

Case Officer: Bob Neville

Applicant: Mr Smith

Proposal: Change of use of existing agricultural buildings to commercial for (B1) light Industrial, (B2) General Industrial and (B8) general purpose storage uses

Ward: Adderbury Bloxham and Bodicote

Councillors: Cllr Mike Bishop
Cllr Chris Heath
Cllr Andrew McHugh

Reason for Referral: Major development

Expiry Date: 23 September 2019 **Committee Date:** 19 September 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

The application seeks planning permission for the conversion and change of use of existing agricultural buildings to provide commercial for (B1) light Industrial, (B2) General Industrial and (B8) general purpose storage uses with associated access, parking and landscaping.

Consultations

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

- Bloxham Parish Council, Milton Parish Council, OCC Highways, OCC Drainage and CDC Planning Policy

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

- CDC Building Control, Environmental Protection and OCC Minerals and Waste

Two letters of objection have been received and no letters of support have been received.

Planning Policy and Constraints

The site is not within a designated area and there are no heritage assets within the immediate vicinity of the site; the nearest listed buildings being within the Milton Conservation Area some 750m to the east of the site. The site is within a Minerals Consultation Area. The site is also in an area where the geology is known to contain naturally occurring elevated levels of Nickel, Chromium and Arsenic and is also within a buffer zone of an area of potentially contaminated land associated with the former railway line that ran along the northern boundary of the site. Public Rights of Way (PRoW) run along the northern boundary (Footpath 300/1/10) of the site and across the field (Footpath 300/2/10) to the front south-east of the site continuing through the farm complex and joining up with the route to the north of the site

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 Principle of development
- Highway Safety
- Design, and impact on the character of the area
- Residential amenity
- Drainage and Flood-risk
- Energy Efficiency/Sustainability
- Ecology and Biodiversity

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

1. The proposed development represents an unjustified and unsustainable form of employment development in a rural location, and it has not been demonstrated that exceptional circumstances exist for such development in this unsustainable location. Further, it has not been demonstrated that the proposals would be of sustainable construction or embrace the principles of sustainable development including the use of renewable forms of energy.

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 relates to a complex of farm buildings (7no portal framed buildings and a farmstead courtyard containing residential dwellings) and associated yard/hardstanding in open countryside midway between the villages of Milton and Bloxham. The agricultural buildings are predominantly steel portal framed buildings with elements of timber boarding, metal cladding and concrete blockwork and panelling to the walls under corrugated roofing (metal and fibre cement) material. The site is accessed by a single lane private track off the road connecting Bloxham and Milton with Adderbury beyond.
- 1.2. The northern boundary of the farm complex is bounded by a mature hedgerow with land slightly rising to the north. To the west of the site is the Newlands Farm Recycling Centre and to the east is a further complex of buildings in residential use associated with the farmstead. The southern aspect of the site is fairly open with views from the adjacent highway across an agricultural field, albeit there is an existing hedgerow bordering the field and the highway with a number of trees within this boundary.

2. CONSTRAINTS

- 2.1. In terms of site constraints, the site is not within a designated area and there are no heritage assets within the immediate vicinity of the site; the nearest listed buildings being within the Milton Conservation Area some 750m to the east of the site. The site is within a Minerals Consultation Area. The site is also in an area where the geology is known to contain naturally occurring elevated levels of Nickel, Chromium and Arsenic and is also within a buffer zone of an area of potentially contaminated land associated with the former railway line that ran along the northern boundary of

the site. Public Rights of Way (PRoW) run along the northern boundary (Footpath 300/1/10) of the site and across the field (Footpath 300/2/10) to the front south-east of the site continuing through the farm complex and joining up with the route to the north of the site (albeit that there was little visual evidence of the existence of this route noted during the site visit).

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks planning permission for alterations to and change of use of four of the existing agricultural buildings to form commercial units for (B1) light Industrial, (B2) general Industrial and (B8) general purpose storage uses with associated access, parking and landscaping. The alterations would comprise additional and replacement cladding, roller shutter and pedestrian doors to the existing buildings. Building 1 would be subdivided to create to 2no units (~140 sqm and ~213 sqm internal floor space); Building 2 subdivided to create to 7no units (~107 sqm); Building 3 subdivided to create to 3no units (~163 sqm, 205sqm and ~206 sqm); Building 4 subdivided to create to 3no units (~39 sqm). The remaining buildings would continue in agricultural use supporting the continued farming operations at the site.
- 3.2. During the application revised and additional information has been submitted in response to officer concerns with regard to the lack of supporting information, inconsistencies within the submission and design changes to the proposed buildings. Officers have therefore agreed an extension of the determination period of the application with the applicant's agent, to allow them time to submit the necessary information to address perceived deficiencies in the application and then the due consideration of such.

