

Application Number: WNS/2021/1331/MAF

Location: Avara Foods Ltd, Willow Road, Brackley, NN13 7EX

Proposal: Proposed construction of a two storey extension to existing food processing facility (Use Class B2), with ancillary plant building, including part demolition and all associated works and infrastructure.

Applicant: Avara Foods Ltd

Agent: Carney Sweeney

Case Officer: Samuel Dix

Ward: Brackley

Reason for Referral: Major development

Committee Date: 10th March 2022

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO NO OBJECTION FROM THE LEAD LOCAL FLOOD AUTHORITY

Proposal

The proposed development is the erection of a large extension to the existing Avara Foods facility in Brackley. The site is used for processing poultry products and has been operating for around 60 years having expanded over that time in and around the existing site. The extension now proposed is intended to remodel the processing areas within the facility and provide additional space for contemporary machinery that is needed for Avara to remain competitive and continue to meet both environmental standards and food standards. The facility is a round-the-clock operation and cannot be shut down for extensive periods in order to allow construction. Therefore the proposed extension has been designed and sited so as to allow the existing operation to remain undisrupted. This has principally been achieved by utilising two floors within the proposed extension. Due to the size of machinery required, the new building will be considerably taller than a typical two-storey building with a total maximum height of 18.8m. In total, 5,395sqm of floorspace is proposed with a further 870sqm within an ancillary plant building. The use class of the proposal will remain B2 (general industrial) in keeping with the existing site and other units within the Buckingham Road industrial estate.

Consultations

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

- None.

The following consultees have raised **no objections or commented** on the application:

- Environment Agency
- Local Highway Authority
- Anglian Water
- Ecology
- Brackley Town Council

The following consultees are **in support** of the application:

- Economic Development

No letters of support or objection from the general public have been received.

Conclusion

The application has 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.

The key issues arising from the application details are:

- Principle of development;
- Visual impact and design;
- Highway safety;
- Drainage and flood risk;
- Residential amenity;
- Impact on protected species.

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

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

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1 The application site comprises an existing industrial building and service yard located towards the centre of the Buckingham Road industrial estate in Brackley. The site forms part of the operations associated with Avara Foods, a chicken processing facility that has been extant in the local area under various names for around 60 years.
- 1.2 The application site forms an area directly to the south of the main Avara Foods office building and is adjacent to Boundary Road, the main spine road through the industrial estate. It currently accommodates a secondary service area (with the main service area being located to the north and accessed off Shires Road) and various flat-roofed single-storey buildings that are industrial in appearance, in keeping with the wider area.
- 1.3 The industrial estate is itself located on the eastern edge of Brackley and accessed via the A43 and Buckingham Road. It is a well-established commercial area within the town with a number of large and small companies occupying units that are generally flat-roofed and metal clad. Boundary Road, the main access from which units are served, is a wide

carriageway that is suitable for carrying large numbers of HGVs servicing units on the industrial estate.

2. CONSTRAINTS

- 2.1. The application site is within the town confines of Brackley and within an established employment area. It is generally free of formal constraints although a small part of the site does encroach into Flood Zone 2, which covers much of the eastern edge of the industrial estate, due to its proximity to the River Great Ouse, which runs beneath the A43 to the immediate east.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The proposed development is the erection of a large extension that is intended to remodel the processing areas within the facility and provide additional space for contemporary machinery that is needed for Avara to remain competitive and continue to meet both environmental standards and food standards.
- 3.2. The facility is a round-the-clock operation and cannot be shut down for extensive periods in order to allow construction. Therefore the proposed extension has been designed and sited so as to allow the existing operation to remain uninterrupted. This has principally been achieved by utilising two floors within the proposed extension. Due to the size of machinery required, the new building will be considerably taller than a typical two-storey building with a total maximum height of 18.8m. In total, 5,395sqm of floorspace is proposed with a further 870sqm within an ancillary plant building. The use class of the proposal will remain B2 (general industrial) in keeping with the existing site and other units within the Buckingham Road industrial estate.
- 3.3. Due to its height and design, the extension will have the appearance of a standalone building within the facility. It will be finished in metal cladding and have a monopitch roof that slopes from west to east. The overall footprint (including the associated plant room) is approximately 69m by 45m.

