

## SOUTH NORTHAMPTONSHIRE COUNCIL – DELEGATED REPORT

### Application for Outline Planning Permission

<b>Application No.</b>	S/2019/0941/OUT	<b>Case Officer:</b>	Tom Ansell
<b>Statutory Expiry Date:</b>	31 July 2019	<b>Consultation Expiry Date:</b>	Consults date: 7 June 2019 Re-consults date: 24 July 2019
<b>Site:</b>	Land off Culworth Road Chipping Warden		
<b>Proposal:</b>	Redevelopment of existing buildings and construction of 8No. new dwellings; re-use of existing open-fronted buildings for car parking. (Outline)		

### RECOMMENDATION

**Approve, subject to the conditions and reasons set out on the attached decision notice**

### APPLICATION SITE

The application site is a 0.3ha plot of land presently containing a number of agricultural buildings, most of which are of a more functional/skeletal appearance and are in varying states of repair. A vernacular ironstone barn-style structure flanks the western boundary, which is clearly of much more significant age (i.e. 19<sup>th</sup> century).

The site lies to the north of Culworth Road and on the eastern edge of the village of Chipping Warden, within the village confines but flanked by open countryside to the east and a recreation ground to the immediate south-east. The existing access, a single track lane, connects to Culworth Road immediately adjacent to the car park serving the village hall and cricket club.

Residential properties facing Byfield Road flank the eastern boundary of the site, with rear gardens abutting the edge of the site and the historic stone barns. To the immediate north are a couple of larger newer detached properties set back from Byfield Road; number 32's rear garden flanks the northern boundary of the site.

### CONSTRAINTS

- Within the village confines of Chipping Warden
- Affects views out of the conservation area
- Within 2km of three local wildlife sites
- Lies adjacent to a public right of way
- Within an archaeological asset site

### PROPOSAL

The application seeks outline consent for the demolition of the modern agricultural buildings and construction of 8 new dwellings, comprising two 3-bedroom units, two 2-bedroom units and four 4-bedroom units. All matters are reserved with the exception of layout.

To support the application, Officers are in receipt of a proposed site layout plan and indicative perspectives showing a possible layout of the dwellings and car park/turning within. A transport statement, drainage strategy, ecological appraisal

and bat report have also been submitted, along with a covering letter and a revised planning statement.

### RELEVANT PLANNING HISTORY

Application Number	Location	Proposal	Decision	Decision Date
S/2007/1021/P	Land off Culworth Road Chipping Warden	Two detached four bedroomed dwellings	(10) Refusal	19/09/2007
Application Number	Location	Proposal	Decision	Decision Date
S/2018/2893/OUT	Land off Culworth Road Chipping Warden	Redevelopment of existing buildings and construction of 8 No new dwellings; re-use of existing open-fronted buildings for car parking (Outline application to include access)	10 - Application Withdrawn	07/02/2019
S/2009/0278/P	Land off Culworth Road Chipping Warden	Change of use from agricultural to storage units for four barns.	10 - Application Withdrawn	20/05/2009
S/2009/0493/P	Land off Culworth Road Chipping Warden	Change of use from agricultural to storage units for three barns	10 - Approved	16/07/2009

### PRE-APPLICATION ADVICE

On 8<sup>th</sup> February 2018, Officers issued pre-application advice under reference P/2017/0368/PRM. The response given is as follows...

*'It was stated that the development should represent a farmhouse and conversion of agricultural buildings due to its edge of village location. Following this discussion I received a revised design in January 2018 and have the following observations:*

- *Unit 6 breaks the courtyard feel and should be omitted from the scheme. In my view, in order to achieve a successful development, the starting point should be a traditional barn plan form and a scheme should be derived around this. It is likely that one or two dwellings will be compromised in order to achieve a high quality layout.*
- *The area to the front of the properties should represent a traditional courtyard and the soft landscaping should be omitted.*