4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
05/01663/AGN	Erection of building for young cattle	Prior approval not required.
02/01251/F	Erection of open-sided storage building for hay and straw	Application permitted
CHN.482/92	Conversion of redundant building into single dwelling	Application permitted
CHN.643/89	Conversion of redundant building into single dwelling	Application permitted
CHN.610/81	General purpose agricultural building (retrospective)	Application permitted

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, 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. A further consultation exercise was also undertaken in light of revised and additional information being received. The final date for comments was 23/6/2019, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. Two letters of objection have been received from local residents during the course of the application. The comments raised by third parties are summarised as follows:
- The proposals and associated pollution (air, noise, light, traffic emissions) would have a negative impact on Milton and surrounding countryside.
 - Milton Road has seen significant new development resulting in a significant increase in traffic, resulting in detrimental impacts on highway safety; the proposals would exacerbate this situation with additional vehicle movements.
 - Access from the Adderbury/Bloxham Road inadequate to meet the increased traffic movements of the proposed development.
- 6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BLOXHAM PARISH COUNCIL: **Objects**

- 7.3. MILTON PARISH COUNCIL: **Objects**

CONSULTEES

- 7.4. BUILDING CONTROL: **No objections.** The proposals would require a separate Building Regulations approval.
- 7.5. ECOLOGY: No comments received.
- 7.6. ECONOMIC DEVELOPMENT: No comments received.
- 7.7. ENVIRONMENTAL HEALTH: **No objections.**
- 7.8. OCC DRAINAGE: **Objects**, on the basis that insufficient drainage information has been provided to enable a full technical assessment of surface water risk to the proposed site.
- 7.9. OCC HIGHWAYS (LHA): **Objects**, on the grounds of the unsustainability of the location of the site.
- 7.10. OCC MINERALS AND WASTE: **No objections.**
- 7.11. OPENSACES SOCIETY: No comments received.

7.12. PLANNING POLICY: **Objects**, highlighting the conflict with Policy SLE 1.

7.13. RAMBLERS ASSOCIATION: 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)

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development
- SLE4: Improved Transport and Connections
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD5: Renewable Energy
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- TR7: Development attracting traffic on minor roads
- TR10: Heavy Goods Vehicles
- C8: Sporadic Development in the Open Countryside
- C28: Layout, Design and External Appearance of New Development
- C31: Compatibility of proposals in residential areas.
- ENV1: Pollution Control
- ENV12: Land Contamination

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Connecting Oxfordshire: Local Transport Plan 2015-2031 (LTP4)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- CDC Annual Monitoring Report 2018 (AMR 2018)

8.4. Council's 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 development
- Highway Safety
- Design, and impact on the character of the area
- Residential amenity
- Drainage and Flood-risk
- Energy Efficiency/Sustainability
- Ecology and Biodiversity

Principle of Development

9.2. Legislation in the form of Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require planning applications to be determined against the provisions of the development plan for the area unless material considerations indicate otherwise. Current national planning policy within the NPPF (which is a material planning consideration of significant weight) reaffirms this position and confirms that the starting point for proposals that are contrary to an up-to-date Local Plan (i.e. those local planning policies within a development plan document that are consistent with the NPPF) is refusal unless material considerations justify a departure from it.

9.3. Court judgements have concluded that there is no presumption in favour of sustainable development within the NPPF where a proposal conflicts with an up-to-date development plan given that the plan itself will have been prepared against national planning policy and guidance and so must in itself be a sustainable strategy for the area. As a result, significant and specific overall benefits would need to be demonstrated to justify departing from a development plan that is up-to-date with respect to national policy rather than a generic balancing exercise as part of a presumption in favour of sustainable development.

