

Case Officer: Bob Neville

Applicant: W Potters & Sons Ltd

Proposal: Erection of a free-range egg production unit, gatehouse and agricultural workers dwelling including all associated works - re-submission of 19/00644/F

Ward: Launton And Otmoor

Councillors: Cllr Timothy Hallchurch MBE
Cllr Simon Holland
Cllr David Hughes

Reason for Referral: Major development

Expiry Date: 24 June 2020

Committee Date: 18 June 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

The current application, a revised scheme of 19/00644/F, withdrawn in 2019, again seeks planning permission for the erection of a new free-range egg production unit, with associated gatehouse, agricultural workers dwelling with detached garage, new access track and access onto Palmers Avenue.

The proposed poultry building would be a profiled metal clad building measuring 159m (l) x 35m (w) x 7.96m (h) with 8no feed hoppers, 22 roof mounted extract fans and which would house 59,000 birds.

The proposed gatehouse would be constructed of timber cladding walls and juniper green box profile metal sheeting roof measuring 10m (l) x 7.5m (w) x 4.07m (h).

The proposed dwelling would be a 2 storey 3-bedroom constructed with a brick finish under a tiled roof with a proposed footprint of approximately 130 sq m and overall ridge height of 7.36m. The associated domestic garage would be a double-garage, again of brick and tile construction, measuring 6m (l) x 6m (w) x 4.75m (h).

Consultations

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

- Arccott Parish Council, Blackthorn Parish Council, Piddington Parish Council, Agricultural Consultant, Berks, Bucks and Oxon Wildlife Trust (BBOWT), CDC Building Control, CDC Campaign to Protect Rural England (CPRE), Ecology, OCC Drainage, Environment Agency, OCC Highways and Historic England,

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

- Ambrosden Parish Council, CDC Environmental Protection, Natural England and Thames Water

195 letters/emails of objection have been received and 2 letters/emails of support have

been received.

Planning Policy and Constraints

The site sits relatively centrally in relation to a number of villages, being approximately 1km from the villages of Lower and Upper Arnott which lie to the west and south-west of the site respectively, Blackthorn ~840m to the north, with the village of Piddington ~1.5km to the east and Ambrosden ~1.8km to the north-west. The River Ray flows across land to the north of the site at a distance of ~410m at its closest point to the application boundary. The site is partially within an area of high flood risk (Flood Zones 2 & 3). The majority of the site is within the Ray Conservation Target Area. The Field South of River Ray Local Wildlife Site (LWS) lies to the west/north-west of the site approximately 340m away and Meadow Farm Meadows LWS lies approximately 440m to the north/north-east. A Public Right of Way (PRoW) (ref. Footpath 110/1/10) crosses land west/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 the Development
- Landscape and Visual Impact
- Environmental Pollution and Nuisance
- Residential Amenity
- Ecological & Biodiversity
- Highways Safety
- Flooding Risk & Drainage

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

1. Proposals represent unjustified sporadic new residential development within open countryside;
2. Adverse visual effects;
3. Ecological Impacts and lack of nett Biodiversity gain;
4. Drainage and flood-risk issues.

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

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is an area of agricultural land to the north of Palmer Avenue located approximately 1km east of the village of Lower Arcott. The surrounding area of land is typically characterised by open agricultural fields with hedgerow boundaries, with no significant variation in land levels across the site. In terms of built form there is an existing single store structure within the site and a further small single storey building immediately adjacent the site to the west of the site. There is a group of single storey structures adjacent to the east of the site bounded by mature hedgerows and trees enclosing the site. Palmer Avenue bounds the site to the

south, with the B4011 running parallel to the east of the site; with views available from these highways across the site.

- 1.2. The site is located relatively centrally in relation to a number of villages, being approximately 1km from the villages of Lower and Upper Arnott which lie to the west and south-west of the site respectively, Blackthorn ~840m to the north, with the village of Piddington ~1.5km to the east and Ambrosden ~1.8km to the north-west. To the east and south of the site are existing MOD facilities. Bullingdon Prison lies approximately 540m south of the site.

2. CONSTRAINTS

- 2.1. The application site is located in open countryside with typical agricultural field hedgerows bounding the site. The River Ray flows across land to the north of the site at a distance of ~410m at its closest point to the application boundary. The northern and north-west corner of the site lies within an area of high flood risk (Flood Zone 2 & 3), and there are records of two ponds being within the site. The Ray Conservation Target Area washes over the majority of the site. The Field South of River Ray Local Wildlife Site (LWS) lies to the west/north-west of the site approximately 340m away and Meadow Farm Meadows LWS lies approximately 440m to the north/north-east. Arcott Bridge Meadows SSSI lies ~1.2km to the west of the site. A Public Right of Way (PRoW) (ref. Footpath 110/1/10) crosses land west/north of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application comes following the withdrawal of a similar scheme in 2019 under ref. 19/00644/F. Whilst the current proposals are of a similar nature and quantum of proposed development to the previously assessed scheme, the layout is revised, and revised/additional supporting information is submitted particularly in respect of: the need for the proposed dwelling; flood-risk and drainage; ammonia mitigation measures and ecological and biodiversity (including landscaping) details, in an attempt to address concerns previously raised by officers during the assessment of the previous application 19/00644/F.
- 3.2. The application again seeks planning permission for the erection of a free-range egg production unit, with associated gatehouse, agricultural workers dwelling with detached garage, new access track and access onto Palmers Avenue.
- 3.3. The proposed poultry building would be a profiled metal clad building measuring 159m (l) x 35m (w) x 7.96m (h) with 8 no. feed hoppers, 22 roof vents, a 15m x 6m 'Muck Store' and which would house 59,000 birds.
- 3.4. The proposed gatehouse would be constructed of timber cladding walls and juniper green box profile metal sheeting roof measuring 10m (l) x 7.5m (w) x 4.07m (h).
- 3.5. The applicant contends that the proposed dwelling is necessary for the running of the business. The proposed two-storey dwelling would have 3 bedrooms, would be externally faced in brick under a tiled roof, with a proposed footprint of approximately 130 sq m and overall ridge height of 7.36m. The associated domestic garage would be a double-garage, again of brick and tile construction, measuring 6m (l) x 6m (w) x 4.75m (h).
- 3.6. In terms of the operation of the business the applicant indicates that the birds have a laying cycle of 56 – 58 weeks. After 14 months the flock is removed and the whole building fully cleaned down internally and the new flock introduced to restart the egg production cycle. The birds would have direct access from the east and west

elevations of the building to dedicated pasture, which would be electric fenced (1.2m high fencing) to keep out predators.

- 3.7. The proposed poultry farm would require bulk food delivered to the farm by six or eight-wheeler HGVs 3 times a month and stored in the silos on site. The applicant further indicates that the proposed farm business has a provisional contract with a company (Noble Foods) to supply the free-range eggs, and which would collect the eggs in a 7.5 tonne lorry three times a week.
- 3.8. Waste from the chickens is proposed to be cleared out by way of a conveyor belt system. With an internal conveyor belt system transferring to an external conveyor belt into a parked trailer outside the building. The manure would be removed from the site using a sheeted tractor and trailer. The 'Management Plan' indicates that the conveyor belt system would be operated every 10 days, removing approximately 14 tonnes of waste. However, there is conflicting information within the application's other supporting documents as to how often the conveyor belt would be operated and, whilst officers have sought clarification from the applicant's agent on this matter, no response had been received at the time of the preparation of this report.
- 3.9. Officers have advised the applicant's agent of a number of further inconsistencies, errors and a general lack of information within the application that give rise to significant concerns and have given the applicants the opportunity to address deficiencies in the submission; however, no response has been received on the majority of the issues raised. Further information was received from the applicant's agent at a late stage in response to objections from the Environment Agency (EA) and the Lead Local Flood Authority (LLFA) and further a revised planting plan; the flood-risk information was forwarded to the EA and the LLFA but at the time of the preparation of this report no further formal response had been received. If any such response is received prior to the committee meeting any matters raised will be reported in a written update.
- 3.10. Given the nature and scale of the proposed development the application has been screened in accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment (EIA)) Regulations 2017. Whilst the proposal is Schedule 2 development by virtue of being an 'Intensive livestock installation' with a floor area greater than 500 sq m, which exceeds the relevant threshold and therefore falls under category 1(c) of the schedule, it was considered that the proposal would not have more than local importance. It was therefore concluded with regard to EIA regulations that, given the nature of the development – being an above ground installation, unlikely resulting in levels of waste, pollution, nuisances or detrimental impacts on human health that would be 'significant' in EIA terms, and not producing significant traffic movements or emissions – the proposals were unlikely to give rise to complex, long term or irreversible impacts and did not, therefore, require the submission of an Environmental Statement (ES). NB. While the impacts were not considered to be of such 'significance' to necessitate submission of an EIA, this should not be treated as a surrogate for officers' judgement on the proposals' environmental impacts, particularly on a more local level, which are discussed in the relevant section of this report.

