

Case Officer: Katherine Daniels

Applicant: Mr Geoffrey Taylor

Proposal: Change of use of existing poultry shed to container storage (Use Class B8) including associated landscaping

Ward: Deddington

Councillors: Councillor Zoe McLernon, Eddie Reeves, David Rogers

Reason for Referral: Called in by former Councillor Andrew McHugh for the following reason: To consider the benefits of farm diversification away from poultry

Expiry Date: See background

Committee Date: 6 November 2025

SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS AND THE PRIOR COMPLETION OF A S106 LEGAL PLANNING OBLIGATION

BACKGROUND: This application was presented to the Planning Committee on 15 February 2024 and 1 August 2024, each time with a recommendation for refusal. On both occasions, Members resolved to approve the application. However, both decisions were successfully challenged on the basis that the Council had not given legally adequate reasons for departing from the officer recommendation. The Council now has to reconsider the application. The application has now been brought back to committee for its redetermination.

Following the most recent quashing of the permission, the applicant has provided further supporting information to reflect the operation's most up to date circumstances, including an Addendum Planning Statement and a Farm Diversification Statement. The amended supporting documentation has been subject to a consultation exercise. The comments received have been reported in the consultation and publicity section below.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site forms part of an agricultural unit located at Rickfield Farm, approximately 500 metres south-west of the village of Milcombe. The site is located within the open countryside. The application relates to a poultry shed. The poultry shed is relatively enclosed.
- 1.2. The buildings are east of an existing building which benefits from planning permission for a mixed Class B2 (general industrial) and B8 (storage and distribution) use. To the north and south of this site are sites occupied by storage containers, which do not benefit from any planning approval. The northern of these two sites has 39 storage containers, and is subject to a refused Lawful Development Certificate application ref. 23/02626/CLUE. The south site has 53 storage containers.

- 1.3. A solar farm exists to the east of the site and is in the same land holding as the application site.

2. CONSTRAINTS

- 2.1. To the west of the site is a public bridleway which goes through a local wildlife site (South Newington Valley). To the west of the site is a Conservation Target Area and the habitat is noted to be potential NERC S41 priority habitat (lowland mixed deciduous woodland). These do not extend into the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks planning permission for a change of use of existing poultry shed to include shipping container storage. This would include 56 containers in the existing poultry shed building. Associated landscaping is also proposed.
- 3.2. The application is a re-submission of a refused application – 23/02423/F – which sought permission for 70 storage containers within the poultry shed and adjacent Dutch barn.

4. RELEVANT PLANNING HISTORY

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

Application: 23/02423/F	Refused	2 nd November 2023
Change of Use of existing poultry shed and Dutch barn to container storage (Use Class B8) including associated landscaping		

- 4.2. The application was refused for the following reason:

- The self-storage facility is in a geographically unsustainable location. The scale and nature of the use is considered inappropriate in a rural location and the application fails to demonstrate exceptional circumstances or adequate justification for why the development should be located on an unallocated rural site. In addition, the siting of storage containers within the Dutch barn would have an urbanising effect and would adversely affect the character and appearance of the area. The proposed development is therefore contrary to Policies SLE1, ESD1 and ESD13 of the Cherwell Local Plan 2011-2031 and Government guidance in the National Planning Policy Framework.*

- 4.3. The following planning history is associated with the wider site:

Application: 23/02626/CLUE	Refused	17 November 2023
Certificate of Lawfulness for the Existing Development: Operational development - comprising 25no storage containers - which have been sited on land at Rickfield Farm, Station Road, Milcombe, Oxfordshire, OX15 4RS for longer than 4 years.		
Application: 23/02024/F	Permitted	27 September 2023
Erection of 2no proposed polytunnels and retention of existing hardstanding and bunds (part retrospective)		

Application: 22/00536/F	Permitted	17 June 2022
Variation of Condition 4 (hedgerow management scheme) of 21/03635/F		
Application: 21/03838/F	Refused	28 January 2022
Retrospective - Development of the container storage facility		
Application: 21/03635/F	Approved	31 January 2022
RETROSPECTIVE - Change of Use of agricultural building to B2 General Industrial and B8 Storage and Distribution - re-submission of 21/02648/F		
Application: 21/02648	Refused	7 October 2021
Retrospective - Change of use of agricultural building to B2 General Industrial and B8 Storage and Distribution		

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **21 July 2025**, although comments received after this date and before finalising this report have also been taken into account.