Policy Context

- 9.4. The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having three dimensions: economic, social and environmental; and seeks to secure support for the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings and encourages Local Planning Authorities to proactively meet the development needs of business.
- 9.5. Policy PSD1 of the CLP 2031 echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.6. NPPF Para. 84 advises of the need to recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
- 9.7. The Cherwell Local Plan 2011-2031 Part 1 (CLP 2031) looks to sustainable new development and primarily focuses new growth in the District to Banbury and Bicester whilst limiting it elsewhere in order to provide for the most sustainable form of growth over the plan period. Amongst other things it identifies a number of strategic sites for housing and employment development in and around Banbury so that they are provided in carefully considered proportions in order to deliver a sufficient number and type of jobs to reduce the need for out-commuting from Banbury arising from the new housing which would be unsustainable.
- 9.8. Policy ESD1 advises that measures will be taken to mitigate the impact of development within the District on climate change. This in part includes distributing growth to the most sustainable locations and delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars. And includes designing developments to reduce carbon emissions and use resources more efficiently, to ensure that development is more resilient to climate change impacts.
- 9.9. The proposals look to provide new employment generating 'B' Class use units in a rural location, albeit through the conversion of existing agricultural buildings; in this respect Policy SLE1 of the CLP 2031 is considered relevant. Policy SLE1 seeks to protect existing employment sites whilst supporting sustainable economic growth. It states that: *Employment development will be focused on existing employment sites. On existing operational or vacant employment sites at Banbury, Bicester, Kidlington and in the rural areas employment development, including intensification, will be permitted subject to compliance with other policies in the Plan and other material considerations.*
- 9.10. However, in respect of new employment development in rural areas on non-allocated sites Policy SLE1 further states: *'Unless exceptional circumstances are demonstrated, employment development in the rural areas should be located within or on the edge of those villages in Category A'.*

9.11. Further that: *'New employment proposals within rural areas on non-allocated sites will be supported if they meet the following criteria:*

- 1) *They will be outside of the Green Belt, unless very special circumstances can be demonstrated.*
- 2) *Sufficient justification is provided to demonstrate why the development should be located in the rural area on a non-allocated site.*
- 3) *They will be designed to very high standards using sustainable construction and be of an appropriate scale and respect the character of villages and the surroundings.*
- 4) *They will be small scale unless it can be demonstrated that there will be no significant adverse impacts on the character of a village or surrounding environment.*
- 5) *The proposal and any associated employment activities can be carried out without undue detriment to residential amenity, the highway network, village character and its setting, the appearance and character of the landscape and the environment generally including on any designated buildings or features (or on any non-designated buildings or features of local importance).*
- 6) *The proposal will not give rise to excessive or inappropriate traffic and will wherever possible contribute to the general aim of reducing the need to travel by private car.*
- 7) *There are no suitable available plots or premises within existing nearby employment sites in the rural areas.*

The Local Plan has an urban focus. With the potential for increased travel by private car by workers and other environmental impacts, justification for employment development on new sites in the rural areas will need to be provided. This should include an applicant demonstrating a need for and benefits of employment in the particular location proposed and explaining why the proposed development should not be located at the towns, close to the proposed labour supply'.

Assessment

9.12. Policy SLE1 advises of the need for exceptional circumstances to be demonstrated where such development is not sustainably located, and further sets out several criteria which also need to be met, as noted above, for such development to be considered acceptable. Taking these in turn:

9.13. 1) *Green Belt* – The proposals would be outside of the Green Belt.

9.14. 2) *Justification* - The applicant has put the proposals forward on the basis of being rural diversification scheme and restructuring of the existing farm business; looking to re-use redundant buildings to provide a more profitable business option going forward, following a downturn in the existing business running a pedigree Limousin cattle herd for the high-end cattle breeding market and significant financial losses previously incurred; largely as a result of vulnerability in market variations and prevalence of diseases affecting the breeding cattle in recent years, including Tuberculosis (TB) and Johne's Disease.