4. RELEVANT PLANNING HISTORY

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

Application: 19/00644/F	Application	8 August 2019
	Withdrawn	

Erection of a free-range egg production unit, gatehouse and agricultural

workers dwelling including all associated works

4.2. Application 19/00644/F was withdrawn prior to presentation to planning committee with a recommendation of refusal on the grounds of:

- Proposals representing unjustified sporadic new residential development within open countryside;
- Adverse visual effects;
- Detrimental ecological Impacts and lack of nett Biodiversity gain;
- Drainage and flood-risk issues.

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 notices displayed near the site and in surrounding villages, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **20 May 2020**, although comments received after this date and before finalising this report have also been taken into account.

6.2. 195 letters/emails of objection have been received and 2 letters/email of support have been received. The comments raised by third parties are summarised as follows:

6.3. Comments in support:

- Benefits – Proposals supporting local workers, local production and pushing forward production at a time where investment in our countryside and self-sufficiency are a vital and important matter.
- Alternatives – Proposed chicken farm better than further housing being built.
- It is a rural area, residents should expect rural smells.

6.4. Comments in objection:

- Odour impacts – Surrounding area already suffers from odour issues arising from existing farms and facilities (including Ambrosden Poultry Unit, Blackstone Farm (animal disposal) Blackthorn and Evigo at Shaws Farm (rat breeding factory) Blackthorn). Additional odour from the proposed development will further exacerbate such issues detrimentally impacting on the amenity of surrounding properties and general living environment.
- The Council should commission their own independent odour impact assessment;
- Noise impacts – The area is already affected by noise pollution from the M40, additional traffic to and from HMP Bullingdon and the Motocross site. There would potentially further detrimental noise impacts, as a result of additional vehicular movements, extract fans, and noise generated by the chickens;
- Increased air pollution (including dust and ammonia deposition) having a detrimental impact on health and wellbeing and general living environment; including impacts on nearby residents, prison, business offices, workshops, MOD offices, hotel and schools;

- Lack of appropriate flood-risk assessment. The site is in an area of high flood risk and prone to regular flooding, and there is the potential for chicken faeces to filter into the river, contaminating the water, which provides a source of drinking water for livestock and wildlife;
- Ground pollution risk from waste from the chickens, and the potential contamination of surface water run-off leaking into the water table.
- Area already suffers from infestation of flies. The proposals would likely exacerbate this issue with potential health and nuisance issues arising from increased infestation of insects and vermin;
- Not an appropriate location. This sort of operation needs to be placed in a more secluded location and not right next to villages.
- Landscape impact – The submitted Landscape and Visual Impact Assessment is misrepresentative. There would be detrimental visual impacts of such a large building on valued rural landscape and the Conservation Target Area and the amenity of users of the Public Rights of Way
- Highway safety issues: Bicester and the surrounding area has seen significant new development with a significant increase in traffic. The increased traffic to the area as a result of the proposed development would be to the further detriment of road network and surrounding villages; which already suffer from excessive traffic including HGVs going to the MOD sites, Oxford or picking up the M40 and A34.
- Drainage – Concerns with regards to the disposal of foul sewage as a result of a lack of information within the application;
- Detrimental ecological impacts; including impacts on LWS, Nature Reserve and surrounding flora and fauna from ammonia deposition and waste from chickens being washed into the River Ray during the times of flood which affect the area;
- The proposals do not protect and enhance the biodiversity of our natural environment and further is not a sustainable development with no footpaths or bus stops linking to existing residential areas;
- Inconsistencies and inaccuracies within the supporting information (including how much waste will be produced and also the distance to the closest residential property); further whilst it is stated that there is agreement for disposal of the waste it is not clear where the waste would actually be disposed of;
- The submitted reports do not consider the potential impacts of chickens roaming externally; including waste and ammonia;
- There is a need for an Environmental Impact Assessment to be undertaken;
- Limited benefit arising from the proposals, and no need for addition poultry units given that there are already three existing units within the area and limited employment opportunities for the local community;
- There has been too much development in the general Bicester area, and the Arcott area has seen a number of unwelcome and unwanted projects;
- The need for a dwelling on site is tenuous and this could be seen as a way to secure further future residential development on the site.
- No consultation undertaken by the applicants with the local communities;
- Detrimental impacts of the proposed development would drive people away from the area;
- Security – Given its rural location the site cannot be overlooked
- Impacts on electricity and water utilities;
- Property devaluation [Officer comment: this is not a material consideration].

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. AMBROSDEN PARISH COUNCIL: **No objections**, subject to conditions being imposed in respect of:

- Traffic routing
- Lighting
- Control over waste management
- Limit on the number of chickens

7.3. ARNCOTT PARISH COUNCIL: **Objects**, on the following grounds:

- Lack of need for an additional poultry unit; given there are three existing units in the area
- Odour would be a significant issue within the village and parish and potentially a constant problem.
- Dust during the summer months.
- The area is a flood plain and is subject to flooding during periods of wet weather.
- Highway safety issues through increased traffic, including HGVs, on roads in a poor state of repair.
- Storage of waste at the site would present issues with smell, dust, and vermin, associated with such effluent.
- Detrimental impacts on the nearby prison.
- As the site is relatively rural, security of it cannot be overlooked.
- Would not significantly improve employment opportunities within the area.
- Concerns raised in respect of potential outbreaks of disease at the site and what mitigation and controls would be put in place to limit the spread and reduce the risk to people in the area.
- Concerns relating to potential future further residential development on the site.
- Detrimental impact on the rural landscape and not in keeping with the surrounding countryside.
- Noise impacts.
- Air pollution from ammonia, odour & dust.
- Raises significant concerns with regards to the application's supporting documents, citing a number of inconsistencies between documents, ambiguity in submitted details and lack of appropriate assessment; particularly in relation to the impacts of chickens roaming externally.
- Considers that the proposals require a full Environmental Impact Assessment.

7.4. BLACKTHORN PARISH COUNCIL: **Objects**, on the following grounds:

- Odour: Odour is an existing issue in the area. The odour impact assessment, whilst showing odour to be at acceptable levels, does not allow for cumulative impacts. Blackthorn has already experienced the odours from deceased chicken carcasses, and if such are stored on site awaiting collection this will further add to the odour from the chickens and their waste.
- Pestilence: At a time of great concern over COVID-19, adding a new facility which would increase the opportunities for bird flu would seem unwise.
- Pollution: The areas where the chickens run include flood plains and there is potential for pollution of River Ray, (and then Cherwell & Thames).

7.5. PIDDINGTON PARISH COUNCIL: **Objects**, on the following grounds:

- Additional poultry unwarranted given existing units in the area.
- Odour and existing issue
- Dust during the summer months.
- The area is a flood plain and is subject to flooding during periods of wet weather.
- Highway safety issues through increased traffic, including HGVs, on roads in a poor state of repair and which will have damaging environmental impacts
- The storage of waste would present issues with smell, dust, and vermin associated with such effluent.
- The proposed dwelling is not essential development and is outside the Arcott Village envelope.

CONSULTEES

7.6. AGRICULTURAL CONSULTANT: Advises that if consent is granted for the free range poultry unit as proposed there would be agricultural support for a *temporary* agricultural workers' dwelling for a period of three years to enable the new trading business to become established, and to provide evidence that it can sustain the cost of a permanent dwelling after the three year trial period expires.

However, further advises that if the applicant company provides evidence that the business will be part of W. Potters & Sons (Poultry Limited) and that there is a provisional contract in place for the eggs to be produced and the contract is for a period of time that would enable the unit to become established i.e. more than three years, that there would be agricultural support for a permanent dwelling as that business is currently financially viable, and has been profitable over the last three years.

7.7. BERKS, BUCKS AND OXON WILDLIFE TRUST (BBOWT): **Objects** on the following grounds:

- *Potential water quality impacts, particularly in relation to impacts on the wildlife of Arcott Bridge SSSI, Field South of the River Ray LWS, Meadow Farm LWS, the River Ray itself and potentially other designated sites within the River Ray catchment.*
- *Potential impact from odour and dust on staff and volunteers based at Meadow Farm, and on visitors to the site, and therefore on our office, reserve, educational and visitor operations carried out at the site.*
- *Potential impact from ammonia emissions and aerial borne dust on the wildlife of Meadow Farm Local Wildlife Site and BBOWT nature reserve, and*

other designated sites and BBOWT reserves in the Upper Ray Meadows area.