- *The 'Farmhouse' (units 1 & 2) accommodating two dwellings could appear contrived. I have my reservations about this but welcome the submission of elevations.*
- *In regards to parking, the application would need to demonstrate that the hovels are large enough to meeting modern day parking standards. Given the lack of information on the hovels I am unable to comment on parking provision.*
- *Whilst I do not have any elevations to comment on a visualisation has been provided. Whilst the visualisation offers an improvement upon the previous submission, the fenestration is still very modern. I would expect it to represent traditional and functional barn openings.*

***I confirm that I will be able to support the proposal, but require revisions to the designs to ensure a development which does not have an adverse impact the character and appearance of the area.'***

#### KEY ISSUES

- Principle of development
- Layout
- Environmental issues
- Ecology

#### RELEVANT PLANNING POLICIES

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

#### The Development Plan

SOUTH NORTHAMPTONSHIRE LOCAL PLAN (SNLP): G3, EV1, H5, EV9, EV10, EV24

WEST NORTHAMPTONSHIRE JOINT CORE STRATEGY (JCS): Policies SA, S1, S3, H1, BN2, BN5, R1

DRAFT SOUTH NORTHAMPTONSHIRE PART 2 LOCAL PLAN (Part 2 LP): The draft South Northamptonshire Part 2 Local Plan was submitted to the Planning Inspectorate for Examination on 22nd January 2019. An inspector has been appointed and the examination is due to be held during the two weeks commencing 10<sup>th</sup> and 17<sup>th</sup> June 2019. In accordance with Paragraph 48 of the National Planning Policy Framework (NPPF) the Council may now give weight to relevant policies in the draft Plan according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

As the Plan was submitted prior to 24th January 2019, in accordance with Paragraph 214 of the NPPF consistency should be tested against the previous Framework published in March 2012. The following draft Policies are considered relevant:

Policies SS1, SS2, LH1, SDP1, HE1, HE6, HE7, NE5

Material Considerations

NATIONAL PLANNING POLICY FRAMEWORK (NPPF): Sections 4, 5, 11, 12, 15, 16

PLANNING PRACTICE GUIDANCE (PPG): Design

SOUTH NORTHAMPTONSHIRE COUNCIL SPG/SPD: Parking Standards and Design

VILLAGE DESIGN STATEMENT: Chipping Warden

SNC DESIGN GUIDE: Chapters 4 to 8

Chipping Warden Conservation Area Appraisal and Management Plan

NCC Highways Standing Advice June 2016

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

The three corporate priorities are to ensure the District is "Protected, Green & Clean", is a place which supports "Thriving Communities & Wellbeing", and is a District of "Opportunity & Growth". All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) delivery innovative and effective housing schemes; and (9) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals on a case by case basis.

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

CONSULTATION RESPONSES

CHIPPING WARDEN AND EDGCOTE PARISH COUNCIL: **No objections** but some points of concern...

- The existing surface water drainage system managed by Thames Water in Culworth Road cannot take the estimated proposed run-off without a defined SUDs system controlling the flow rates. Infiltration is not a viable possibility due to clay-based ground conditions.
- There is no SUDs system management plan.
- Connecting the site to existing Culworth Road network for surface and waste water will require extensive works, and it is essential that access to the village hall carpark is maintained at all times.
- The transport access/egress is shown with visual splays not allowing for any parked vehicles in Culworth Road. The verges are often obstructed by vehicles parked during sports matches or village hall events, and while such obstructions would be no worse than much village private drive access, there will be significantly more movements here.
- The turning circle shown within the development would suggest that, unless a vehicle has four-wheel steering, it will ingress into spaces 21-23 when reversing from a position in front of unit 4.

NCC HIGHWAYS: **Objection**; the proposal shows eight dwellings being served by a private driveway, when the adopted Standing Advice stipulates the maximum number permitted should be five.

NCC ARCHAEOLOGY: **No comments to make**

NCC KEY SERVICES: **Comments**;

- The County Council recognises that the proposed development falls below the recognised threshold for tariff-style planning obligations to be required.
- While this may be the case, the proposed units will generate a number of residents of primary school age, which will impact on the capacity of local education infrastructure to accommodate the increased demand.
- The County Council therefore encloses, for guidance purposes, information in respect of the contribution amount a scheme such as the one proposed would attract.