4. RELEVANT PLANNING HISTORY

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

Application Ref.	Proposal	Decision
S/2019/0191/FUL	Creating a new entrance in from Boundary Road to the existing yard.	Approval
S/2017/0451/FUL	Demolition of existing single storey building, and replacement with two-storey building. Additional two-storey height canopy extension and two-storey lift tower	Approval
S/2015/1755/FUL	Remove 1No Nitrogen tank and install three new smaller tanks (Liquid Oxygen, Liquid Nitrogen & Liquid Carbon Dioxide).	Approval
S/2006/1022/P	25 metre tall, mild steel, freestanding stack, ancillary duct work and modification of existing filter units extract vents	Approval

S/2000/0260/P	Extensions To Provide Additional Intake Area And Chiller Store Together With Additional Car Parking Area	Approval
S/1998/1257/P	Single Storey Extension	Approval
S/1994/1092/P	Extension To Chill Store (Amendment To S940632p)	Approval
S/1994/1066/P	Relaxation Of Condition 6 On Planning Approval S940758p (To Allow Development Of The Amenity Facility Without Requirement For Lorry Park)	Approval
S/1994/1065/P	Relaxation Of Condition 2 On Planning Permission S.930684.p (To Allow Construction Of Cardboard Store Without The Requirement Of The Requirement Of The Lorry Park)	Approval
S/1994/1064/P	Relaxation Of Condition 3 On Planning Permission S940632p (To Allow Construction Of Chill Room Without Required Lorry Park)	Approval
S/1994/0758/P	A Single Storey Extension	Approval
S/1994/0632/P	Extension To Chill Store	Approval
S/1994/0400/PO	Extension To Poultry Factory (Outline)	Approval
S/1993/0684/P	A Two Storey Extension To Provide Off Loading Bay With Cardboard Store Over	Approval
S/1989/0154/P	Two Storey Extension To Provide Additional Locker Rooms Canteen Kitchen And Offices	Approval
S/1987/1321/P	Erection Of Detached Building To House Electrical Switch Gear	Approval
S/1985/0310/P	Extension to provide cold store for chicken.	Approval
S/1984/0018/P	Single storey extension to holding store.	Approval
S/1981/0020/P	First floor extension to existing offices and staff amenity building.	Approval
S/1980/0803/P	Extension to existing offices and staff amenities building.	Approval
S/1979/0317/P	Erection of chain link boundary fence.	Approval
S/1978/1364/P	Extension to holding store and provision of covered live bird retention and unloading bays.	Approval
S/1978/0831/P	Formation of lorry park.	Approval

S/1977/2332/P	Revised layout and elevations of re-sited packing materials and offices previously approved on application SN/76/1354/P.	Approval
S/1976/1354/P	Store, office and ancillary accommodation.	Approval
S/1976/0187/P	Extension to holding store and workshop.	Approval
S/1975/0827/P	Factory and offices.	Approval
S/1975/0006/P	Single storey extension to factory for office and stores.	Approval

5. RELEVANT PLANNING POLICY AND GUIDANCE

Statutory Duty

- 5.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Development Plan

- 5.2. The Development Plan comprises the West Northamptonshire Joint Core Strategy Local Plan (Part 1) which was formally adopted by the Joint Strategic Planning Committee on 15th December 2014 and which provides the strategic planning policy framework for the District to 2029, the adopted South Northamptonshire Local Plan (Part 2) and adopted Neighbourhood Plans. The relevant planning policies of the statutory Development Plan are set out below:

West Northamptonshire Joint Core Strategy Local Plan (Part 1) (LPP1)

- 5.3. The relevant policies of the LPP1 are:

- SA – Presumption in Favour of Sustainable Development
- S1 – Distribution of Development
- S7 – Provision of Jobs
- S8 – Distribution of Jobs
- S10 – Sustainable Development Principles
- E1 – Existing Employment Areas
- BN7 – Flood Risk
- B1 – Spatial Strategy for Brackley

South Northamptonshire Local Plan (Part 2) (LPP2)

- 5.4. The relevant policies of the LPP2 are:

- SS1 – The Settlement Hierarchy
- SS2 – General Development and Design Principles
- EMP2 – Existing Commercial Sites
- EMP3 – New Employment Development

Northamptonshire Minerals and Waste Local Plan (MWLP)

5.5. The relevant policies of the MWLP are:

- Policy 13 – Locations for waste management facilities
- Policy 30 – Preventing land use conflict

Material Considerations

5.6. Below is a list of the relevant Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Supplementary Planning Guidance
- District Design Guide
- Brackley Masterplan (2011)

6. RESPONSE TO CONSULTATION

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.