- 7.8. BUILDING CONTROL (CDC): **No objections**; proposals would require a separate Building Regulations approval.
- 7.9. CAMPAIGN TO PROTECT RURAL ENGLAND (CPRE): **Objects**. Considers the proposals to represent a factory farm requiring industrial units, with the storage and disposal of tons of manure as well as the efficacy of the removal of ammonia produced in the sheds causing a concern. Questions the appropriateness of the location being too close to several villages as well as being adjacent to an important local wildlife site at BBOWT's Meadow Farm, and further that the development would also negatively affect the public amenity of the PRow. Raises further concerns with regards odour levels being intolerable for villagers and visitors to the nature reserve, and the lack of any environmental impact assessment. Further notes that there are 5 local wildlife sites within one kilometre of the site which is also within the Upper River Ray Conservation Target Area, and that biodiversity enhancements should be targeted to this area rather than be threatened by pollution from development.
- 7.10. DESIGN AND CONSERVATION: No comments to make.
- 7.11. ECOLOGY (CDC): **Objects**. Whilst noting that the current proposals are an improvement on the previous scheme, and would provide benefits through additional planting, remains concerned with the potential impacts on locally ecologically important sites but notes BBOWT may be better placed to comment on this aspect as regards the LWS. Further detail required with regards to proposed planting and proposed Biodiversity enhancements.
- Notes the lack of acknowledgement within the ecology report that the site is within a Conservation Target Area (CTA) and that the development needs to help meet the aims of the CTA. Further notes the main outstanding issue for this is the potential for an impact on water quality; given that the site and ranging fields for the poultry is within an area of flood risk there is potential for manure from these events to enter watercourses and be deposited elsewhere, which could have ecological impacts.
- 7.12. ENVIRONMENT AGENCY: **Objects**. The Flood Risk Assessment (FRA) is not considered to adequately assess the flood risks posed by the development. In particular, the FRA fails to:
- Assess the impact of climate change using the latest guidance and appropriate climate change allowances.
 - Demonstrate that the proposed development has finished floor levels above the 1% annual probability (1 in 100) flood level with an appropriate allowance for climate change.
- 7.13. ENVIRONMENTAL HEALTH (CDC): **No objections**, subject to conditions securing: specific details in relation noise associated with the machinery to be used; a system of electrical vehicle charging to serve the development; the monitoring of the odour/ammonia levels at the boundary with the findings being available for inspection by a council officer; and a scheme for dust management.
- 7.14. HISTORIC ENGLAND: No comments to make.
- 7.15. LANDSCAPE SERVICES (CDC): **Objects**, on the grounds of visual and landscape impact; commenting: *'From a landscape impact point of view there isn't an effective way of mitigating the presence of the building'*. There is a lack of landscaping information: no indication where the planting is located, and large standard trees are shown on the plan but not in the schedule.

7.16. LICENSING (CDC): No formal comments received

7.17. LEAD LOCAL FLOOD AUTHORITY OCC (LLFA): **Objects**, noting the following key issues:

- Insufficient surface water management, flood risk, SuDS use, mitigation measure information provided to enable technical assessment of the proposal.
- Site partially in Flood-zone 3 – evidence required of consultation with EA.
- Proposal is not aligned with Local or National Standards in its current iteration.
- Significant surface water flood risk has not been addressed.

7.18. LOCAL HIGHWAY AUTHORITY OCC (LHA): **Objects**; commenting that: *'It has not been demonstrated that the visibility splay is adequate to provide a safe and suitable access'*.

Key issues highlighted:

- A visibility splay appropriate to the speed limit or measured speeds is required
- A S278 agreement will be necessary for a bell-mouth junction
- The proposed development will have minimal impact on the highway network in terms of trip generation

7.19. MOD PROPERTY: No formal comments received

7.20. NATURAL ENGLAND: **No objection**, referring to comments previously made against 19/00644/F; which recommends that officers seek further information from the Berks, Bucks and Oxon Wildlife Trust to ensure the Council has sufficient information to fully understand the impact of the proposal on LWSs before determining the application.

7.21. THAMES VALLEY POLICE: No formal comments received.

7.22. THAMES WATER: **No objections**.

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
- SLE4: Improved Transport and Connections
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction

- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems
- ESD8: Water Resources
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD11: Conservation Target Areas
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- ESD17: Green Infrastructure
- Villages 1: Village Categorisation
- INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: New dwellings in open countryside
- TR7: Development attracting traffic on minor roads
- TR10: Heavy Goods Vehicles
- AG2: Construction of farm buildings
- AG3: Siting of new or extension to existing intensive livestock and poultry units
- AG4: waste disposal from intensive livestock and poultry units
- C8: Sporadic development in the countryside
- C14: Countryside management projects
- C28: Layout, design and external appearance of new development
- ENV1: Development likely to cause detrimental levels of pollution
- ENV12: Development on contaminated land

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010
- Noise Policy Statement for England 2010 (NPSE)
- Cherwell Countryside Design Summary (1998)
- Oxfordshire Wildlife & Landscape Study (OWLS)
- Oxfordshire County Council: Local Transport Plan 4 (2015-2031)

9. APPRAISAL

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

- Principle of the Development
- Landscape and Visual Impact
- Environmental Pollution and Nuisance
- Residential Amenity
- Ecological & Biodiversity
- Highway Safety
- Flooding Risk & Drainage

Principle of Development

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996 as well as a number of Adopted Neighbourhood Plans (although none of which are relevant to the application site in this instance).

Policy Context

- 9.3. The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental.
- 9.4. Whilst considered as a whole, the proposals include a number of distinct elements including both agricultural development and residential development.
- 9.5. In terms of the agricultural elements, the NPPF advocates the support of the sustainable growth and expansion of all types of business and enterprise in rural areas, both through the conversion of existing buildings and well-designed new buildings. This also includes the development and diversification of agricultural and other land-based rural businesses.
- 9.6. Saved Policy AG2 of the CLP 1996 is similarly supportive of the principle of farm buildings in the countryside, in that it supports new farm buildings where they are designed and sited such that they do not intrude into the landscape or residential areas.
- 9.7. Cherwell District Council can demonstrate a 4.6-year supply of deliverable housing sites (i.e. less than the 5-year supply required in the NPPF). Notwithstanding this, the Written Ministerial Statement of 12th September 2018 provides for a 'temporary change to housing land supply policies as they apply in Oxfordshire'. Until the adoption of the Joint Statutory Spatial Plan, the Oxfordshire Authorities are required to demonstrate a 3-year supply of deliverable housing sites (as well as meeting their requirements in respect of the Housing Delivery Test).
- 9.8. As such, policies for determining the application are only to be considered out of date (in accordance with paragraph 11d – footnote 7 of the NPPF) where a 3-year supply of deliverable sites cannot be demonstrated. A 3-year supply can be demonstrated in this case and so the presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.
- 9.9. In respect of the proposed new residential dwelling, as the site is located on agricultural land in the middle of open countryside this element of the proposals stands to be assessed against Saved Policy H18 of the Cherwell Local Plan 1996.
- 9.10. Policy H18 of the Cherwell Local Plan 1996 sets out that a new dwelling in the open countryside will only be granted planning permission where it is considered to be essential for agriculture or another existing undertaking or where it meets the criteria for the provision of affordable housing and in either case where it does not conflict with any other policy in the development plan.

- 9.11. Paragraph 79 of the NPPF states planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
 - b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
 - c) the development would re-use redundant or disused buildings and enhance its immediate setting;
 - d) the development would involve the subdivision of an existing residential dwelling; or
 - e) the design is of exceptional quality, in that it:
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

Assessment

- 9.12. The nature of proposed development remains largely as previously assessed under withdrawn application 19/00644/F. In looking to address concerns raised in respect of the previous application the applicant has revised both the position of the egg production unit and the proposed dwelling. The applicant has further stated that the proposed business would run as part of an existing trading account part of W Potters & Sons (Poultry Ltd).
- 9.13. As noted above the proposals include several distinct elements including both agricultural development and residential development; with the applicant contending the proposed dwelling is necessary for the operational needs of the proposed new egg production business. Given the nature of the proposals the Council has again sought advice from an independent agricultural consultant (AC) in respect of the proposed scheme.
- 9.14. The application is supported by an Assessment of Need & Design and Access Statement, which sets out a limited overview of the business, a description of the proposals, a statement with regards to the functional need and drawing a conclusion.
- 9.15. The applicants have also provided detailed accounts for their existing business, W Potters & Sons (Poultry Ltd), and the AC confirms that the last three years' trading accounts show this to be a viable business. In addition, a cash flow document has also been provided showing that after initial investment the Arncott business would trade profitably.
- 9.16. The PPG advises of considerations that it may be relevant to take into account when applying paragraph 79a of the NPPF; these could include:
- evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day)

and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products);

- the degree to which there is confidence that the enterprise will remain viable for the foreseeable future;
- whether the provision of an additional dwelling on site is essential for the continued viability of a farming business through the farm succession process;
- whether the need could be met through improvements to existing accommodation on the site, providing such improvements are appropriate taking into account their scale, appearance and the local context; and
- in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.