*Officer's comment; this guidance can be found on SNC's Planning Register, under documents: <http://snc.planning-register.co.uk/plandisp.aspx?recno=103928>*

BUILDING CONTROL: **No objection**; radon protection required, and all rainwater should be directed to a soakaway.

SNC HERITAGE: **Comments** as follows;

*'Because the proposed development will be visible from various viewpoints and does affect the setting of the Conservation Area's eastern-boundary – and that enclosing the chapel, Griffin Inn to the south / south-west – the courtyard layout is supported in principle, as the most appropriate plan-form in this traditionally rural setting. Indicative perspectives have been provided confirming style, massing and materials. The proposed styles and materials work sympathetically with the heritage assets and constraints identified above.'*

*The retention of the extant stone outbuildings to the site's western boundary is strongly supported, as it their appropriate re-use as part of the redeveloped site.'*

SNC ECOLOGY [to revised information submitted on 10<sup>th</sup> July 2019]:

*'The recent submission of the Bat Assessment – Roost Characterisation Surveys report by ecolocation dated 4th July 2019 overcomes my comments made on the 11th June 2019 by ensuring sufficient survey work has been undertaken to inform the impact assessment on protected species and the required mitigation.*

*The above reports identify the ecological constraints to development of the site and assess the potential impacts and mitigation requirements based on the baseline ecological conditions. I confirm the reports are appropriate and fit for purpose. They follow the appropriate industry guidelines and best practice.*

*I would recommend the inclusion of the following or similarly worded conditions;*

*11.2 The development hereby permitted shall be carried out in accordance with the recommendations, mitigation, compensation and enhancements set out in sections 5 of the Ecological Appraisal, Bat Assessment – Initial Bat Survey and Bat Assessment – Roost Characterisation Surveys by ecolocation dated 11th April 2017, 11th April 2017 and 4th July 2019 respectively unless otherwise agreed in writing by the Local Planning Authority.*

*Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.*

*11.11 Prior to, and within two months of, the commencement of the development, the site shall be thoroughly checked by a suitably qualified ecologist to ensure that no protected species, including bats, badgers and breeding birds (including Barn Owls), which could be harmed by the development, have moved on to the site since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved mitigation scheme.*

*Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy and Government guidance contained within the National Planning Policy Framework.*

*11.16 If the development hereby approved does not commence by 4th July 2021. A revised ecology survey report including bat, badger and breeding bird (including Barn Owls) survey shall be undertaken prior to the commencement of the development to establish changes in the presence, abundance and impact on protected species. The survey results, together with any necessary changes to the mitigation plan or method statement shall be submitted to and*

*approved in writing the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.*

*Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.*

*11.23 All species used in the planting proposals associated with the development shall be native species of UK provenance.*

*Reason: To conserve and enhance biodiversity and prevent the spread of non-native species in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy and Government guidance contained within Section 15 of the National Planning Policy Framework.*

*As an EPS licence from Natural England for the destruction of the two bat roosts is required, and then a copy of this licence should be supplied to the LPA prior to the commencement of the work. This should be included in a suitably worded condition, for example using this model condition wording from BS42020:*

*The development shall not in any circumstances commence unless the local planning authority has been provided with either:*

- a) a licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 authorizing the specified activity/development to go ahead; or*
- b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.'*

**ENVIRONMENTAL PROTECTION [responding to withdrawn application]:  
Comments;**

The following conditions are recommended:

- Land contamination: desk study/site walk over
- Land contamination: intrusive investigation
- Land contamination: remediation scheme
- Land contamination: carry out remediation
- Land contamination: not previously found (unexpected)
- Noise assessment for insulation of the dwellings against external noises
- Provision of ducting for future installation of EV charging infrastructure

The following informative are recommended:

- Construction sites

**REPRESENTATIONS**

18 Byfield Road Chipping Warden: **Objection;**

- The person who owns the farm has not been sent a consultation.
- Natural slate should be included on the application form as an existing material.
- Dog-proof boundaries and hedgehog access should be maintained during any rebuilding/construction taking place. Some indication on intended type of boundary materials is desirable.
- Connection to existing sewage system is mentioned by there is no current system serving the site.
- The surface water is stated as being removed to a soakaway, but the drainage survey indicates that, because the sub-strata is clay with thin layers of ironstone the site does not appear suitable for this.
- There is no mention of the Ash tree within the site which would have to be removed.
- An oak tree appears to be very close to the boundary of the site and may overhang, possibly leading to root damage during construction.
- The loss of non-residential floor-space does not reflect that a current workshop will be converted to garage space. The plans also appear to involve the acquisition and change of use of a potting shed used by 22 Byfield Road since Beeches Farm House was sold some years ago.
- The site can be seen from a public road, a public footpath and a bridleway contrary to the statement made in paragraph 22 of the application form.
- The land has been used as a farm and known as Beeches Farm for at least 100 years.
- One of the buildings shown as being converted will need rebuilding, and the rest of the buildings are not open-fronted and require restructuring to convert to garage spaces.
- The site location plans show different configuration of buildings and internal boundaries.
- Drawing 5371.02 shows a lorry turning circle which may encroach onto the planned parking spaces.
- The scale of the plans show that the first house is within 50 feet of existing boundary walls, contrary to a conveyance dated 23<sup>rd</sup> December 1968 and subsequent documents.
- Drawing 5371.01 shows a building being demolished which is used by the leaseholders of the adjoining sports field to store ground maintenance equipment.
- The bat survey is inconclusive and needs extra work/is too old.
- The planning statement does not refer to the area around the site and the impact the increase in traffic/cars may have on the sports field/Culworth Road.
- The plans presented make it difficult to judge which local houses may be overlooked.

22 Byfield Road Chipping Warden: **Objection;**

- Lack of accuracy and detail in proposal.
- Potential breach of existing covenant due to development being within 50 feet of boundary.
- Existing barns will need repairs/rebuilding which would be development within 50 feet of boundary.

- Our integral shed is part of the existing barns and not detailed on proposed plans.
- Concerned our property will be overlooked – lack of drawings of height/location of windows etc.
- It appears that the lorry turning circle will encroach onto planned parking spaces.

The Beeches, 20 Byfield Road Chipping Warden: **Objection;**

- The barns which abut our property will need to be demolished and rebuilt.
- The current boundary wall retains dogs, and any removal of this wall would increase the risk of them escaping.
- The construction within 50 yards of our boundary is against current consent
- There is uncertainty as to where the bin stores will be.

16 Byfield Road Chipping Warden: **Objection;**

- Chipping Warden is a small village where development proposals should be considered very carefully; infilling could ruin the character of the village.
- This site should be protected as it is adjacent to the recreation ground which is used regularly for football and cricket matches, and it contains a village hall too with the outside area being used for functions.
- The additional traffic and parking in this area is a cause for concern.
- Plans have been submitted to develop this area in the past but have always been rejected.

18 Byfield Road Chipping Warden [additional comments 11<sup>th</sup> July]: **Comments;**

- In response to Building Control, there is only one open-fronted building, so development of garages should be in the singular.
- There is a difference between rainwater and surface water; the considered consultee opinion is that surface water should not go to soakaway because of the soil structure.

*Officer's comments in response to all comments from consultees/neighbours:*

- *The application is for outline consent with all matters reserved except for layout. Details in respect of the access, parking and dwelling design/appearance/windows and any works needed to the existing outbuildings etc will be the subject of a subsequent reserved matters application covering those aspects, and all neighbours will be given a chance to consider these and submit comments.*
- *Notwithstanding comments made in respect of the building(s) on the land being used by other parties, or the red line including land used by other people, no evidence has been submitted to show that the applicant has included within the red line any land or buildings which are in the ownership of anyone else. Therefore, I do not regard the application as invalid, and do not need further information on these points.*
- *Covenants/conveyances contained within legal documentation that may restrict development are not a planning matter, and will need to be addressed by the applicant outside of the planning process.*