6.2. The comments raised by third parties are summarised as follows:

- Nothing has changed for the Case Officer to justify altering officers' assessment
- It is not regenerative farming at the site
- The scale of 56 storage containers is still significant
- The nature of use has not changed since the previous refusal
- Farming pressures are not exclusive to the applicant, and there are different farms that have used different farming methods to diversify
- No exceptional circumstances presented to justify the proposal
- Would not constitute sustainable development
- Granting permission for more storage containers in geographically unsustainable locations could result in more farms nearby submitting similar proposals
- Detrimental impact to the character of the countryside location
- The use of storage container does not relate to a regenerative agricultural operation

- Diversification has already taken place through the solar farm and change of use of other buildings
- Only agricultural building left on site, and could be considered the loss of the farm holding in its entirety
- More traffic movements, including lorries, to the site as existing beyond what has been described within the application
- Associated traffic relating to the proposal increases the urbanising effect of the change of use and will cause visual intrusion and undue harm
- Proposal would result in damage to adjacent site of biodiversity (Conservation Target Area and Local Wildlife Site).
- Milcombe Parish Council have raised objections to the proposal
- Emerging Policy LEC 8 does not provide support of the proposed development
- The building subject to the fire was being investigated by planning enforcement
- Would impact upon the character and appearance of the locality, which is proposed to be designated as a Local Landscape Designated Area

The National Farmers Union and The Country Land and Business Association (CLA) supports the proposal as it would represent farm diversification.

CPRE have also commented on the application and have objected to the scheme due to it becoming an industrial site.

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. MILCOMBE PARISH COUNCIL: **Objections.** Concerns regarding highway safety and the number of vehicles going through the village. Concerned about what is stored within the building, following the fire. Better suited elsewhere.

OTHER CONSULTEES

- 7.3. CDC DRAINAGE: **No comments or objections** to make.
- 7.4. CDC ENVIRONMENTAL HEALTH: **No comments** to make on noise, contaminated land, air quality, odour or light.
- 7.5. OCC HIGHWAY AUTHORITY: **No objections** or conditions suggested.
- 7.6. CDC ECOLOGIST: **No Objections.** Has reflected on the and considered comments from a neighbour and considers that the change of use with the increase of vehicles

a day would not have a significant ecological impact. However has recommend conditions to be imposed.

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
- SLE1 – Employment Development
- SLE4 – Improved Transport and Connections
- ESD1 – Climate Change
- ESD7 – Sustainable Drainage Systems
- ESD10 – Protection and Enhancement 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)

- C8 – Sporadic development
- C28 – Layout, design and external appearance of new development
- ENV1 – Pollution control

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Local Plan Review 2042 (Reg 19 version)
 - Policy LEC 8 – Rural Diversification
 - Policy SP1 – Settlement Hierarchy
 - Policy CSD 1 – Mitigating and Adapting to Climate Change
 - Policy CSD 11 – Protection and Enhancement of Biodiversity.
 - Policy CSD 12 – Biodiversity Net Gain
 - Policy CSD 17 - Pollution and Noise
 - Policy CSD 18 – Light Pollution
 - Policy COM 10 – Protection and enhancement of the landscape
 - Policy COM 11 – Cherwell Local Landscape Designations

9. APPRAISAL

- 9.1. As with previous occasions when this application has been considered, the most important policy in the development plan is policy SLE1 of the Cherwell Local Plan 2011-2031 (‘CLP 2015’). This policy contains several criteria dealing with different planning impacts, which will be considered in turn below.