9.17. Taking these points in turn:

1. In terms of a functional need, as the proposal is for a large free-range poultry unit for 59,000 laying hens, the building would incorporate computer-controlled systems for feed, water, temperature and ventilation, with alarm systems to alert staff of any failures in the building's controlled systems. The applicants have reviewed local housing opportunities and discounted a number of options within the supporting assessment of needs document, considering that the needs of the business can only be accommodated by a new dwelling on the site. The AC has reviewed the supporting information and considers that for a unit of this size and nature there is an essential need for one person to live at or near the poultry unit to deal with any failures in the automated systems, and to protect the welfare of the poultry housed within the buildings; together with providing security for the unit to prevent crime, vandalism, etc. The AC considers that this consideration has been satisfied.
2. In terms of confidence that the business would remain viable, the existing business, W. Potters & Sons (Poultry Limited), have provided three years trading accounts which show that the existing business is financially viable. Previously concerns were raised in respect that the proposed unit at Lower Arcott would be run as a separate trading account from the main business, which would effectively mean that this would be a new business with no trading history. As noted above, whilst the applicants state that the business would be run as part of an existing trading account part of W Potters & Sons (Poultry Ltd), no evidence has been submitted in this regard nor is there any guarantee that this would be the case.

The applicants have also provided a letter of intent from Noble Foods Ltd that they would be in a position to work closely with the business to enable contracting the volume of egg from the proposed free-range egg facilities. However, this is not a formal contract and at this stage carries limited weight in consideration as to whether there is a need for the proposed unit.

If this unit is to be run as a separate trading business to W. Potters & Sons (Poultry Limited), then it is considered that this would be a new business, with no trading history, and therefore could not satisfy this consideration as the enterprise would not currently be established, or financially viable, or show that it has been profitable for any one of the last three years. On this point the AC concludes that, if this is a new trading business, this consideration has not been satisfied.

3. In respect of whether the provision of an additional permanent dwelling on site is essential, the AC considers that if the proposed unit is to be run as a

separate trading business it could not satisfy this consideration as it is not currently financially viable, as it has not yet been established.

4. With regard to whether the need could be met through improvements to existing accommodation on the site, this is a new enterprise in this location and there is no existing accommodation on site therefore, this criterion is not relevant to this application.
5. With regards to whether it is appropriate to consider granting planning permission for a temporary dwelling for a trial period, i.e. if this large free-range poultry unit is to be run as a separate trading business to W. Potters & Sons (Poultry Limited). The AC considers it would be a new enterprise, and as such it would be appropriate to consider granting planning permission for a *temporary* dwelling for a trial period of three years.

9.18. Overall, having regard to the guidance within the PPG and the relevant policies the AC draws the following conclusions:

- If consent is granted for the free-range egg production unit as proposed, there would be agricultural support for a temporary agricultural workers' dwelling for a period of three years to enable the new trading business to become established, and to provide evidence that it can sustain the cost of a permanent dwelling after the three-year trial period expires.
- However, if the applicant company provides evidence that the business would be part of W. Potters & Sons (Poultry Limited) and that there is a provisional contract in place for the eggs to be produced and the contract is for a period of time that would enable the unit to become established i.e. more than three years, then there would be agricultural support for a permanent dwelling as the business is currently financially viable, and has been profitable over the last three years.

9.19. Officers see no reason not to agree with the AC's advice, albeit that the AC does not comment on the availability of housing in nearby settlements, and the applicant has not demonstrated that they have explored all options in terms of security systems, alarms, etc. Whilst the requirements of the enterprise demonstrate a functional need for an agricultural worker to reside at the site, due to a lack of contractual supporting information there is no confidence that the business would not represent a new enterprise and further it has not been demonstrated that such a new enterprise would be viable going forward.

9.20. The applicant has provided several extracts from appeal decisions (for similar types of development and need for an essential dwelling) to support the current application. Whilst these decisions reflect a snap shot of decisions made by Planning Inspectors, and their assessment of the issues in relation to the relevant individual applications, (1) there are other decisions which have concluded the other way, (2) some of those decisions relate to temporary dwellings rather than permanent dwellings and (3) planning law requires that each application must be assessed on its own merits and in the context in which it is set. The context of the applications on which the Inspector comments are made may have very different circumstances to those of the current application and as such officers have given little weight to the consideration of the appeal decision extracts in reaching their conclusion with regard to whether an essential need is demonstrated.

9.21. As noted above Saved Policy AG2 of the CLP 1996 is supportive of the principle of farm buildings in the countryside, where they are designed and sited such that they do not intrude into the landscape or residential areas. In this instance officers have significant concerns with regards to both the potential visual and environmental impacts of the proposed main egg production building (discussed below) and do not consider the proposals acceptable in this regard. Further, notwithstanding the

above comments, with the egg production unit not being considered acceptable officers consider there would be no essential need for dwelling in this location.

Conclusion

- 9.22. Whilst it is considered that there is general policy support for new agricultural buildings and rural businesses in many situations and rural locations, in this instance there are significant concerns with regards to the environmental impacts of the proposed development, both physical and perceptual. In addition, it has not been satisfactorily demonstrated that an essential need exists for a new *permanent* dwelling in this location (whereas there may be a justification for a temporary dwelling – albeit this is not what is proposed here). The proposals would see a substantial new agricultural building, associated development and a new residential dwelling being introduced on what is currently a greenfield site in open countryside. As the proposed dwelling cannot be justified based on an identified essential need, and it is considered that the overall development would result in undue environmental harm, in part through intrusion into the valued rural landscape, the proposals significantly conflict with the provisions of the Development Plan policies identified above (discussed further below) and are therefore considered by officers to be unacceptable in principle.

Landscape and Visual Impact

Policy Context

- 9.23. 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. 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.
- 9.24. 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.
- 9.25. 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 CLP1996 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.
- 9.26. Saved Policy AG2 of the CLP 1996 states that farm buildings should normally be sited so they do not intrude into the landscape or residential areas and where appropriate landscaping schemes should be included and materials should be chosen so that development fits sympathetically into its rural context.

Assessment

- 9.27. The landscape around the site is located within both the Alluvial Lowlands character type and the Wooded Farmland character type within the Oxfordshire Wildlife & Landscape Study (OWLS) 2004.
- 9.28. The OWLS notes that the Alluvial Lowlands is characterised by a regular pattern of medium-sized hedged fields with permanent pasture and arable cropping. Broad alluvial plains. The OWLS set out that the key characteristics comprise of a mixed farming pattern with regular fields with both arable cropping and pasture; densely scattered hedgerow trees of ash and willow; dense willow corridors bordering a large number of ditches and is sparsely settled.
- 9.29. The OWLS notes in relation to the nearby Local Wildlife Site (LWS) 'Field south of River Ray' notes that: '*This field of wet pasture is used for cattle grazing. The field has not been agriculturally improved through the use of fertilizers or herbicides or through ploughing and reseeded. Meadows such as this are a nature conservation priority in the UK. This field lies next to another County Wildlife Site which together form a much larger continuous area of this habitat. The field has a distinct ridge and furrow pattern which is a sign of medieval ploughing.*'
- 9.30. The OWLS states that the Woodland Farmlands is characterised by a mosaic of woodland, enclosed pasture, arable fields as well as scattered farms and settlements. The OWLS set out that the key characteristics comprise of large blocks of ancient woodland and a large number of plantations; a varied field pattern of arable land and pasture enclosed by woodland and hedges; species rich hedgerows with many hedgerow trees and dispersed settlement pattern with settlements and scattered farms.
- 9.31. The Council's Countryside Design Summary (1998) encourages sensitive and appropriate development across the District and sets out specific advice relevant to this case. This divides the Cherwell District into four broad areas and this site is identified as lying within the Clay Vale of Otmoor area. The landscape of the area is described as generally flat, low-lying area crossed by the meandering Rivers Ray and Cherwell, which drain into the Thames at Oxford. The Design Summary also sets out that arable farming is the primary agricultural land use of the area, and that the wider Otmoor area is of significant ecological importance. The Countryside Design Summary sets out that new development should look to prevent damage to ecologically important habitats and to maintain its capacity to take floodwater; new development will not normally be acceptable within the floodplain. Further that Loss of hedgerows should be avoided, as this will damage landscape character by creating monotonous exposed plains.
- 9.32. The application is supported by a Landscape and Visual Impact Assessment (LVIA), as submitted during the previous application, which considers the potential impacts on the landscape character and amenity of the site and surrounding area. The visual assessment was carried out by Viento Environmental Limited; fieldwork was undertaken to identify several viewpoints (six) in the immediate and wider setting of the site. Further information has also been submitted in respect of a proposed planting scheme; updated during the application.
- 9.33. Officers note that the LVIA has not been updated from the previous application and does not reflect the revised positioning of the egg production building or the revised location of the proposed dwelling; as such officers therefore question the value of the assessment made within this document in relation to the current application, in that does not accurately reflect the likely potential visual impacts of the proposed development.