- *The planning agent Framptons have responded on two occasions to comments submitted by consultees; the first was on 10<sup>th</sup> June to the comments made by NCC Highways and the second on 27<sup>th</sup> June to comments made by various neighbours, Ecology and NCC Key Services.*
- *These response can be viewed on SNC's Planning Register 'Documents' by clicking the following link:  
<http://snc.planning-register.co.uk/plandisp.aspx?recno=103928>*

## APPRAISAL

### Procedural matters

The proposal seeks approval for two aspects only:

- Principle of development
- Layout

Officers consider 'layout' to include the proposed arrangement of the development of eight dwellinghouses and the associated parking court, and the impact that this has on the following:

- Character and appearance of the area
- Setting of heritage assets (i.e. conservation area)
- Residential amenity

Notwithstanding the objection to the scheme submitted by NCC Highways, and the subsequent response to this submitted by the agent countering the objection, matters relating to the proposed access and parking provision, appearance, landscaping and scale are reserved and will be dealt with during a subsequent reserved matters application.

### Principle of Development:

Policy R1 of the West Northants Joint Core Strategy (WNJCS) provides a framework and criteria for assessing proposals for residential development in the rural areas. It states that "development in the rural areas will be guided by a rural settlement hierarchy" which, along with site allocations, will come forward in the Part 2 Local Plans. It also states that development outside the existing confines will only be permitted if it involves the re-use of buildings or in other exceptional circumstances. Whilst the Part 2 Local Plan remains at an early stage of preparation, having been examined in June 2019, saved Policies of the 1997 Local Plan concerning the settlement hierarchy, taken together with policy R1, is the starting point for considering whether a proposal is in an appropriate location to accommodate new housing in principle.

That said, Policy R1 is also clear that once the housing requirement for the rural areas has been met, further housing development will only be permitted where it can be demonstrated that:

- i. It would result in environmental improvements on a site for example the re-use of previously developed land and best practice in design; or
- ii. Is required to support the retention of or improvement to essential local services that may be under threat; and

- iii. The site has been subject to effective engagement, is in a Neighbourhood Plan or is an exception site

The Council is currently able to demonstrate well in excess of a 5 year housing land supply and furthermore the housing requirement for the rural areas, as set out in Policy R1, has been met. Therefore whilst the principle of new residential development within the village confines is generally acceptable having regard to Saved Policy H5, this is subject to it also being demonstrated there would be environmental or other public benefits of the scheme as required by Policy R1.

The existing modern and functional agricultural buildings are not felt to positively contribute to the appearance of the area, and the site is visible from a public right of way which crosses the recreation ground to the south-east. On this occasion, Officers are of the view that the proposal represents a potential opportunity to enhance and reuse this prominent edge-of-village site through the introduction of a high quality development of vernacular dwellings arranged in a recognisable 'courtyard' style.

Officers consider the proposal therefore passes the first of the three tests set out above, in that it brings forward an environmental improvement through the regeneration of previously developed land in a sustainable location. It is compliant with policy H5 in that it represents a development of a 'small group of dwellings' (ii).

Officers believe that it is also necessary to be mindful of the Government's desire, as set out in the NPPF, to significantly boost the supply of housing with no upper cap on housing delivery and the key principle of supporting sustainable development where possible. The NPPF makes clear that this means not considering issues in isolation, but considering the different roles and aspects of sustainable development together as they are mutually dependent.

Furthermore, "windfall" developments such as this make an important contribution to maintaining the Council's 5 year housing land supply.

Therefore, Officers are able to offer support to the principle of developing this site.

### Layout

#### *Character and appearance of the area*

The site presently consists of a collection of modern agricultural buildings within the centre and on the eastern side, arranged in an informal manner and giving the impression of a typical functional agricultural yard. On the western side of the site are some more historic ironstone and slate barns, although at present these are hard to discern from any public vantage point by virtue of the mature trees/bushes and other buildings in the vicinity.

The proposed layout creates a U-shaped courtyard of simple, linear buildings which are shown on the indicative images as two-storey around a parking court, and seeks to reuse the attractive stone buildings as garages/car ports.