- 9.2. Before considering policy SLE1, officers note that government guidance contained within the NPPF seeks the promotion of a strong rural economy, through the support of sustainable growth and expansion of all types of business and enterprise in the rural areas and the promotion of the development and diversification of agricultural and other land-based rural businesses.
- 9.3. Paragraphs 88 and 89 of the NPPF outlines parameters for supporting a prosperous rural economy. Paragraph 88 outlines that *“planning policies and decisions should enable:*
- a) *The sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
 - b) *The development and diversification of agricultural and other land-based rural businesses;*
 - c) *Sustainable rural tourism and leisure developments which respect the character of the countryside; and*
 - d) *The retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.”*
- 9.4. Paragraph 89 outlines that *“policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, 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 surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable...The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.”*
- 9.5. Policy SLE1 of the CLP 2015 relates to employment development, defined as B Use Classes, and has a strong urban focus, and a focus on existing employment sites. In the rural areas it states that unless exceptional circumstances are demonstrated, employment development should be located within or on the edge of Category A villages. The applicant points to what are now paragraphs 88 and 89 of the NPPF, which provide support of sustainable growth of rural businesses and diversification of agricultural and other land based rural business. However, this sits alongside the Local Plan policies which allows for such development where it is adequately justified. The NPPF should not be interpreted as unconditional support for the provision and expansion of rural businesses or farm diversification in geographically unsustainable locations and still needs to be balanced against other objectives such as reducing the need to travel, reducing car dependency and associated carbon reductions. Policy SLE1 and ESD1 which sits alongside this is therefore considered to be consistent with the NPPF and given full weight.
- 9.6. The closest village to the site is Milcombe, which is a category A village. However, given the site is located approximately 500 metres from the edge of the village it is not considered to be ‘on the edge of the village’ as required by Policy SLE1. Therefore, in accordance with the wording of Policy SLE1 the proposal would need to demonstrate ‘exceptional circumstances’ to justify its location. Previous advice from officers to members has been that exceptional circumstances cannot be demonstrated in the present case. The issue of exceptional circumstances is addressed below.
- 9.7. In addition to the policy requirement to demonstrate exceptional circumstances, Policy SLE1 goes on to note that new employment proposals within rural areas on non-allocated sites will be considered against a list of criteria. These are also considered

to be relevant to the assessment of whether the location has been adequately justified. Below is an assessment of the proposal against these criteria.

Outside the Green Belt

- 9.8. The site is outside the Green Belt.

Sufficient justification is provided to demonstrate why the development should be located in the rural area on a non-allocated site.