- 9.34. Notwithstanding the above, in respect of potential landscape impacts, the LVIA considers that there is medium landscape character sensitivity and that, when considering the scale and nature of the development changes would result in moderate/minor or minor impacts on landscape character; concluding that: *'In landscape character and visual amenity terms, in combination with the landscape enhancement proposals, the proposed development would be a suitable fit within the context of its immediate surroundings and would result in limited changes to views and landscape character within the local area...'*. As with the previous scheme, officers do not agree that the level of landscape effect would be minor.
- 9.35. From visiting the site, officers consider that the site and surrounding land is more typical of the Alluvial Lowlands character type, given the level, openness and the large-scale arable fields with long distance views across the site. The landscape officer (LO) shares this view and notes the landscape in the vicinity is very flat with low hedges and very scattered trees, which do not provide much screening.
- 9.36. Both the proposed dwelling and proposed poultry building would be sited in an isolated position in the middle of open countryside. Within the supporting DAS the applicant has stated that: *'The building is sited within a natural hollow of the landscape and does not affect long distance views from amenity areas therefore minimising the impact of the building on the landscape, in addition to this there is a proposed landscaping planting scheme'*. Whilst the proposed poultry building would be sited in a slight natural depression, both the LO and the case officer consider this would not be sufficient to screen what would be a substantial new building.
- 9.37. The proposed dwelling, detached garage and gate house structure would be sited in excess of 260m north of the adjacent highway in open countryside and would be prominent features in the rural landscape. The proposals include additional planting that looks to mitigate the visual impacts of the proposed development.
- 9.38. In respect of the proposed planting the LO notes that there is a lack of information as to where proposed species-rich grassland planting and further a lack of specific detail in respect of where larger trees would be planted. It is further noted that the trees would take at least 25-years for the trees to develop a mature size, this is probably not far off the life of the building so for the majority of the time there would not be effective screening. Scattered trees are proposed, but all are relatively close to the building so there would not be the cumulative effect of planting at different distances from the building. Any planting subjected to flooding would struggle to establish. Some of the species proposed are not considered suitable as they do not like heavy soils as experienced at the site, others don't like varying ground water levels. The LO also notes that more flooding like that experienced this year would kill most young plants.
- 9.39. The building is very large and as such very difficult to mitigate the impact of it in such a flat landscape as there is no intervening topography to help screen it. Continuous planting which would create a green wall would only serve to emphasise the scale of the building and is not good practice. From a landscape impact point of view there isn't an effective way of mitigating the presence of the building, and it is an established planning principle that landscaping cannot be used to make acceptable an otherwise unacceptable form of development.
- 9.40. The proposed dwelling and gate house would sit in a similar open position as an existing single storey structure in the adjacent field to the west of the site and would likely have similar level of prominence in the open landscape.

- 9.41. The Landscape Strategy as expressed within OWLS looks to maintain the tranquil nature of the landscape and promote the restoration and enhancement of hedgerows, hedgerow trees and tree-lined watercourses. Including:
- Strengthening the field pattern by planting up gappy hedges using locally characteristic species such as hawthorn, and hedgerow trees such as oak and ash.
 - Promoting environmentally-sensitive maintenance of hedgerows, including coppicing and layering when necessary, to maintain a height and width appropriate to the landscape type.
 - Enhancing and strengthening the character of tree-lined watercourses by planting willows and ash and, where appropriate, pollarding willows.
 - Conserve the surviving areas of permanent pasture and promote arable reversion to grassland, particularly on land adjacent to watercourses.
- 9.42. The proposals, with potentially significant new tree planting and removal of hedgerows required to facilitate the construction of the proposed poultry building, would be in direct conflict with the OWLS landscape strategy which looks to protect and sustain the character and appearance of the valued rural landscape.

Conclusion

- 9.43. The proposals would result in a substantial new poultry building, gatehouse and new dwelling being introduced on an area of open countryside; and it is considered that it has not been demonstrated that the impacts of such development could be successfully mitigated through an appropriate landscaping scheme. It is considered that the proposals would cause undue visual intrusion into the open countryside and be to the detriment of the general character and appearance of the surrounding valued rural landscape. The proposals therefore significantly conflict with the provisions and aims of the Development Plan policies identified above and are therefore considered by officers to be unacceptable in terms of landscape and visual impacts.

Environmental Pollution and Nuisance

Policy Context

- 9.44. Saved Policy ENV1 of the adopted Cherwell Local Plan states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke other type of environmental pollution will not normally be permitted.
- 9.45. Policy ESD8 states that: *'Water quality will be maintained and enhanced by avoiding adverse effects of development on the water environment. Development proposals which would adversely affect the water quality of surface or underground water bodies, including rivers, canals, lakes and reservoirs, as a result of directly attributable factors, will not be permitted'*.
- 9.46. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that: *'Development should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space'*.
- 9.47. Saved Policy AG3 of the adopted Cherwell Local Plan notes that in the interests of the avoidance of pollution, new intensive livestock and poultry units or extension to existing units that require planning permission will be resisted where they would have a materially detrimental effect on nearby settlements or dwellings due to smell.

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

Assessment

- 9.50. The proposals would require an Environmental Permit, as the proposed number of birds exceeds the threshold limit of 40,000. Whilst no formal comments have been received from the Environment Agency (EA) in this regard on the current application, they previously advised during application 19/00644/F that as part of the application the applicant would need to prove there would be no detrimental impact from ammonia releases on sensitive receptors as well as having an odour management, manure management and pest control management plans agreed before the permit is granted or have agreed to improvement conditions stipulating such works/targets would be achieved within a specified time period. The IPPC permit covers issues such as on-site noise, emissions (including odour) and waste generated on site and their management as well as issues of concern in relation to the surrounding environment. Notwithstanding the above the Local Planning Authority will need to be satisfied that the proposed use can be regulated effectively, without undue environmental harm.
- 9.51. Given its nature, the proposed development has the potential to produce noise and odours. There are some residences and commercial properties in the areas surrounding the site of the proposed poultry unit. The closest residential dwellings and commercial buildings in relation the application site boundary are at:
- Wild Meadow, approximately 250 metres to the north-west of the boundary of the application site;
 - Bridge Farm approximately 420 metres to the north-west of the boundary of the application site;
 - Meadow Farm, approximately 500 metres to the north-west of the boundary of the application site;
 - MOD facilities to the east and south of the site.
 - Bullingdon Prison approximately 540m south of the site.
 - Those within the surround settlements of Lower and Upper Arnott which lie to the west and south-west of the site respectively, Blackthorn ~840m to the north, with the village of Piddington ~1.5km to the east and Ambrosden ~1.8km to the north-west.
- 9.52. Further sites of ecological importance also have the potential to be affected by the proposed development.
- The Field South of River Ray Local Wildlife Site (LWS) approximately 340m west/north-west of the site;
 - Meadow Farm Meadows LWS approximately 440m to the north/north-east of the site.
 - Arccott Bridge Meadows SSSI approximately 1.2km to the west of the site.

Assessment of Noise

- 9.53. The application is supported by a Noise Impact Assessment (NIA) prepared by 'Matrix Acoustic Design Consultants', which reviews plant (for example ventilation) and transport noise (for example manoeuvring, unloading and loading) generated from the proposed development. The submitted NIA alongside the application has been conducted in accordance of BS4142:2014 'Methods for Rating and Assessing Industrial and Commercial Sound', to determine the typical background noise levels at the nearest dwellings to the proposed development.
- 9.54. It is noted that the proposed fans have yet to be confirmed, but for the purpose of the assessment typical units used in free-range egg units have been assumed, (namely Big Dutcham FF091-6DT units). The NIA states that the fans are to be thermostatically controlled, with the total number of fans operating at any one time dependent on the bird's ventilation requirements. The document states the high stage (100% ridge extract fans operating) would typically only be triggered when the external temperature exceeds 23°; this therefore is only expected to occur during the daytime period (07:00 – 20:00hrs), and that during the evening and night this temperature is not expected to be exceeded (20:00-07:00).
- 9.55. In addition, the NIA states that the majority of transport movements, for example egg collections, will only occur during the working day (07:00 – 20:00hrs). The NIA concludes that the nearest residential receptors would experience, at worst, very low to negligible levels of noise as a result of the transport activities. The NIA concludes that: *'On the basis that the proposed development (assessed using typical extract fans and assumed very low background noise levels) will not result in an adverse noise impact at the nearest dwellings, we conclude that on noise grounds it is acceptable'*.
- 9.56. The Council's Environmental Protection Officer (EPO) has reviewed the NIA and considers it appropriate in terms of method of assessment and the conclusions reached. In noting a discrepancy between the number of fans detailed within the noise report and that stated within the management plan it is noted the noise report was based on the higher number (22) and the EPO therefore remains satisfied to its contents. The EPO raises no objections on the grounds of potential noise impacts, considering that specific details could be secured through appropriate conditions should the Council be minded to approve the application. Officers see no reason to reach a different conclusion than that of the EPO.
- 9.57. It is worth noting that the IPPC permit covers that matter of noise pollution beyond the installation boundary. Given the above, officers consider that the proposed poultry unit can be regulated effectively so as not to produce materially detrimental levels of noise pollution.

Assessment of Odour

- 9.58. The applicants have submitted Odour Impact Assessment (OIA) ('Dispersion Modelling Study of the Impact of Odour' report) and 'Odour Management Plan' during the application in response to officer and third-party concerns.
- 9.59. The OIA identifies that the main source of odour from the proposed poultry house would be from the chimneys of the ridge/roof mounted fans, and in hot weather, from the gable end fans, with some further emissions from open pop holes. The chickens would have access to daytime ranging areas outside of the house and some odour would arise from the manure deposited on the ranging areas.