Consultee Name	Position	Comment
Environment Agency	Comment	Please refer to standing advice.
Local Highway Authority	No objection	Existing access arrangements are not altered.
Anglian Water	Comment	Development has potential to increase flood risk. Suggest conditions regarding drainage.
Ecology	No objection	
Brackley Town Council	No objection	No objection but agree with Anglian Water
Economic Development	Support	Support the proposal as supporting job growth and retention.
Lead Local Flood Authority	TBC	No comments received to date.

7. RESPONSE TO PUBLICITY

Below is a summary of the third party and neighbour responses received at the time of writing this report.

7.1. There have no objections or letters of support.

8. APPRAISAL

Principle of development

Policy context

8.1. Policy S7 of LPP1 supports an uplift of 28,500 jobs across West Northants in the period to 2029. To achieve this, Policy S8 states that employment provision in South

Northamptonshire will comprise, inter alia, renewal and regeneration of existing employment sites as set out in Policy E1. In turn, Policy E1 says that industrial estates across West Northants will be retained for uses B1, B2, B8 and other employment generating uses. New commercial floorspace within Brackley will be of a scale commensurate with the function of the town as a rural service centre.

- 8.2. Policy B1 of LPP1 expands upon Brackley's role as a rural service centre and establishes a spatial strategy for the town which includes employment development within an employment area established on insets 14 and 15 of the plan's proposal map. The application site lies within this area, which is also established as a key location for employment provision by the Brackley Masterplan (2011).
- 8.3. LPP2 expands upon the above policies and explains in Policy EMP2 that on existing employment sites, employment-generating development including intensification will normally be permitted within the existing curtilage or through appropriate extensions. More generally, Policy EMP3 states that new employment and commercial development will be directed to the most sustainable locations in accordance with Policy SS1 (wherein Brackley is in the highest tier of the settlement hierarchy).
- 8.4. Policy EMP1 of LPP2 states that to support skills, major new industrial and commercial development will be required to contribute to increasing or maintaining a skilled workforce.
- 8.5. The site is part of a wider area (designated 'WL3') that is suitable in principle for waste related development according to Policy 13 of the MWLP. Policy 30 of the same plan requires development that would affect waste facilities to demonstrate it would have no effect on the operation of such facilities.

Assessment

- 8.6. The acceptability in principle of new/extended commercial development is clearly acceptable on the application site. It is located within an established employment area within one of the most sustainable towns in the plan area. It therefore accords with all of the relevant policies outlined above, as well as the Brackley Masterplan.
- 8.7. Of further weight to this conclusion is the fact that Avara is currently one of the biggest employers in Brackley with around 940 employees. The applicant's case is that the proposed development is the only means of securing the future operations of the business on the current site, particularly as it cannot be shut down to allow a more extensive rationalisation of the facility, which has evolved over many years as per the planning history outlined above. Other alternatives have been discounted, such as building on the site of Avara's current training centre on the opposite side of Boundary Road, as this would require a hermetically sealed bridge to the main facility in order to meet environmental and food standards. Similarly a smaller extension on the proposed footprint was discounted due to inability to achieve the required floorspace for the machinery necessary to meet future standards. A 'do nothing' scenario is also discounted as it would mean a contraction in the economic performance of the business and an inability to meet required standards in the future.
- 8.8. This leaves the only other alternative as a whole relocation of the business to another site. Should planning permission not be granted then this option, notwithstanding the enormous costs and disruption to the applicant, would likely see significant harm to the local economy as there is no guarantee the business would remain in West Northamptonshire. The Council's economic development team have confirmed that job retention within the District is as important, if not more important, than job growth. Therefore the benefits of the proposal in terms of ensuring the retention of a significant

local employer within Brackley is a material consideration that is given significant weight by Officers, in addition to the fact the development is consistent with the Development Plan anyway.