- 9.9. The applicant has provided additional information on diversification of the site, and other sites the applicant owns. The applicant has also provided a Response to the Richard Buxton Solicitors letter of 21 July 2025. The proposal seeks the re-use of a redundant building following the cessation of the poultry element of the enterprise. Intensive poultry farming is not within the ethos of the existing farming enterprise. Financial pressures are noted, as there are pressures throughout the farming sector that are not exclusive to the current applicant. It is noted that the site has been subject to a fire, which has impacted the enterprise. There are appeal decisions which state storage facilities can operate as farm diversification (APP/X3540/W/24.3342705 in Suffolk and APP/D0840/W/24/3358167, in Cornwall). The applicant states that the income from the storage container enterprise would go back into regenerative farming over the whole facility, and that the applicant needs to have stable streams of income, which provide sufficient funding to continue in regenerative farming. The enterprise is situated at two sites, Rickfield Farm and Lower Nill Farm. The storage container enterprise would appear to operate as a totally distinct and separate business; however, in order to make an application acceptable the Council could impose planning conditions or legal agreement to ensure any profit from the change of use goes into the farming enterprise, as the applicant has sought to demonstrate as part of his submission statements.
- 9.10. It is noted the proposals under 21/03635/F for the conversion of the western building to a mixed B2 and B8 use were considered acceptable on a very fine balance (see paragraph 8.21 of the officer report). This was on the basis of the similarity between the scale of operation then proposed and what was/is allowable under 'permitted development'. Any additional B class land use at the site would not benefit from the same justification. At paragraph 8.15 of the report for the 2021 application, the officer highlighted that the scale of non-farming activities on this part of the site could be out of scale with the farming enterprise at this part of the farm holding. It has been noted in previous officer reports that the loss of the poultry shed would reduce the farming significantly on the site, and that there is very little farming activity at Rickfield Farm. As such, the proposal would not be a diversification of the agricultural enterprise at Rickfield Farm but of the wider enterprise.
- 9.11. The application building is currently unused and has been vacant since 2022. The applicant is seeking to use a vacant building to provide an additional income stream to invest into the regenerative farming enterprise at the two sites.
- 9.12. The proposal seeks to create an additional income stream for the enterprise. The applicant has submitted further supporting information, as well as impacts from recent events, to set out that the conversion to a local storage facility is needed more than ever to aid the regenerative farming the applicant would like to carry out.
- 9.13. On balance, officers are satisfied there is sufficient justification for the re-use of the poultry shed to the use of storage containers in this particular case, on the basis that the proposal seeks to diversify the existing enterprise, and provided that this linkage is secured through an appropriate legal agreement.

- 9.14. It is noted that the comments from the neighbours suggest that this is not sufficient to demonstrate exceptional circumstances on the site, that the diversification statement should be relevant to Rickfield Farm only, and not Lower Nill Farm. While officers acknowledge these comments, there are many agricultural enterprises which comprise more than one site. It is considered that a legal agreement provides an appropriate means to ensure that the benefits of the diversification of the scheme are put back into the regenerative farming.

Very high standard of design using sustainable construction, appropriate in scale and respecting the character of the villages and surroundings

- 9.15. In relation to the scale of the proposal, it is important to consider that it amounts to the change of use of an existing building rather than the construction of a new building.
- 9.16. As to design and impacts on character, this element of the policy needs to be considered alongside policy ESD13, which states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. It also states that proposals will not be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural features, be inconsistent with local character, harm the setting of settlements, or harm the historic value of the landscape. Policy ESD15 states that new development will be expected to complement and enhance the character of its context through sensitive design and siting. Saved Policy C8 seeks to resist sporadic new development in the open countryside. This is considered to be consistent with the NPPF which seeks to ensure that planning decisions recognise the intrinsic character and beauty of the open countryside. Policy SLE1 requires “High quality design, appropriate in scale and respect the character of the villages and surroundings”.
- 9.17. In relation to the need for a very high standard of design, one needs to approach this element of the policy in the context of the proposal being to reuse an existing building, as opposed to being a newly constructed building. While officers would not describe the proposal as necessarily being of a “very high standard”, the design is nonetheless of an acceptable standard given what is being proposed. As to impacts on character / surroundings, officers consider the poultry shed to be relatively enclosed, such that there would be a limited impact on the character of the area from the siting of storage containers within the poultry barn. The change to the character would result in the travel movements to the site increasing as a result of the self-storage use. However, the movements would be at varying times; therefore, the impact of the comings and goings on the landscape would be negligible.

Small scale, unless it can be demonstrated that there will be no significant adverse impacts on the character of a village or surrounding environment

- 9.18. This has effectively been covered above already. The proposal would see no expansion beyond the existing scale of the poultry shed. It is not considered to be small scale. However, officers do not consider the proposal to give rise to significant adverse impacts on the character of a village or surrounding environment.

No 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 any non-designated buildings or features of local importance).

- 9.19. This policy criterion deals with several different elements.