- 9.60. The Odour Impact Assessment uses computer modelling to assess the impact of odour emissions from the proposed poultry building. The odour emission rates from the proposed poultry houses have been assessed and quantified based upon an emissions model that takes into account the internal odour concentrations and ventilation rates of the poultry building. The odour emission rates obtained were then used as inputs to an atmospheric dispersion model which calculates exposure levels in the surrounding area.
- 9.61. The result of the modelling indicates, the Odour Impact Assessment concludes, that the 98th percentile hourly mean odour concentration at all nearby residential properties and commercial businesses would be below the EA's benchmark for moderately offensive odours. Thus, based on this, such odours should not give rise to a significant proportion of complaints when referring to research by UK Water Industry Research (UKWIR).
- 9.62. Concerns have been raised by third parties regarding the storage of manure created by the proposal in terms of odour and the potential issues this may create in terms of pests.
- 9.63. There are significant discrepancies and inconsistencies within the application in respect of the amount and proposed method of disposal of chicken manure from the site. The applicant states ('Manure Management Plan') that the method of disposal of the poultry manure produced by the development is through export from the application site including a letter of confirmation from Severn Trent Green Power that they would be able to take in chicken litter into their Anaerobic Digestion (AD) plant at either Cassington or Wallingford; subject to the chickens being bedded on shavings rather than straw. The 'Management Plan' document, however, states: *'...all of the muck will be taken off the farm and utilised on family owned farmland'*.
- 9.64. It is worth noting that the spreading of manure as a sustainable fertilizer is controlled by the Nitrate Pollution Prevention Regulations 2015, and the DEFRA Code – Protecting our Water, Soil and Air: A Code of Good Agricultural Practice (CoGAP); further that exporting manure to other farmers is an acceptable practice under the NVZ and Environmental Permitting Regulations.
- 9.65. The applicant indicates that the manure is proposed to be disposed of by way of a conveyor belt system which would remove manure from the internal conveyor belt systems via an external conveyor belt into a parked trailer outside the building. However, officers again note significant inconsistencies with regards to the amount of manure that would be removed and frequency of such operations; depending on which document you read this could be the conveyor being operated: every 10 days removing 14 tonnes (DAS); every 5-7 days removing approximately 16 Tonnes (Management Plan Section 1; also noting that the Management Plan then refers to a 10 cycle later at Section 7) and then every four days as expressed in the Odour Impact Report.
- 9.66. The EPO has reviewed the submitted documents and notwithstanding the discrepancies highlighted above has raised no objections in relation to odour pollution, subject to the OMP being implemented and secured going forward. The EPO has indicated that the OIA sufficiently establishes that the odour at the nearest sensitive receptors would be within the applicable guidelines; and further that additional controls in respect monitoring the site could be secured by way of appropriate conditions were the Council minded to approve the application.
- 9.67. Whilst there is potential for odour, officers see no reason to disagree with this assessment from the EPO. Officers are also aware that the Environmental Permit

will ensure that odour and waste arising from the proposal is controlled by the EA to statutory standards and this is a significant consideration. Thus, Officers are satisfied that the proposed poultry unit could be regulated effectively, without causing materially detrimental levels of odour pollution to nearby receptors.

- 9.68. Whilst it is acknowledged that third parties have raised concerns with the use of this modelling to represent the odour impacts of the proposal and that the Council should undertake its own independent assessment, Officers consider the submitted evidence to be robust. Furthermore, no alternative technical evidence of harm has been provided to counter the applicant's submission.
- 9.69. As with a previous recent application 19/00423/F for proposed poultry units at Mixbury, Officers again consider it appropriate to refer Members to an appeal within the district from 2017 for a similar sized poultry unit (see 16/01706/F and APP/C3105/W/17/3166498). Modelling was utilised when formulating the Odour Impact Assessment, and this outlined that the proposal would not cause materially detrimental levels of odour pollution to nearby receptors. The Council's Environmental Protection Officer did not object to the application on this matter. However, the application was refused by the Council in relation to odour emissions. The appeal was subsequently allowed as the Inspector was satisfied with the submitted Odour Impact Assessment. The Inspector was also mindful of the advice within paragraph 183 of the NPPF in that the operation of the enterprise and any emissions would be tightly controlled by an Environmental Permit that has been issued by the Environment Agency. The Inspector also awarded costs to the Appellant on the grounds that the Council failed to produce evidence to substantiate this reason for refusal amounted to unreasonable behaviour.
- 9.70. Concerns have been raised from third parties regarding fly infestation and vermin. During the assessment of previous applications, it has been noted that fly infestation is not a problem associated with modern poultry units; as flies breed in damp litter, and new modern poultry houses with biomass heating systems maintain dry litter conditions. Whilst the proposals indicate an external muck store, the applicants state that there would be no storage of used litter outside the houses at any time, litter is transported in covered trailers, fly infestation would not be in the best interests of the proposed business. Appropriate control could be achieved in respect of manure storage at the site could be secured by way of appropriate conditions were the Council minded to approve the application.
- 9.71. Third party concerns are also raised in respect of the lack of assessment of the impact of odour from chickens roaming externally. The proposals would see the chickens managed in rotated pasture areas, which when appropriately managed would allow the ground to recover and prevent a build up of waste and associated odours. As noted above odour emissions would again be regulated by the Environmental Permit.
- 9.72. Concerns have also been raised from third parties regarding vermin. The proposed development is required to operate a pest control protocol and have formal pest control contracts in place. Dead birds would be collected by an approved contractor of the National Fallen Stock Disposal Scheme prior to this they will be stored in a secure container in line with the animal by-products Regulations 2003. Pest control for rats would be carried out by an approved agency. Preventative measures would be used to control flies to include fly screens and fly controls replaced periodically to prevent the flies entering the building from the outside. Furthermore, the submission notes that the design of the development includes sealed buildings which are vermin proof and enclosed feeding systems with no external storage of feedstuffs which could attract vermin.

Assessment of Air Quality and Dust

- 9.73. Concerns have been raised in relation to dust pollution and the potential for poor air quality. The assessment of dust from poultry farms formed part of a DEFRA research project. The results of DEFRA project AC0104 confirmed with research that dust was diluted over short distances of 100m to normal background levels. As there are no receptors within 100 metres it is considered that the proposal does not pose a risk of public health issues in this respect.

Assessment of Pollution to Watercourses & Ponds

- 9.74. The River Ray flows across land north of the approximately 410m site and a large area of the application site falls with the flood plain of this main river.
- 9.75. The submitted FRA presents a surface water management plan for the site based on attenuation, with runoff from the main impermeable surfaces to be routed to an attenuation basin. Again, it is noted that the main FRA document has not been updated to reflect the amendments to the proposed scheme from that assessed under 19/00644/F but is supported by a further report commenting on the revised proposals. Further that the application site boundary shown within the report is inconsistent with the application site boundary shown of the application's site location plan (Drwg. No. RJC-MZ275-02).
- 9.76. As noted above the proposals would require an IPPC permit which requires that dirty water is contained within an approved containment system and further that the effluent of containment system must conform to the requirements of Schedule 2 of 'The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010.
- 9.77. As with the previous application the Lead Local Flood Authority (LLFA) raises objections to the application considering the FRA to be inadequate. Officers consider that there has not been sufficient consideration of potential contamination issues within the application and how such could be mitigated against; with the potential existing for pollutants arising from the site potential seeping into the nearby watercourse and water-table, particularly in times of flooding which are known to occur, thereby detrimentally impacting on water resources. In this respect such potential is identified in Section 7. Off Site Impacts of the FRA, stating that: *'Also, in the event the attenuation basin cannot cope with a certain rainfall event, exceedance runoff will naturally flow north towards River Ray'*.
- 9.78. It is also noted that the EA objects to the proposals, advising the FRA is lacking in terms of its detail. At the time of preparation of this report the applicant's agent submitted further information with regards to looking to address the objections of the EA and LLFA; however, at this point no response had been received from either consultee to this additional information.
- 9.79. The application is supported by 'Method Statement and Pollution Prevention Plan' which looks to secured mitigation measures to prevent ground water pollution and pollution of nearby water course. However, this does not address issues relating to the potential for pollutants such as chicken manure being washed into the River Ray at times of flooding, which is a known issue within the application's site boundary being within flood zones 2 & 3.
- 9.80. Given the lack of robust detail of the proposed drainage of the site and lack of assessment of potential for contamination from manure from the site (including external ranging areas), officers consider that it has not been demonstrated that

the development could take place without it causing materially detrimental levels of pollution to watercourses and ponds.

Assessment of Lighting

- 9.81. The application is supported by a 'Lighting Design Report', which indicates that the proposed poultry installation means that some light sources will be required to allow safe and effective activities within the site to take place.
- 9.82. Whilst the proposals would see the introduction of a light source where currently none exists, it is proposed at a level that would be consistent with such typical agricultural installations and is at a level that would unlikely result in any significant impacts on visual amenity or ecology in this instance.