- 8.9. On the matter of the MWLP, it is noted that the site along with the rest of Boundary Road is designated as an area within which waste-related development will be acceptable. However, there are no committed facilities within the area and, furthermore, it is unlikely an extension of the existing B2 use would adversely affect their operation should such facilities come forward in the future. On that basis there is considered to be no conflict with Policies 13 and 30 of the MWLP.

Conclusion

- 8.10. The proposal is consistent in principle with Policies S7, S8, E1 and B1 of LPP1 and Policies EMP1, EMP2, and EMP3 of LPP2, as well as the Brackley Masterplan. Furthermore, there are material considerations weighing significantly in favour of the proposal in terms of the economic benefits accrued by retaining a large local employer within Brackley.

Visual impact and design

Policy context

- 8.11. Policy SS2 of the LPP2 requires development maintains the individuality of towns and villages and not result in the loss of locally important views of particular significance to the form and character of a settlement, as well as using a design-led approach to demonstrate compatibility and integration with surroundings and distinctive local character in terms of type, scale, massing, siting, form, design, materials, and detail.
- 8.12. Policy S11 of LPP1 requires all commercial developments over 500sqm in size to achieve at least a BREEAM 'very good' rating in terms of their sustainability.
- 8.13. The District Design Guide contains various elements of guidance relating to commercial buildings in chapter 6, the relevant parts of which the proposed development is assessed against below.

Assessment

- 8.14. The proposed development, whilst described as two-storey by virtue of comprising only two floors of commercial space, is a large and bulky addition that will be nearly 19m tall at its highest point. It will nevertheless be of typical industrial appearance and in this respect is consistent with the surrounding area in terms of its type, siting, form, design, materials and detail.
- 8.15. The scale and massing of the development are required to be compatible with the surrounding area according to Policy SS2. The consistency of the development in this regard is less clear, as what will result is a building that is considerably larger than its immediate neighbours and potentially prominent from within the wider locality.
- 8.16. To ensure this matter is properly considered, the committee will have the benefit of a site visit. Officers have conducted their own and also sourced a series of CGI representations from the applicant to ascertain how the extension will appear from various vantage points around the southern and eastern areas of Brackley. These have been published on the planning register and will be presented to the committee meeting.

- 8.17. The CGIs show how the building will in large part be screened by existing buildings and vegetation from all but its immediate context. Furthermore, it is evident that even in those locations where the building might theoretically be more prominent (e.g. peeking over the top of buildings or sitting just beneath the horizon on longer distance views), the topography of the wider area is such that it will be perceived against the existing industrial estate and not necessarily an incongruous addition that breaches the skyline or detracts from locally important views. It is notable that due to its position close to the River Great Ouse, the site actually occupies the lowest part of Brackley and therefore is in theory capable of accommodating a taller building without dominating the public realm or wider townscape.
- 8.18. It is also notable that permission was granted and implemented for a 25m tall freestanding stack in 2006, which will remain visible for some 6m even above the proposed building. The sheer bulk of the proposed building is nevertheless likely to represent some degree of harm to visual amenity from those locations that the development is visible, as it will always be more conspicuous than the relatively slender stack. However, as per the overall planning balance assessment carried out in the conclusion to this report, Officers consider that this matter is in this instance outweighed by the economic benefits of the development.
- 8.19. The elevational treatment of the building is consistent with existing buildings on the site in featuring metal cladding to be finished in three tones of grey (goosewing grey through pure grey and anthracite grey). This is consistent with the Design Guide, which advocates such colourisation for larger commercial buildings in section 6.48. A detailed colour scheme will be secured by condition.
- 8.20. The Design Guide also advocates the location of larger commercial buildings away from historic centres and notes that they are normally located next to motorways. It also suggests that appearance may be softened by parapet or barrel roofs. In both respects the proposed development broadly complies with this guidance by being situated close to the A43 (whilst not a motorway, it is part of the strategic road network and therefore it is not incongruous for large commercial buildings to be situated next to it) and incorporating a gently sloping roof rather than gables that would increase its height. Overall the appearance is of a 'box' as per section 6.21a of the Design Guide.
- 8.21. Policy SS2 also requires suitable landscaping to be integrated into proposals. In this instance there is almost no scope to introduce this into the development as it has been engineered to fit into the exact area of the facility that is available for construction without disrupting the rest of the business operations. Of particular concern is the tall blank elevation that will be separated from Boundary Road by just a close boarded fence. However, in this instance, it is not considered that the failure to incorporate soft landscaping represents a reasonable reason for refusal for the development. Boundary Road is highly industrial and functional in nature and is not subject to the same kinds of passing visitors as a High Street or residential area might be. Any deficiencies in this regard are therefore also outweighed by the economic benefits of the proposal.
- 8.22. Details of the energy performance of the building have not been provided. Policy S11 of LPP1 nevertheless requires all new non-residential development over 500 square metres to meet BREEAM 'very good' standard. Discussion is currently taking place with the agent/application to establish if this can be met for the proposed development and this will be reported in the written update to Committee.