- 9.20. As to residential amenity, officers also note that Policy ESD15 of the CLP 2015 requires a good standard of amenity for future and proposed residents. Saved Policy ENV1 seeks to restrict development which would be materially harmful by way of noise or air pollution.
- 9.21. Environmental Health Officers do not consider there to be any harm to odour, light, or noise, and would therefore not impact any neighbours in this respect. There are no neighbours in close proximity to the site, and therefore officers do not raise any concerns in regard to residential amenity.
- 9.22. As to the highway network, officers have reviewed the Transport Statement dated September 2025, submitted by the applicant. Based on that information, which estimates the anticipated trip generation (7 movements per day), officers are satisfied that there would be no undue detriment to the highway network.
- 9.23. The impacts on the character of the village and wider landscape have already been considered above. There would be no impacts on designated or non-designated assets.

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.

- 9.24. The traffic impacts are considered above and in the Transport Statement. The proposal will not give rise to inappropriate traffic, and it is noted that there are public rights of way and an hourly bus service in the vicinity of the site.

There are no suitable available plots or premises within existing nearby employment sites in the rural areas.

- 9.25. Policy SLE1 goes on to note that the Local Plan has an urban focus, and that justification will be required for new sites in rural areas, and this should include applicants demonstrating a need for and benefits of employment development in a particular location and explaining why the proposed development should not be located at the towns.
- 9.26. Further information has been submitted to justify its rural location, including the Addendum Planning Statement and the Farm Diversification Statement, which set out a need for and benefits of employment in this particular location. The applicant has sought to demonstrate that there are no other employment sites in the locality. What is presently generally available are office buildings, or buildings that do not have the required space. The applicant also contends there has been a precedent set with other applications for storage containers being allowed in the rural area. Applications should be determined on their own merits. There appear to be self-storage facilities in Deddington, Chipping Norton, Steeple Aston and Epwell as well as in Banbury. The closest of these is approx. 6.5 miles away. There are no other commercial facilities in the immediate locality. Therefore, it is considered that there are no other suitable plots or premises within existing sites in the locality. This site is available for use.
- 9.27. The proposal has been reduced from the previous refusal from 70 storage units to 56 storage units. The previous refusal included the adjacent Dutch barn, which has been omitted from the application, so the storage containers would be sited solely within the poultry shed. Given the recent fire on site, and although the scale of 56 storage containers is still considered to be large, the proposal could be considered acceptable if suitable measures are in place to ensure the income stream benefits the wider enterprise elsewhere.

- 9.28. As members will know, the proposal was previously recommended for refusal on the basis of an absence of exceptional circumstances. However, officers note the recent fire and the additional information and updated financial information supplied by the applicant, which demonstrates the regenerative farming of the overall enterprise. This information must be considered as part of the redetermination of this application. The additional information shows that there are economic benefits for the site, and the overall farming enterprise. Officers consider that the applicant has provided acceptable responses to the concerns of objectors in their Response to the Richard Buxton Solicitors letter of 21 July 2025.
- 9.29. Overall, having carefully considered all of the criteria above, applied to the supporting information, and notwithstanding it is in a rural area, officers conclude that the applicant has demonstrated exceptional circumstances justifying the proposal. Accordingly, officers conclude that the proposed development complies with Policy SLE1 of the CLP 2015, provided suitable measures are in place to ensure the income generated from this farm diversification is redeployed within the overall enterprise. This is required, especially as the enterprise covers more than one site.