Conclusion

- 9.83. Whilst the proposals could be considered acceptable in terms of noise, odour, air quality and lighting, it is considered that it has not been demonstrated that the proposed development could be undertaken without it causing materially detrimental levels of pollution to watercourses and ponds, contrary to the provisions and aims of development plan policies identified above and guidance within the NPPF.

Residential Amenity

Policy Context

- 9.84. Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. 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

- 9.85. The potential impacts on residential amenity of the proposed development in terms of odour, noise, air quality and light are assessed above, and are considered acceptable in these regards.
- 9.86. In respect of the proposed new dwelling, given the rural context of the site and that it is not located in close proximity to any residential properties it is considered that there would be no significant harm resulting from the proposed development of new dwelling on the site on the residential amenity of neighbours.
- 9.87. The proposed poultry building would be a significant structure in the open countryside, however given its relatively remote location and relationship with neighbouring properties it is considered that the building would not result in any direct impacts on residential amenity.

Conclusion

- 9.88. It is considered that, given the context of the site and its relationship with neighbouring properties, the proposal would not have any significant impact on neighbour amenity in terms of loss of light, loss of privacy or over domination, and that the proposed dwelling would provide for an acceptable living environment. The proposals are therefore considered acceptable in terms of residential amenity.

Ecology & Biodiversity

Legislative context

- 9.89. 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' (EPS), and the adaptation of planning and other controls for the protection of European Sites.
- 9.90. 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.
- 9.91. 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.
- 9.92. 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.
- 9.93. 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

- 9.94. 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.
- 9.95. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.96. 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.
- 9.97. 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.
- 9.98. 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.
- 9.99. 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.
- 9.100. 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

- 9.101. 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.
- 9.102. It also states that LPAs can also ask for a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a

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

- 9.103. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard there are mature trees and hedgerows within and adjacent the site, which therefore has the potential to be suitable habitat for bats and breeding birds. With further ecologically important sites as identified above also being in close proximity to the site.
- 9.104. In order for the LPA to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, LPAs must firstly assess whether an offence under the Regulations is likely to be committed. If so, the LPA should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.105. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/very likely that Natural England (NE) will not grant a licence then the Council should refuse planning permission; conversely, if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 9.106. The application is supported by an Ecological Mitigation and Biodiversity Net Gain report (EMaBNG) including including a Protected Species assessment, which sets out to establish the base-line ecological condition of the site and to identify and evaluate any potential impacts which the scheme may have, taking account of any mitigation and enhancement to the ecology which the scheme can offer. The EMaBNG acknowledges that the proposed change of land-use would have implications for habitats and species of ecological significance, including the loss of a 50m section of hedgerow, thus necessitating an assessment of the ecological value of the site; however, considers the majority of the site to consist of improved grassland of minimal ecological value.
- 9.107. As noted during the assessment of the previous application, an assessment of wider impacts has been made through a Modelling of the Dispersion and Deposition of Ammonia report. This has considered ammonia deposition on protected and notable sites in the vicinity and concludes that they are sufficiently far away for level to be below the Environment Agency's threshold. Natural England (NE) had previously reviewed the ammonia report during the assessment of 19/00644/F and was content that the proposed development would not damage or destroy the interest features for which the nearest SSSI (Arcott Bridge Meadows) and therefore had no objection. This report has been updated to support the current application; including further mitigation measures (a Munter Air Cleaning system to be installed) to further reduce the potential for detrimental impacts of ammonia emissions. NE reiterates its comments in respect of the current application and raises no objections.
- 9.108. BBOWT and the Council's Ecologist (CE) have both again sustained objections to the proposals from the outset. There remain concerns with regard to the lack of assessment of the potential impacts on the LWSs in proximity to the site, in particular chicken faeces being deposited in the external roaming areas of the site; potentially resulting in contamination of ecologically important sites during times of flooding; as experienced at the site earlier this year. BBOWT also remain

concerned with regards to potential detrimental impacts on Meadow Farm LWS as a result of odour, dust and ammonia.

- 9.109. The CE considers the submitted ecological report and its conclusions is acceptable with regards to protected species which are not a particular constraint on site (with the exception of nesting birds and lighting issues for bats). However, she again notes that the report omits to say that the site is within the Ray Conservation Target Area (CTA). The report makes suggestions for ecological enhancement which may be beneficial in this location and fit in with the general aims of the CTA (pond restoration, hedgerow management etc.); however, very little detail is included as to where such mitigation/enhancements would be located, and the CE considers this makes it a too vague to address by way of planning condition.
- 9.110. The applicants have submitted a proposed landscaping plan (Figure LV3 - Revised May 2020) (as part of the LVIA) updated during the application, which shows proposed planting of native trees and new hedgerows; however, there is no detailed information in respect of the improved species rich grasslands put forward within EMaBNG on this plan. As with the previous application it is acknowledged that the proposed trees are likely to have some biodiversity value. It is unclear as to why they have chosen these in this location and how and to what extent this would mitigate the proposals' impacts. A new tree belt or belts would have the potential for assisting in mitigating potential ammonia emissions, but this requires careful consideration about the types of trees and their positioning in relation to the proposed source of the emissions; something that appears lacking from the current submission with a somewhat random pattern of tree planting shown on the submitted landscaping plan.
- 9.111. The CE considers that more information is needed to demonstrate that impacts on biodiversity on site will be mitigated fully and importantly that there will be an overall net gain for biodiversity as required by policy, in particular a net gain which is within the aims of the CTA in which the site is situated.

Conclusions

- 9.112. The NPPF (Conserving and enhancing the natural environment) and Policies ESD 10 and ESD 11 of the CLP 2031 requires that a net gain in biodiversity is sought in new development. This is achieved by protecting, managing, enhancing and extending existing resources, and by creating new resources. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, or if such development would prevent the aims of a Conservation Target Area being achieved, then development will not be permitted.
- 9.113. As noted above there are concerns with regard to potential for pollutants to find their way into the nearby River Ray and also seeping into the water-table; which could potentially have wider impacts on the nearby Local Wildlife Sites identified above and surrounding agricultural land. Notwithstanding the relatively low ecological value of the site itself, the proposals include elements that would be to the detriment of ecological and biodiversity value for which there appears to be very little detail of mitigation or compensatory measures of such impacts.
- 9.114. Officers consider that it has not been adequately demonstrated that the proposed development would not result in detrimental impacts on the ecological and biodiversity at the site and nearby designated Local Wildlife Sites and further would not provide a net gain in biodiversity opportunities. The proposals are therefore considered to be contrary to the provisions and aims of both national and local development plan policies identified above and unacceptable in this regard.

Highway Safety

Policy Context

- 9.115. National and local policy looks to promote sustainable transport options whilst ensuring that new development proposals do not cause harm to the safety of the highway network.
- 9.116. The NPPF (Para. 108) advises of the need to have due regard for whether new development includes:
- appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
 - safe and suitable access to the site can be achieved for all users; and
 - 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.
- 9.117. Policy ESD15 of the CLP 2031 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work in. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.”*
- 9.118. Policy SLE4 of the CLP 2031 states that: *“New development in the District will be required to provide financial and/or in-kind contributions to mitigate the transport impacts of development.”* Policy SLE4 also states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling...Development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.”*
- 9.119. 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.”*
- 9.120. Saved Policy TR10 of the CLP 1996 states that: *“Development that would generate frequent Heavy Goods Vehicle movements through residential areas or on unsuitable urban or rural roads will not be permitted.”*

Assessment

- 9.121. The Management Plan supporting this application states that: *‘Proposed poultry farm will once in use need bulk food delivered to the farm by six or eight-wheeler HGVs, the usual sized vehicle for agricultural use in this rural area. The feed will be delivered 3 times a month and stored in the silos on site. The farm business has a provisional contract with a company to supply the free-range eggs, which will collect the eggs in a 7.5 tonne lorry three times a week’.*
- 9.122. Further movements would be required in relation to the disposal of manure from the site. The frequency and number of these movements would be dependent on the amount of manure to be disposed of; which as noted above there is some inconsistency within the submitted information as to the actual figures in this respect. Access would be taken directly from Palmers Avenue via an improved access point into the site.

