would be some additional harm upon the tranquillity of the area. The proposal is therefore considered to be contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and saved Policies AG2, C8 and C28 of the Cherwell Local Plan 1996.
- 10.3. In addition, it is considered that the proposal would cause less than substantial harm to the three listed buildings within the Middle Farm complex as it would somewhat erode its pleasant rural setting by virtue of the scale of the proposed intensive agricultural development and its relatively close proximity to these listed buildings. Whilst the level of harm is not considered to be 'serious', there is still some conflict with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and public benefits will need to outweigh this identified harm as outlined in Paragraph 196 of the NPPF.
- 10.4. As such other material considerations are required to outweigh the above identified harm. In this case, there is considered to be sufficient justification for the need to diversify the current agricultural business and the proposed poultry unit is likely to ensure that the agricultural business remains viable and sustainable in the long term, and is therefore reasonable for the purposes of agriculture. As a consequence, the proposal would also be in line with Paragraph 83 of the NPPF which states that Local Planning Authorities should support economic growth in rural areas by

supporting the growth and expansion of all types of business in rural areas and promoting the development and diversification of agricultural businesses.

- 10.5. In addition, the proposed development would create additional employment on the site with two full time jobs and would support jobs within the associated services industry within the poultry sector, for example, haulage contractors, chick suppliers, poultry feed suppliers, veterinary and medicine, cleaning contractors and pest control contractors. New development also provides some construction opportunities. In terms of social benefits the proposal would contribute in meeting national food security.
- 10.6. Whilst the proposed development is considered to be isolated from other buildings, given other factors Officers consider that the proposed poultry unit would be sited as close as reasonably practical to buildings on this agricultural unit. Furthermore, it is considered that the proposed development would not cause demonstrable harm in terms of environmental pollution, highways safety and flooding risk.
- 10.7. Officers consider that the conflicts with the development plan identified above are substantial. However, officers consider that the economic and social benefits identified above are also substantial and are sufficient to outweigh the identified harm, albeit that this is a finely balanced matter. It is therefore concluded that the proposal constitutes sustainable development and the application is recommended for approval.

11. **RECOMMENDATION**

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) **AND THE APPLICANTS ENTERING INTO A SECTION 278 AGREEMENT** IN RELATION TO THE PASSING LANES ON FEATHERBED BETWEEN THE A421 (BANBURY ROAD) AND THE SITE.

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:
 - Application form submitted with the application;
 - Design, Access and Planning Statement by Ian Pick Associates Ltd dated March 2019 submitted with the application;
 - Drawing Numbers: IP/PR/01; IP/PR/02; IP/PR/03; and IP/PR/04 submitted with the application
 - Environmental Statement by Ian Pick Associates dated March 2019 submitted with the application along with the appendices submitted

within this;

- 'A Report on the Modelling of the Dispersion and Deposition of Ammonia' by As Modelling & Date Ltd dated 11th March 2019 received from the applicant's agent by e-mail on 12th April 2019; and
- Drawing Numbers IP/PR/06 and IP/PR/07 received from the applicants' agent by e-mail on 15th April 2019.

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.

Drainage Scheme

3. Prior to the commencement of the development hereby approved, full details of a drainage strategy for the entire site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out and completed strictly in accordance with the approved drainage strategy, until which time no discharge of foul or surface water from the site shall be accepted into the public system.

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community in accordance with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Landscape & Environmental Management Plan

4. Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) for a minimum period of 15 years, to include the timing of the implementation of the schedule and procedures for the replacement of failed planting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved LEMP.

Reason: In the interests of the character and appearance of the area, to ensure the creation of a pleasant environment for the development, to protect habitats of importance to biodiversity conservation from any loss or damage and to comply with Policies ESD10, 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.

Landscaping Scheme

5. Prior to the commencement of the development, and notwithstanding the details shown on Drawing Number IPA1005SL submitted with the application, a landscaping scheme shall be 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; and

- d) full details of the dirty water tank to the south west of the building, including elevations.

The development shall be carried out in accordance with the hard landscape elements of the approved scheme prior to the first use of the development.

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 building(s) 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 character and appearance of the area, to ensure the creation of a pleasant environment for the development and to comply with Policies 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.

Construction Traffic Management Plan

6. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The CTMP will include a commitment to deliveries and other large vehicle movements associated with the development avoiding the school and network peak periods. The development shall not be carried out other than in accordance with the approved CTMP.

Reason: In the interests of highway safety, in the residential amenities of neighbouring occupiers and to comply with Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

Passing Places

7. Prior to the commencement of the development hereby approved above slab level, full details of 4no passing places on Featherbed Lane between the A421 (Banbury Road) and the site including, position, layout, construction, surfacing and drainage shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the commencement of the development, the 4no passing places shall be provided on the site in accordance with the approved details.

Reason: In the interests of highway safety and to comply with Policies SLE4 ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Specification Detail of Access, Parking and Manoeuvring Areas

8. Prior to the commencement of the development hereby approved above slab level, full specification details (including construction, layout, surfacing and

drainage) of the access track, parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason: In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Lighting Scheme

9. No development shall commence unless and until full details of any lighting to be fixed on the buildings and on the ground have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason: In order to safeguard the amenities of the area, to protect habitats of importance to biodiversity conservation from any loss or damage and to comply with Policies ESD10, 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.

Footpath Crossing

10. Prior to the commencement of development hereby approved above slab level, full details of warning signs and pedestrian gates in relation to Public Right of Way 303/11/20 which runs across the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The approved signs and gates shall be carried out in accordance with the approved details prior to the commencement of development hereby approved above slab level and shall be retained as such thereafter.

Reason: In the interests of the safety of footpath users and in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Tree Protection Plan and Arboricultural Method Statement

11. Prior to the commencement of the development hereby approved above slab level, a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be 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 TPP and 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.

Routing Strategy

12. Prior to the first use of the poultry unit, a Routing Strategy for HGVs shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the Routing Strategy shall be implemented in accordance with the approved details.

Reason: In the interests of highway safety, to mitigate the impact of HGVs on the surrounding highway network and road infrastructure and local residents, and in accordance with Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Hardstanding

13. All hard standing areas within the site must be constructed from a permeable material, or provision must be made within the site for surface water to discharge to soakaway/SUDS feature. There must be no increase in surface water run-off from the site to the highway or neighbouring properties as a result of this proposal.

Reason: In the interests of highway safety and flood prevention and to comply with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Unsuspected Contamination

14. 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.