Other matters in relation to the principle of development

- 9.30. The Council has submitted its Local Plan Review (December 24) for examination. LEC 8 supports Rural Diversification. This states the following:

In rural areas, proposals for economic activities that bring about rural diversification shall normally be permitted, providing that the following criteria are met:

- i. The development is operated as part of a viable rural business (including farm holding) and demonstrably contributes to the viability of the holding;*
- ii. The proposed use does not detract from or prejudice the existing agricultural undertaking or its future operation;*
- iii. It is not detrimental to the character and appearance of existing buildings and their setting within the landscape;*
- iv. Existing buildings are used in preference to new buildings or extensions;*
- v. Utilities and other infrastructure are available or can be provided, and*
- vi. There is access by means of an existing road; no highway hazards are created or increased; and road improvements incompatible with the character of the surrounding area are not required.*

- 9.31. Paragraph 49 of the NPPF states that Local Planning Authorities may give weight to relevant policies in emerging plans according to,
- a) The stage of preparation of the emerging plan (the more advanced its preparation, the greater weight that may be given);
 - b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater weight that can be given); and
 - c) The degree of consistency of the relevant policies in the emerging plan to this Framework (The closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
- 9.32. There have been 6no letters of representation on policy LEC 8 alone. These objections do not raise significant objections to this policy. It may be reasonably considered that policy LEC 8 can be given greater weight in determining this

application. It cannot be given full weight, but in this assessment officers consider that this policy can be given moderate weight. The consideration of the policy criteria is set out below, having regard to the Addendum Planning Statement which addresses this emerging policy.

- 9.33. The applicant has provided information that the proposal is for an economic activity that brings about rural diversification, and the money raised as part of this application would be reinvested within the farming enterprise. It is considered that this can be controlled by way of a planning obligation. Criterion (i) is therefore met.
- 9.34. Although it is noted that the farming enterprise within this location is smaller than the remainder of the larger enterprise on Nill Farm, it would not prejudice the day to day running of the farm. The building is currently vacant and not used for the existing enterprise. Therefore, the loss of this building would not affect the remainder of the enterprise. Criterion (ii) is met.
- 9.35. As discussed already, the development will not be detrimental to the character and appearance of the locality. It is considered that the proposal accords with criterion (iii).
- 9.36. The proposal seeks to convert an existing building, rather than construct a new building. The proposal therefore accords with criterion (iv).
- 9.37. Utilities are provided on site; therefore, the proposal is considered to be in accordance with criterion (v).
- 9.38. Criteria (vi) relates to highway safety. The proposed development would utilise the existing access from the main road serving the farmyard. The Local Highway Authority (LHA) has raised no objection, as the proposed increased vehicle trips would be 7 per day, which the LHA considers to be minimal in terms of impact on highway safety. The site is set back from the highway by approximately 500m, and as a result there is minimal risk of parking overspill onto the highway.
- 9.39. It is considered that the proposal would not have a detrimental impact on highway safety therefore accords with this criterion.
- 9.40. Overall, the proposal is considered to also accord with the emerging Local Plan Policy LEC8.
- 9.41. It is noted that Milcombe is set to be downgraded to a category B village within emerging Policy SP1; however, this policy has attracted a number of (currently unresolved) objections, so should be given less weight in the determination applications at this time, in line with Paragraph 49 of the NPPF.

Ecology

Legislative context

- 9.42. The Conservation of Habitats and Species Regulations 2017 consolidated 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.

- 9.43. 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.
- 9.44. 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.
- 9.45. 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; and
 - (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.
- 9.46. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

- 9.47. Paragraph 180 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.
- 9.48. Paragraph 186 states that when determining planning applications, local planning authorities ('LPAs') should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

- 9.49. Paragraph 191 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.
- 9.50. Policy ESD10 of the CLP 2015 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.51. 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.
- 9.52. 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.
- 9.53. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.54. The site is located near/adjoining a Local Wildlife Site, and the Council's Ecologist has commented on the application, where they do not raise any objections to the proposal. It is noted that there is an objection to the proposal from the neighbour raising concerns that the development would have a detrimental impact on the Wildlife site, including hedgerow removal on site previously. The application should be determined on its own merits, and given that this is an application for the conversion of the building, it is considered not to have an impact on the protected species.
- 9.55. Given the comments from the Council's ecologist there is not an objection to the proposal. Therefore, based on the comments from the Council's Ecologist, there is no reason to suspect the proposal will have a detrimental impact on ecology, and is in accordance with the aforementioned policies.