9.15. A confidential Justification Statement (JS) submitted in support of the application sets out three options that were considered by the business, with the option (option 3) being taken-up being to:

- Sell all pedigree Limousin cattle,
- Keep a small cattle herd

- Rent out surplus grassland and livestock sheds as commercial

- 9.16. It is noted that there is a discrepancy between the Planning Statement and JS in respect of option 3. However, the JS for the application goes on to advise that the business has indeed sold its pedigree Limousin breeding herd during 2018, and that the agricultural business will continue to have a beef enterprise through the purchase of a mixed breed herd and that this will allow for farming operations to continue on the holding and with a mixed breed herd to generate some income for the agricultural business. The herd will, however, be considerably smaller than the pedigree herd and only utilise one livestock building on the farm. This means that several the livestock buildings subject of this application will become redundant and will not be needed for the continuation of the agricultural activity at Brickhouse Farm.
- 9.17. The proposals are put forward as a diversification of the existing agricultural business. However, officers would consider that appropriate diversification would involve uses that are more ancillary to the existing farming business e.g. a farm shop, rural tourism (tourist accommodation or farm attractions) or business(es) related to agriculture; whereas the current proposals represent a new business venture rather than diversification of the existing agricultural business.
- 9.18. Whilst the applicant has explored various options to increase levels of profit and viability of the business going forward, no evidence has been submitted to suggest that the option of solely retaining the site for an agricultural use in a different ownership has been explored, nor that variations and impacts on the agricultural industry are not exclusive to this and are experienced by farming enterprises across the district.
- 9.19. 3) *Design* - The proposals would essentially be conversion of existing structures, with additional cladding and new roller shutter and pedestrian doors being installed and are considered to represent functional design responding to the context, as opposed to good quality design. No information has been supplied in respect of the sustainability of the construction.
- 9.20. 4) *Scale* - The scale of the buildings would not change and, whilst the currently open structures would in-filled, these would be of materials consistent with those in use on the existing buildings. Visually the operational development necessary to convert the buildings would not result in significant adverse impacts on the character of the site or surrounding environment.
- 9.21. 5) *Impacts on residential amenity, the highway network, character and setting* - Given the site's rural context, the proposals would not likely result in significant impacts on residential amenity, other than on the existing residential farmstead units which are in the applicant's control.
- 9.22. The character of the site would change from a typical agricultural farm to a more commercial site. The end users of the proposed units are not known at this stage and as such trip generation, employment levels and the level of intensification of use of the site cannot be fully quantified at this stage. However, it should be noted that the application proposes flexible Class B1, B2 and B8 uses in the units across the site and differing levels of employment and activity would usually be associated with each of these uses; for example a Class B2 use could include a vehicle repair centre which is likely to have significant daily movements whilst a Class B8 storage unit could generate very little movement to and from the site if it was just used for medium to long-term storage. A more intense use of the site would likely impact on the character and appearance of the site and its wider rural setting.

- 9.23. In terms of impacts on the highway network the LHA notes that traffic would likely impact on existing congested villages, highlighting the mini roundabout in Bloxham with the Barford Road, Church Street and the A361, the traffic signals in Adderbury with the A4260 and B4100 and finally the Deddington signals with the A4260 and B4031, as key pinch points. However, the LHA does not object on these grounds. Transport impacts are discussed further below, but it is considered likely that the proposals would not result in such severe impacts on the local road network as to warrant a reason to refuse the application.
- 9.24. 6) *Traffic and movements* - The site is not in a sustainable location and this is acknowledged by the applicant's agent in correspondence (letter dated 17 Aug 2019) received during the application. The site is in open countryside with no pedestrian links to either Milton to the east of Bloxham to the west or convenient access to public transport and as such those using the proposed units, including employees and customer/visitors would be reliant on the use of motor vehicles to travel to and from the site. An intensification of the use of this site would thus not be appropriate given that the only attractive access is by private motor vehicle and Bloxham facilities are also not suitably accessible by sustainable transport
- 9.25. Given the size of the units it is unlikely that there proposed use would give rise to significant HGV units with smaller businesses tending to use smaller commercial vans. Overall, however, there would be a heavy reliance on the use of cars and vans and this would conflict with the provisions and aims of both national and local policy guidance in looking to contribute to the general aim of reducing the need to travel by private car.
- 9.26. In this instance no supporting information on how the applicants would look to achieve such sustainable transport options or limit vehicle movements reducing the need to travel, have been submitted. The proposals would therefore demonstrate conflict with the provisions and aims of both local and national planning policy in terms of sustainable transport.
- 9.27. 7) *Existing opportunities* - The applicant has undertaken an assessment of market conditions and availability of other commercial units within Banbury and surrounding areas. The report identifies several units that are available and provides an assessment of each of the units. The report concludes that the proposed re-use of the buildings at the site would contribute to meeting a lack of existing supply on existing estates and rural areas and would be no different other rural industrial estates including West Street Shutford, Apollo Business Park Wroxton and Sugarswell Business Park Shenington. However, it is unclear as to the type of target end users, with the proposed plans showing the units to be little more than enclosed barns with no internal facilities such as offices and staff welfare facilities. Whilst officers acknowledge that such facilities could be incorporated at a later date without requiring a further consent, this in itself would limit the appeal of such units to potential B1 or B2 businesses, as currently proposed.
- 9.28. Whilst the report does provide a snap shot of commercial unit availability at the time of the preparation of the report, it does highlight that there are existing options available that would have a similar offering as the proposed development. It is also noted that were a number of units that were identified as 'no longer' being available within the assessment section of the report, but an online search undertaken at the time of the preparation this report appeared to show some of these units as still being available. The case officer dealing with this application is also handling a planning application at one of the units (3 Mallorie House Banbury) which was highlighted as no longer being available, but which was vacant at the time of the preparation of this report. Further units also appear to be available, in some respects demonstrating fluidity in the commercial market.