This layout, which creates a strong building line both inside and outside the courtyard, is felt to be appropriate and complementary for a site which is on the very edge of a village.

The introduction of residential built form in this location does result in a degree of urbanisation in this location, and the number of parking spaces will result in quite a car-heavy environment within the courtyard.

However, the use of such a courtyard-style plan form allows the site to be regarded sympathetically against the rural back drop from views attainable to the south, with the vehicles mostly obscured from view either in the car ports or within the courtyard behind units 1 and 2.

Views on the approach to the village from the east will see a group of simple buildings which do not appear discordant with rural character of the area, although they will be generally viewed against the back drop of modern and older development along Byfield Road. Furthermore, the car-heavy parking court will remain entirely hidden from view from any vantage points to the east.

Officers regard the layout as being appropriate given the context of the site as a 'transitional' space between the built up high street to the west and open countryside to the east.

Safeguarding conditions can be used on any subsequent approval to limit the extent that the dwellinghouses on the edge of the development can be extended or altered, and the residential garden spaces can also be controlled in a similar fashion to limit the introduction of urban paraphernalia (i.e. summerhouses/ancillary outbuildings).

*Setting of heritage assets (i.e. conservation area)*

Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the duty of Local Planning Authorities (when considering whether to grant planning permission for development which affects a listed building or its setting) to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the duty of Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

Officers see no reason to reach a different conclusion to that of the Council's Heritage Officer in respect of the proposed layout's impact on the setting of the conservation area or Grade II listed buildings.

The Heritage Officers supports the courtyard layout in principle, and regard it as the most appropriate plan form in this traditionally rural setting, from which it is possible to attain views into the conservation area. The Heritage Officer does not regard there being much inter-visibility with the Grade II listed buildings to the south and south-west.

The indicative perspectives are felt to show a style, massing and finish which are also appropriate, although these matters are presently reserved and will be dealt with by a subsequent application.

The Heritage Officer 'strongly supports' the retention of the stone outbuildings on the western boundary, and considers the proposed re-use as appropriate.

Having noted the contents of various third party comments, Officers are sceptical as to how much of the building can be converted without needing substantial works (i.e. rebuild/repairs). However, this is an issue that will need to be addressed through a

reserved matters application, where the Council will be able to request a structural survey.

Officers do not consider the layout of the development as causing harm to the significance of the nearby heritage assets; specifically, the conservation area to the west and south and Grade II listed buildings to the south and south-west.

#### *Residential amenity*

The proposed layout creates an intimate arrangement of dwellings around a courtyard. A close relationship will be maintained between units 2 and 3 and 6 and 7; however, each property maintains a generous private amenity space which does not appear to be overlooked or unduly enclosed. Officers are satisfied that conditions can be used to control the types of glazing used on side elevations (i.e. units 3 and 6) which will safeguard the amenities of units 2 and 7 respectively.

The indicative sketches show how units 7 and 8 would be designed to appear as a converted barn from the south facing north, with a substantial amount of glazing proposed. However, a more pressing concern is the proximity of the rear elevation of units 7 and 8 to the private rear amenity space of number 32 Byfield Road, an existing residential dwelling to the immediate north of the site.

The distance from unit 7 to the boundary is 10m, and unit 8 has a two-storey rear projection which brings this elevation to within 7m of the boundary. Any first floor openings have the potential to introduce a significant degree of overlooking and cause a harmful level of overlooking towards the existing private amenity space to the rear of this neighbour.

However, while the layout as shown has the potential to cause harm, Officers are satisfied that such issues can be addressed during the course of a subsequent reserved matters application, where elevational treatments and window positions/glazing can be reviewed and controlled via planning condition, if necessary.

Therefore, Officers have no concerns in respect of the layout's impact on residential amenity, on the basis that such issues can be addressed during the course of a subsequent reserved matters application or via planning conditions on any approval that follows this.

#### Environmental issues

A previous application for a very similar development was withdrawn, and during this process the Council's Environmental Protection Officer raised a number of points in relation to the environmental, revolving around...