- 9.123. The LHA objects to the proposals, advising that it has not been demonstrated that the visibility splay is adequate to provide a safe and suitable access to the site. The LHA notes, however, that as there is a grass verge on the south side of Palmer Avenue and that the visibility splay at the bend could pass over that which is within the highway boundary, which is most likely to be along the highway edge of the ditch. The LHA provides detailed conditions in this respect were the Council minded to approve the application.
- 9.124. The LHA's position here is opposed to its comments at the time of the application 19/00644/F in which it advised of no objections, subject to conditions requiring details of the proposed access to be approved and vision splays being created and maintained going forward; and further that a Section 278 agreement would be necessary to create the bell-mouth access from the highway.
- 9.125. Given the context of the site and geometry of the road network officers consider that, whilst not currently demonstrated, it is likely that acceptable vision splays could be achieved to give safe and suitable access to the site; and rather than constitute a reason to refuse the application on these grounds alone, that appropriate details could be secured by way of appropriate conditions.
- 9.126. Palmer Avenue is a busy road used by cars and HGVs. The LHA considers that, notwithstanding that the number of potential employees is unclear (14.8 no. equivalent full-time employees suggested in the needs assessment, whilst only 2 no. indicated on the application forms), the vehicle movements associated with the operation of the site would likely have a negligible impact on the highway network. Notwithstanding the discrepancies on the required level of manure disposal, taking the higher figures, the proposals are unlikely to result in significant further vehicle movements.
- 9.127. In relation to parking and turning areas on the site, officers are content that there is adequate space on the site for parking and manoeuvring.
- 9.128. Taking all transport matters into account, including the third-party objections submitted during the application, officers consider that, subject to securing the requirements of the LHA, in respect of vision splays and access arrangements, the proposal would unduly impact upon the safe and efficient operation of the surrounding road network.

Conclusion

- 9.129. Subject to conditions and a Section 278 agreement, it is considered that the proposal would not cause significant detrimental harm to the safety and convenience of highway users and is therefore considered acceptable in terms of highway safety.

Flooding Risk & Drainage

Policy Context

- 9.130. 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 and further, that development should be safe and remain operational in the event of flooding. In addition to safeguarding floodplains from development, opportunities will be sought to restore natural river flows and floodplains, increasing their amenity and biodiversity value.

- 9.131. 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

- 9.132. A site-specific Flood Risk Assessment (FRA) been submitted with the application. Whilst the main FRA document has not been updated to reflect the amendments to the proposed scheme from that assessed under 19/00644/F a further 'Response to LLFA on FRA-SWMP' report (Response Report) has been submitted which looks to address concerns previously raised by the County Council as Lead Local Flood Authority (LLFA) and reflects the updated scheme.
- 9.133. The Response Report indicates that that the proposed egg-laying area has a low to medium risk of surface water flooding. The map also shows that the northern corner of the site boundary, an open field, has a high-risk area of surface water flooding. Whilst no ground investigations appear to have been undertaken at the site, the 'Response Report' notes that from data from nearby testing (2 East View and Westbury Farm Blackthorn) indicate that it is understood that the surface water flooding is not from groundwater.
- 9.134. The submitted FRA and Response Report presents a surface water management plan for the site based on attenuation. A single attenuation basin is proposed for managing the surface water runoff from egg-laying unit and the access road which will run through a system of swales prior to discharge to the existing drain, and end in River Ray.
- 9.135. The Environment Agency's flood maps indicate that whilst the main poultry building, gatehouse and dwelling is not within a higher risk flood zone and is within Flood Zone 1, the northern end and north-west corner of the application's site boundary is within Flood Zones 2 & 3. The FRA and 'Response Report' recommendations are based on the development as being only being in flood zone 1 only.
- 9.136. The Environment Agency (EA) raises an objection given the lack of appropriate flood-risk assessment; the LLFA echo these concerns also sustaining an objection on these grounds. As noted above the case officer and ecologist share these concerns.
- 9.137. Policy ESD 7 requires that where a site-specific FRA is required in association with development proposals, they should be used to determine how SuDS can be used on particular sites and to design appropriate systems. Given that the assessment of flood risk at the site has not been based on the correct flood zone classification for the whole of the site, it is considered that appropriate SuDS compliant drainage cannot be properly assessed, to ensure that development would allow for satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property.
- 9.138. During the application the applicant's agent questioned the objections from the EA and LLFA, considering them to be unfounded given the submitted flood risk assessment information. The concerns of the agent have been forwarded on to the EA and LLFA for further comment, but at the time of the preparation of this report no further formal response had been received from either body. Such responses will be report to the planning committee by way of written update should such be received.

Conclusion

9.139. It is considered that the applicants have failed to demonstrate that the proposals would not increase the flooding risk on the site or elsewhere and would remain operational in the event of flooding and therefore does not accord with Policies ESD6 and ESD7 of the Cherwell Local Plan (2011-2031) Part 1.

Other matters:

9.140. Third party comments are made with regards to the area seeing a number of unwanted developments coming forward in the past. Each application must be assessed on its own merits at the time of application and needs to be assessed in the context in which it sits. Previous development is not considered to materially affect the acceptability or otherwise of the application assessed above.

9.141. Third parties have also raised concerns with regard to devaluation of property. This does not constitute a material planning consideration and therefore has not been assessed within the context of the application.

Human Rights and Equalities

9.142. The Human Rights Act 1998 (“HRA”) sets out fundamental freedoms which have been laid out by the European Convention on Human Rights (“ECHR”). In making any decisions, Cherwell District Council (“the Council”) should have due regard to and take into account any implications that may arise under the HRA. As a public authority, it is unlawful for the Council to act in a manner which is incompatible with the ECHR.

9.143. The rights under the ECHR which the Council views as being the most likely to affect planning matters are: Article 6 (the right to a fair trial); Article 8 (right to respect for private and family life); Article 14 (prohibition of discrimination); and Article 1 of the First Protocol (protection of property).

Article 6

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

Article 8 and Article 1 of the First Protocol

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

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

Duty under The Equalities Act 2010

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

10. PLANNING BALANCE AND CONCLUSION

- 10.1. 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 dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 10.2. Given the above assessment in the light of current guiding national and local policy context, it is considered that proposals represent an inappropriate form of development, including new residential development beyond the built-up limits of the village, for which no essential or identified need has been demonstrated. Whilst the proposals are considered acceptable in terms of residential amenity and highway safety it is considered that they fail to preserve the overriding character and appearance of the area and would result in significant environmental impacts.
- 10.3. The addition of this sizeable new building, new dwelling and associated infrastructure would detrimentally affect and result in significant harm to the rural character and appearance of the landscape. In addition, officers consider that there would be significant harm to the immediate locality and harm to the enjoyment of users of the nearby Public Rights of Way.
- 10.4. In addition to the above, it is considered that insufficient information has been submitted in relation to ecology and biodiversity, flood risk, drainage and pollution control to enable the LPA to properly consider and assess these matters and conclude that the development would be acceptable in these respects.
- 10.5. However, there remains a need 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 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.
- 10.6. The proposed development would create new employment on the site, albeit on a limited basis, and would support jobs within the associated services industry within the poultry sector, for example, haulage contractors, chick suppliers, poultry feed suppliers, veterinary and medicine, cleaning contractors and pest control contractors. New development also provides some construction opportunities. In

terms of social benefits, the proposal would contribute in meeting national food security.

- 10.7. Officers consider that in this instance that there would be significant adverse impacts to the natural environment, through intrusive development which fails to reflect or reinforce the local distinctiveness, which further conflicts with the environmental and sustainability policies of the Development Plan. As such it is considered the economic and social benefits identified above are clearly outweighed by the identified significant environmental harm and the conflict with development plan policy.
- 10.8. The proposals are therefore considered contrary to the above-mentioned policies and as such the application is therefore recommended for refusal for the reasons set out below.

RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW

REASONS FOR REFUSAL:

1. The proposed permanent dwelling constitutes sporadic residential development in the open countryside, beyond the built-up limits of the nearest settlement, for which it has not been demonstrated that there is an essential need. In its proposed location the dwelling would therefore be an unjustified and unsustainable form of development. As such the proposal is contrary to saved Policies C8 and H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
2. By virtue of its scale and siting, the proposed development would result in significant and demonstrable harm to the character and appearance of the area, and harm to the landscape character of the area, the enjoyment of users of the nearby Public Right of Way, and this harm significantly and demonstrably outweighs the need for the proposal and the benefits arising from the proposal, including the production of food. The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies AG2, C8 and C28 of the Cherwell Local Plan 1996 and government guidance in the National Planning Policy Framework.
3. The applicants have failed to adequately demonstrate that the proposed development would not result in detrimental impacts on the ecological and biodiversity at the site and nearby designated Local Wildlife Sites, and further would not provide a nett gain in biodiversity opportunities at the site. The proposals would also prevent the aims of the Ray Conservation Target Area being achieved. The proposal is therefore contrary to Policies ESD10 and ESD11 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the National Planning Policy Framework with regards to 'Conserving and enhancing the natural environment'.
4. The applicants have failed to demonstrate that the proposed development could be undertaken without it causing materially detrimental levels of pollution to the River Ray and ponds within the vicinity of the site. The proposal is therefore contrary to Policy ESD8 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies AG3, AG4 and ENV1 of the Cherwell Local Plan 1996 and government guidance in the National Planning Policy Framework.
5. By virtue of an inadequate Flood Risk Assessment the applicants have failed to demonstrate that the proposed development would not increase the flooding risk on the site or elsewhere and would remain operational in the event of flooding and therefore does not accord with Policies ESD6 and ESD7 of the Cherwell Local

Plan (2011-2031) Part 1.

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