9.29. In terms of employment development monitoring within the district, the Council's Annual Monitoring Report 2018 (AMR 2018) highlights the following key facts:

- The district has seen a low gain in employment floorspace with 951 sqm completed over 2017/18 following a high return in 2016/17 (103,000 sq m).
- At 31 March 2018 there was nearly 500,000 sq m (net) of employment floorspace with planning permission but not constructed.
- Employment land which includes allocations and permissions amounts to 287.14 ha. There are nearly 79 ha of remaining allocated employment land yet to receive planning permission.
- Only 0.51 ha of employment land was lost to non-employment use during 2017/18.
- Overall there was a small loss of 281.92 sq m (net) floorspace in tourism related developments over the course of 2017/18.

9.30. The AMR 2018 highlights that whilst there has been a decrease in the number of completions there remain consents that could be implemented and further ample land allocated for employment development.

Conclusion

9.31. Whilst there would be benefits to the applicant going forward in providing an alternative income through the re-use of the existing agricultural buildings, officers consider that it has not been satisfactorily demonstrated that exceptional circumstances exist, that provide sufficient justification as to why new employment development should be allowed in this unsustainable location, and that any such need that may exist could not be met on existing or allocated employment sites. The proposals are therefore contrary to the provisions and aims of Policies SLE1 and ESD1 of the CLP 2031 and Government guidance within the NPPF.

Highway Safety

Policy Context

9.32. The NPPF (Para. 108) states that the planning system should actively manage patterns of growth in support of the achievement of promoting sustainable transport. However, notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

9.33. The NPPF (Para. 108) advises that in assessing specific applications for development, it should be ensured that:

- a) [appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;] – *assessed earlier in this report*
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

9.34. Saved Policy TR7 of the CLP 1996 states that: '*Development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads will not normally be permitted*'.

- 9.35. 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. The council will resist proposals for the establishment of heavy-goods-vehicle operating centres where they would create traffic problems or adversely affect the amenity of residential areas or villages'*.

Assessment

- 9.36. The site is accessed via an existing gated access and access track off the road connecting Bloxham, Milton and further to Adderbury, and which links into the wider road network at key points in Adderbury and Bloxham. The proposals would result in an intensification in traffic movements to and from the site above current levels, and those when the site was in a more active use. Following concerns being raised by officers at the application was registered, the applicant submitted a Transport Statement (TS) which has been subsequently updated and supplemented with further information during the application in response to comments from the LHA.
- 9.37. The TS sets out that whilst there would be an increase in vehicle movements that these would not be significantly above those experienced when the farm operations were at their height; indicating figures of 114-228 of proposed vehicle movements, as opposed previous levels at 38 to 88 trips a day onto Milton Road based on a 12-hr working day and between 56 and 131 trips based on an 18-hour day. The TS and further information submitted during the application, including 'Visibility splay and passing places' plan (03 Rev. A) demonstrate that appropriate vision splays can be achieved for the surveyed speeds of passing vehicles.
- 9.38. The LHA has assessed the proposals and additional information that has been submitted during the course of the application and does not object on the grounds of impact on highway safety or to the network.
- 9.39. The LHA originally objected to the proposals in respect of the access onto the highway and access track. Amended plans have been submitted during the application which look to address visibility splay issues at the access to the site and passing bays have been included along the access track. The inclusion of passing bays along the access track allow for two-way passing and are considered acceptable. In respect of the visibility splays, the LHA is not clear of the status of the highway at that location. However, given that it is likely that this issue could likely be resolved and could be dealt with through a Section 278 Agreement the LHA has removed its objection in this respect.
- 9.40. There are Public Rights of Way (PRoW) that cross land at the front south-east of the site continuing through the farm complex and joining up with the route to the north of the site. During the site it was evident that the authorised route to the south-east of the site did not appear to be heavily used, with no signs of use across the field or any access through the boundaries of the field.
- 9.41. It is noted that no objections or comments have been received from the County Council's PRoW Officer or Ramblers Association in response to consultation on the application. The proposals would not directly impact on the authorised routes other than more frequent vehicle movements along part of the access track. If the Council were minded to approve the application, conditions and informative notes would be recommended noting that the PRoW should not be obstructed by vehicles (during construction and occupation) or plant and machinery during construction so that the right of way would remain available and convenient for public use.