Conclusion

- 8.23. The proposed development is generally in keeping with the surrounding area in terms of its form and design and therefore consistent with Policy SS2 of LPP2 and the District

Design. Whilst it is likely the bulk and height of the building may be perceptible from certain vantage points around the southern and eastern edge of Brackley, this limited harm is considered by Officers to be outweighed by the economic benefits of the development, as outlined in the planning balance below.

Highway Safety

Policy context

- 8.24. Policy SS2 (1J) of the LPP2 requires developments to include a safe and suitable means of access for all people, including pedestrians, cyclists, and those using vehicles.
- 8.25. Paragraph 111 of the NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Assessment

- 8.26. The access arrangements for the site will, fundamentally, remain unaltered. The proposed development will involve some minor works and reconfiguration to an existing service yard area on Boundary Road although this is not the main service yard for the facility, which is instead located well away from the application site on Shires Road. To ensure that this remains available to serve the development and prevent the future subdivision of the site, a condition will be attached confirming the extension must be used in conjunction with the rest of the site.
- 8.27. Furthermore, whilst a sizeable extension, the applicant states that the development will not increase the number of HGVs visiting the site. This is understood to be because the development is intended to improve the efficiency and ability of the operations to meet standards rather than increasing its overall output. There is nevertheless no evidence that the existing access arrangements in and around the site are substandard.
- 8.28. The Local Highway Authority requested further details to confirm that the proposed sliding gate is in fact an existing arrangement. This was subsequently confirmed and therefore they raise no objection.

Conclusion

- 8.29. The proposed development is considered to have an acceptable impact on highway safety and in the context of no objection from the Local Highway Authority, there are no highway/transport grounds to resist the proposed development.

Drainage & Flood Risk

Policy context

- 8.30. Policy BN7 of LPP1 requires a sequential approach to be applied to all proposals for development in order to direct it areas at the lowest probability of flooding. This is consistent with paragraphs 159 to 169 of the NPPF, which addresses the sequential and exception tests. This is summarised by paragraph 162 that states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

- 8.31. Policy SS2(1L) of LPP2 requires developments to be adequately serviced with utility infrastructure appropriate to the development including surface water drainage and incorporates mitigation identified through an assessment of flood risk (incorporating climate change allowances).

Assessment

- 8.32. The proposed development is partially located within Flood Zone 2 and therefore under a strict application of the policies referred to above, should be subject to a subsequential test to confirm that there are no alternative sites available in Flood Zone 1. However, in this instance, Officers consider that a rigid interpretation of whether or not a sequential test is needed would be an unreasonable approach to take for various reasons. Firstly, the majority of the existing facility at Avara is located within Flood Zone 2, as well as a portion within Flood Zone 3 (i.e. an area at highest risk of flooding). Therefore, whilst major development in its own right, the proposal is not materially different to what already takes place within the Flood Zone. Secondly, as a new-build development, the application nevertheless represents an opportunity to properly mitigate itself against flooding through, for example, setting the floor-levels of machinery at a height that exceeds the highest likely level of flooding. Thirdly, the applicant has carried out a form of sequential assessment anyway to demonstrate why the application site is the only deliverable location for the development (see section 8.7). Theoretically the sequential test applies to the whole of West Northamptonshire and, with an extensive range of employment allocations within LPP2, it is highly likely that an alternative site in Flood Zone 1 would indeed be found. However, requiring an entire business to relocate simply to avoid a relatively minor additional encroachment in Flood Zone 2 is not considered by Officers to be a pragmatic approach.
- 8.33. For the above reasons it is therefore considered that there are material considerations that justify a minor departure from the relevant policies concerning flood risk.
- 8.34. Turning to the matter of drainage more generally, the site is already developed with hardstanding and buildings. Therefore the proposed development would not increase surface-water runoff. The proposed development will continue to utilise existing drainage systems that are privately maintained by the applicant.
- 8.35. The Lead Local Flood Authority (LLFA) have not yet responded to the application to confirm whether this drainage solution is acceptable. Given it is a continuation of existing arrangements and that no new impermeable areas are to be created, it is highly likely that the proposal is acceptable in drainage terms. However, the recommendation is nevertheless subject to confirmation from the LLFA that they have no objections.