9.0. PLANNING BALANCE AND CONCLUSION

- 9.1. The proposal is considered to accord with Policy SLE1 and other relevant development plan policies, for the reasons set out in the report above and in the applicant's supporting information, subject to the completion of a legal agreement as set out above. Following the submission of up to date information to support the application - including the consideration with the recent fire on site and the farming enterprise - the principle of development is considered to acceptable within the rural area, provided measures are in place to ensure that the proposal is for farm diversification. The test of exceptional circumstances in policy SLE1 is considered to be met. In addition, the proposal accords with emerging Policy LEC8, which should

be given moderate weight, considering the stage of the Plan, as well as the limited objections submitted on this policy. The proposal is considered not to result in any significant environmental impacts, for the reasons set out above. The proposal is therefore considered to accord with the development plan taken as a whole, and no material considerations would justify a departure. Officers recommend therefore that the application be granted planning permission.

10. RECOMMENDATION

DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING TO GRANT PERMISSION, SUBJECT TO:

- i) THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND**
- ii) THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE BENEFITS OF THE PROPOSAL AS SET OUT BY THE APPLICANT/THEIR AGENT AND TO TIE THESE TO THE ENTERPRISE IN PARTICULAR THE REGENERATIVE FARMING PRACTICES:**

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.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and the following plans and documents:
 - TAY001/003 Rev A – Site Location Plan
 - TAY001/004 Rev A – Site Plan
 - TAY001/005 Rev A – Container Layout Plan
 - TAY001/006 Rev A – Landscaping Plan
 - Planning, Design and Access Statement
 - Protected Species Survey by Philip Irving, dated August 2023

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

3. The site shall not be used other than for the purpose of a self-storage facility and for no other purpose whatsoever, including any other purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification, and there shall be no more than 56 containers on the site at any one time.

Reason - In order to safeguard the character and appearance of the area and the amenities of the occupants of nearby residential dwellings, and in the interests of sustainable development, in accordance with Policies SLE1, ESD1, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. No storage containers hereby approved shall be sited at or within the site other than those inside the Poultry Barn building as identified on the drawings listed in Condition 2 of this planning permission, and no open storage of plant, materials, products, goods for sale or hire or waste shall take place on any part of the application site at any time.

Reason - To safeguard the character and appearance of the area 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.

5. No external lighting shall be installed at the site unless and until full details of that external lighting have first been submitted to and approved in writing by the Local Planning Authority. Those details must include the design, position, orientation of the lighting and must demonstrate the extent of and mitigation for any light spillage. The lighting shall be at a low level, consisting of LED light sources and must be fitted with directional accessories to avoid light spillage. The lighting shall not be installed other than in full accordance with the approved details prior to the first use of the development hereby approved and shall be retained and maintained as such at all times thereafter.

Reason: In order to safeguard the character and appearance of the area and in the interests of highway safety and to ensure that the development does not cause harm to any protected species or their habitats and to comply with Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. A full method statement for enhancing the biodiversity shall be submitted to and approved in writing by the Local Planning Authority prior to the development reaching slab level. Thereafter, the biodiversity enhancement measures approved shall be carried out prior to the first use of the development and retained in accordance with the approved details.

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

7. All site clearance (including the removal of any vegetation or works to hedgerows) shall be timed so as to avoid the bird nesting season, this being during the months of March until July inclusive unless the Local Planning Authority has confirmed in writing that such works can proceed, based on submission of a survey (no more than 48hrs before works commence) undertaken by an ecologist (member of the IEEM or similar related professional body) to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site as required.

Reason: To ensure that the development will conserve and enhance the natural environment and will not cause significant harm to any protected species or its habitat in accordance with Government guidance contained within the National Planning Policy Framework.