Conclusion

9.42. The NPPF (Para. 109) states that: *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*. Notwithstanding issues with regards to the sustainability of the location of the site, and whilst the comments of both Milton and Bloxham Parish Councils and Third Parties are duly noted, in relation to the impacts of increased vehicular movements, it is considered that given the scale of the proposals and the likely type and frequency of vehicular movements associated with the proposed development, it is unlikely that such impacts would be so significant, or severe, that they would be to the detriment of the safety and convenience of highway users to the extent that it would warrant a reason to refuse the application on highway safety grounds alone.

Design, and impact on the character of the area

Policy Context

9.43. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

9.44. These aims are also echoed within Policy ESD15 of the CLP 2031 which looks to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness, further stating that: *"Development of all scales should be designed to improve the quality and appearance of an area and the way it functions, deliver buildings, places and spaces that can adapt to changing social, technological, economic and environmental conditions and support the efficient use of land and infrastructure, through appropriate land uses, mix and density/development intensity"*.

9.45. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Further, saved Policy C30 of CLP 1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.

9.46. Policy ESD13 of the CLP 2031 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not normally 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, or impact on areas judged to have a high level of tranquillity.

Assessment

9.47. As noted above the proposals are functional in their design, working with the existing structures, limiting changes to the external appearance of the buildings. Internally the proposals would result in enclosed structures with no associated facilities; which whilst such would provide adequate storage facilities, would be limited in terms of supporting potential B1 and B2 business uses, unless such amenities and facilities were incorporated at a later date.

9.48. The proposals are open to views from the public domain, with the main vantage points being from the adjacent highway (at a distance of approx. 250m) and clearly from the PRow that run through and along the boundaries of the site.

- 9.49. The proposals would see the enclosing of the existing portal framed buildings with new walls and access doors and would not result in any significant increase in the scale or form of the existing structures. Views of the site from the adjacent highway presently are of the rear elevation of the barn at the southern of the site (which is a blockwork wall with cladding above), and the end elevations of two portal framed buildings (largely open with metal gates, timber fencing to lower sections of the elevations and profiled metal cladding to the upper end gables). Officers consider that the views of the site from the south would not be significantly affected by the proposed operational development.
- 9.50. Whilst finish materials are not specifically detailed within the application, the submitted drawings appear to indicate that materials would likely be consistent with those currently in use on the buildings. This is a matter that could be further controlled by way of appropriate conditions attached to any such permission should the Council be minded to approve the application.
- 9.51. The proposed commercial use would not extend beyond the confines of the existing farm complex with associated hardstanding. Whilst the proposed change of use would change the character of the site in the rural context, it is considered that any potential visual impacts could be largely mitigated by way of natural screening and an appropriate landscaping scheme. In order to address the visual impacts of the proposed development the applicant has submitted a landscape plan during the course of the application. Whilst this plan is limited in terms of specific detail of species and planting, it does indicate the potential for natural screening and it is considered that appropriate details could again be secured by way of appropriate conditions attached to any such permission, should the Council be minded to approve the application.

Conclusion

- 9.52. Officers consider that, whilst the proposals would result in a change in the character of the site, any harm that would be caused to the wider landscape setting and setting could be adequately be mitigated through an appropriate landscaping scheme, providing natural screening of the site, and any visual intrusion would not be so significant that it would warrant a reason to refuse the application on these grounds alone.