- Land contamination
- Noise (from nearby uses)
- Electric vehicles

#### *Contamination*

Conditions have been proposed by the Environmental Protection Officer to address each of these points. The relevant walk-over/intrusive investigation and survey conditions shall be used to address the land contamination issues that could be present within the site; the agent has agreed to the relevant pre-commencement conditions on this.

### *Noise*

A pre-commencement condition requiring a noise assessment is undertaken and submitted has been recommended. This is to safeguard the dwellings against external noise.

However, no evidence has been submitted detailing what noise sources are identified as potentially causing a pollution conflict with the new dwellings. While the site is close to a recreation ground/cricket club and community centre, Officers do not regard them as having high potential for sustained periods of excessive noise such that would harm the amenities of the new properties.

As such, in the absence of evidence, a pre-commencement condition of the sort recommended is regarded as being unnecessary and unjustifiable in respect of the six tests set out by national guidance.

### *Electric vehicles*

Officers will use a reasonably worded condition to ensure provision of ducting to allow for the future installation of EV charging infrastructure. However, Officers consider that such a condition does not need to be pre-commencement, and instead can be worded to allow some works (i.e. site clearance) to commence.

### Ecology

The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion
- affected by the development

It also states that LPA's can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

The Standing Advice sets out habitats that may have the potential for protected species, and in this respect the site is regarded as having potential for numerous protected species by virtue of the nature of the buildings contained within which are to be demolished/reused and the rural character of the surrounding area.

Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that *"every public authority must, in exercising its functions, have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity"*.

Strict statutory provisions apply where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation of Habitats and Species Regulations 2010. When determining a planning application that affects a EPS, local planning authorities must have regard to the requirements of the EC Habitats Directive which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.

Under Regulation 41 of the Conservation Regulations 2010 it is a criminal offence to cause harm to a EPS and/or their habitats which includes damage or destruction of a breeding site or resting place. However, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict legal derogation tests are met which include:

- 1) Is the development needed for public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature?
- 2) Is there any satisfactory alternative?
- 3) Is there adequate compensation being provided to maintain the favourable conservation status of the species?

In order for the local planning authority to discharge its legal duty under Reg 9(5) of the Conservation Regulations 2010 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing to authority has to consider itself the 3 derogation tests above.

In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.

In this case the site contains a large number of modern agricultural buildings, mature trees, hedges and other environments which are likely to be suitable for protected species.

The application is supported by a detailed protected species survey which identifies the ecological constraints in respect of the site's development and assesses the potential impacts and mitigation requirements based on the baseline ecological conditions. The survey sets out various mitigation, compensation and enhancement measures in Section 5, and the Ecology Officer is satisfied that, if these are carried out fully and successfully, then the development proposals would not have a significant impact on protected species or habitats. The Ecology Officer has also recommended a number of conditions are imposed to further mitigate the impact; these have been agreed by the agent.

Based on the the details provided in the protected species survey it is considered that subject to the recommendations of the survey report that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development.

### CIL LIABILITY

It is estimated that this development would attract a Community Infrastructure Levy (CIL) payment totalling **£201,474** under the Council's current CIL Charging Schedule. However please note that this is an indicative figure and the charge will be calculated fully upon the submission of a detailed reserved matters application. Certain reliefs and exemptions are available and if claimed could result in a zero charge, unless disqualifying events occur. (For further information relating to CIL please visit <http://www.southnorthants.gov.uk/7143.htm>).

### CONCLUSION

The principle of development and proposed layout therefore accords with Policies G3, EV1, H5, EV9, EV10 and EV24 of the adopted Local Plan, policies SA, S1, S3, H1, BN2, BN5 and R1 of the JCS and Sections 4, 5, 11, 12, 15 and 16 of the NPPF, and gives due regard to the Council's Corporate Priorities.

### HUMAN RIGHTS AND EQUALITIES

Due regard has been taken to South Northamptonshire Council's equality duty as contained within the Equalities Act 2010.

There may be implications under Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998 regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

Case Officer Signature	Tom Ansell
Date	01/08/2019

Authorising Officer signature	Wayne Campbell
Date	01/08/19