Residential Amenity

Policy Context

- 9.53. Policy C31 of the CLP 1996 states that: *'In existing and proposed residential areas any development which is not compatible with the residential character of the area, or would cause an unacceptable level of nuisance or visual intrusion will not normally be permitted'*; with the aim being that new development, including changes of use, does not prejudice the environment of the areas concerned. These provisions are echoed in Policy ESD15 of the CLP 2031 which states that: *'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'*.

Assessment

- 9.54. The site is in a rural location and is divorced from the nearby villages of Milton (630m to the east) and Bloxham (620m to the west), and as such is not likely to have any direct significant impacts on the residential amenity of properties in these settlements.

- 9.55. There are residential properties within the farmstead, also in the applicant's control, at the site, to the west of the buildings and land proposed to be changed in use. However, there are agricultural buildings on intervening land that would be retained in agricultural use. The Council's Environmental Protection Officer has assessed the application and raises no concerns in respect of the potential impacts on the amenities of the occupants of these properties. Officers see no reason to disagree with the EHO's assessment.
- 9.56. Were the Council minded to approve the application, conditions could potentially be applied with regards to operational times of the proposed units, to ensure that the proposed use does not impact to any significant extent on the amenities of the properties within the farmstead. It is therefore considered that the proposals are unlikely to result in any significant impacts on these properties above those currently experienced from the existing agricultural use.

Conclusion

- 9.57. Officers are satisfied that the development could be made acceptable in residential amenity terms.

Drainage and Flood-risk

Policy Context

- 9.58. 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.
- 9.59. 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

- 9.60. The County Council's Drainage Team have assessed the application, and further information submitted during the course of the application, and sustain an objection in terms of the lack of supporting information in respect of the proposed drainage of the site. However, they acknowledge that this is essentially a conversion scheme and proposals would not create any significant new impermeable surfaces, and that it is likely that an acceptable solution could be achieved given that the existing site and buildings is currently drained.
- 9.61. No drainage details or assessment of flood-risk has been submitted with the application, and such matters have not been satisfactorily addressed by the applicant's agent despite the issue being brought to their attention during the course of the application. The agent has indicated that they would be willing to provide additional information in respect of drainage however, such information had not been submitted in time for appropriate consideration and consultation at the time of preparation of this report.
- 9.62. The site is not within an area of higher than normal potential for flood-risk (Flood Zone 1) and as noted above the proposals are not likely exacerbate the potential for flood-risk above the current situation. It is considered likely that an acceptable sustainable drainage solution is achievable and such matters could be secured by way of appropriate conditions.

Conclusion

- 9.63. Whilst there is a lack of sustainable drainage details for the proposed development at this stage, it is considered that acceptable details could be secured by way of appropriate conditions attached to any such permission, should the Council be minded to approve the application, to ensure that the proposals would be acceptable in terms of flood-risk and drainage.

Energy Efficiency/Sustainability

Policy Context

- 9.64. The Ensuring Sustainable Development of the CLP2031 require new development to reduce carbon emissions, use resources more efficiently, incorporate renewable energy provision in the interests of sustainable development and looking to mitigate the impacts of climate change.
- 9.65. Policy ESD 3 of the CLP 2031 requires that all new non-residential development will be expected to meet at least BREEAM 'Very Good' with immediate effect, subject to review over the plan period to ensure the target remains relevant. The demonstration of the achievement of this standard should be set out in the Energy Statement.
- 9.66. Policy ESD 5 of the CLP 2031 requires a feasibility assessment of the potential for significant on-site renewable energy provision (above any provision required to meet national building standards) for all applications for non-domestic developments above 1000m² floorspace. And that where feasibility assessments demonstrate that on site renewable energy provision is deliverable and viable, this will be required as part of the development unless an alternative solution would deliver the same or increased benefit.

Assessment

- 9.67. No information/assessment has been submitted with the application in terms of demonstrating the sustainability of the proposed development or potential for the inclusion of renewable sources of energy at the site.
- 9.68. The proposals would result in the re-use of existing agricultural buildings and therefore could be considered sustainable in this respect. However, there is no assessment as to how efficient the buildings would be in terms minimising both energy demands and energy loss, whilst embracing opportunities for maximising passive solar lighting and natural ventilation; in turn maximising resource efficiency. Without such assessment or satisfactory details being submitted, officers consider that the sustainability credentials of the proposed development are significantly limited.

Conclusion

- 9.69. The proposals demonstrate significant conflict with Policies ESD3 and ESD5 of the CLP 2031 which, when coupled with the issues with regards to the sustainability of the location, and conflict with Policies SLE1 and SLE4 of the CLP 2031 discussed above, result in an unsustainable form of development contrary to the provisions and aims of both local and national policy guidance and therefore unacceptable in this regard.

Ecology Impact

Legislative context

- 9.70. 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.
- 9.71. 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.
- 9.72. 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.
- 9.73. 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.
- 9.74. 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

- 9.75. 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.

- 9.76. 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.
- 9.77. 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.
- 9.78. 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.
- 9.79. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.80. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.81. 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.

Assessment

- 9.82. No ecological appraisal has been submitted in support of the application. However, there are also no records of protected species as being present. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPA's 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’)

9.83. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site consists existing open-sided agricultural structures and established hedgerow to the northern boundary of the site. There are a number of trees close by and in the boundary of the site which would not be affected by proposals. There are no buildings to be removed due to the proposed development and given the open nature of the existing structures it is considered that there is limited potential for bats or nesting birds to be present.

9.84. Whilst no formal comments have been received from the Council’s Ecologist, in light of Natural England’s Standing Advice and taking account of the site constraints it is considered that the site has limited potential to contain protected species and any species present are unlikely to be adversely affected by the proposed development. As such no formal survey is required and in the absence of which this does not result in a reason to withhold permission. An informative note reminding the applicant of their duty to protected species would need to be included on any approval and is considered sufficient to address the risk of any residual harm.

9.85. In respect of the requirements of Policy ESD 10 of the CLP 2031 and guidance within the NPPF, in terms of providing a nett gain in biodiversity opportunities, the proposals would include significant further natural planting within the proposed landscaping scheme. It is considered that the use of appropriate native species of plants that would encourage wildlife and biodiversity could be secured through any conditions in relation to the proposed landscaping scheme and planting schedule; to ensure that that the proposed development would provide a net gain in biodiversity

Conclusion

9.86. Officers are satisfied, that subject to appropriate conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land would continue and be safeguarded notwithstanding the proposed development, and that the Council’s statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged. Further that subject to the implementation of an appropriate landscaping scheme, to ensure that that the proposed development would provide a net gain in biodiversity, the proposals would in accordance with the provisions of Policy ESD10 of the CLP 2031 and Government guidance within the NPPF, regarding the importance of conserving and enhancing the natural environment.

10. PLANNING BALANCE AND CONCLUSION

10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three overarching objectives, to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.

10.2. Government guidance within the NPPF supports the plan-led system and advises that applications that accord with an up-to-date plan should be approved without delay. However, conversely

- 10.3. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 10.4. Given the above assessment it is considered that the proposal represents an unsustainable form of employment development within the rural open countryside for which it has not been demonstrated that there is an exceptional need for such development in this unsustainable rural location; and further that it has not been demonstrated that the proposals would represent a sustainable form of development in terms of construction or energy efficiency going forward.
- 10.5. Whilst there would be personal benefit to the applicant in providing a more viable business model going forward and the proposals would have the potential to provide some opportunities for rural businesses, albeit on a limited basis, it is considered that such benefits would not outweigh the environmental harm caused by allowing such an unsustainable form of development that would be highly dependant on the use of motor vehicles in this rural location.
- 10.6. Given the above assessment in the light of current guiding national and local policy context, it is considered that the proposal conflicts with the relevant Policies of the Development Plan outlined above and therefore permission should be refused.

11. RECOMMENDATION

RECOMMENDATION - REFUSAL FOR THE REASON SET OUT BELOW

1. The proposed development represents an unjustified and unsustainable form of development in a rural location, and it has not been demonstrated that exceptional circumstances exist for such development in this unsustainable location. It has not been demonstrated how services, facilities and public transport can be accessed from its location or that there is a realistic choice of travel means for future users of the development. Further, it has not been demonstrated that the proposals would be of sustainable construction or embrace the principles of sustainable development including the use of renewable forms of energy, contrary to the provisions and aims of Policies SLE1, SLE4, ESD1, ESD2, ESD3 and ESD5 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Bob Neville

TEL: Bob Neville