Conclusion

- 8.36. There are material considerations that justify a departure from the requirement for a sequential test outlined in flood risk policies. Subject to confirmation from the LLFA and any conditions they request, the proposed development is considered to be acceptable in drainage terms.

Residential amenity

Policy context

- 8.37. Policy SS2(1F) requires development to result in a good standard of amenity and not unacceptably harm the amenity of users of neighbouring properties and area through noise, odour, vibration, overshadowing, or result in the loss of privacy, sunlight/daylight or outlook.

Assessment

- 8.38. The application site is located within an established industrial area with the nearest residential properties around 200m to the north on the Roman Way housing estate. The application is not accompanied by any noise or odour assessment to establish what additional impacts over and above the existing operation may result from the development. Equally, there have been no neighbour comments in respect of the application.
- 8.39. The wider site has nevertheless, in the past, been the subject of complaints concerning odour due to the nature of the activities on the site (i.e. the preparation of poultry products, with odours resulting from dealing with large numbers of carcasses etc.). It is understood that this issue is regulated by the Environment Agency by way of a permit that would continue to apply to the proposed development. Indeed, the existing facility is not bound by any specific planning conditions to control odour and noise and therefore it is considered unreasonable to attach new conditions that relate only to the extension. Moreover, the proposed development is being purposefully brought forward in order to meet future environmental standards and food standards. It is therefore unlikely to give rise to amenity issues in the same way the intensification of older or less suited buildings might.
- 8.40. The visual impacts of the development are assessed in detail in preceding sections. For the avoidance of doubt, the building is sufficiently distant from nearby properties so as to have no impact on daylight/sunlight or direct outlook/overlooking.
- 8.41. Disruption during construction will be mitigated by way of a management plan that will be secured by condition.

Conclusion

- 8.42. There is no evidence that the proposed development would have an unacceptable impact on the amenity of nearby residents, which is also controlled by other regulatory regimes, and therefore the proposal is consistent with Policy SS2(1F) of the LPP2.

Impact on protected species

Legislative context

- 8.43. The Conservation of Habitats and Species Regulations 2017 provide for the designation and protection of 'European sites' and 'European protected species' (EPS). Under the Regulations, competent authorities such as the Council have a general duty to have regard to the EC Habitats Directive and Wild Birds Directive.
- 8.44. In terms of EPS, the Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in the Regulations, or pick, collect, cut, uproot, destroy, or trade in the plants listed therein. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of 3 strict legal derogation tests:
- a. 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?
 - b. That there is no satisfactory alternative.

- c. 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.

Policy Context

- 8.45. 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. Paragraph 175 states that planning authorities should refuse planning permission if significant harm to biodiversity cannot be avoided, adequately mitigated, or, as a last resort, compensated for and should support development whose primary objective is to conserve or enhance biodiversity. Opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 8.46. 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 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 nature conservation.
- 8.47. National Planning Practice Guidance (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.
- 8.48. Policy NE3 of the Part 2 LP seeks to conserve and wherever possible enhance green infrastructure . Policy NE4 seeks to protect and integrate existing trees and hedgerows wherever possible and requires new planting schemes to use native or similar species and varieties to maximise benefits to the local landscape and wildlife. Policy NE5 requires that proposals aim to conserve and enhance biodiversity and geodiversity in order to provide measurable net gains. Development proposals will not be permitted where they would result in significant harm to biodiversity or geodiversity, including protected species and sites of international, national and local significance, ancient woodland, and species and habitats of principal importance identified in the United Kingdom Post-2010 Biodiversity Framework.
- 8.49. Policy BN2 of the JCS 2014 states that development that will maintain and enhance existing designations and assets or deliver a net gain in biodiversity will be supported. Development that has the potential to harm sites of ecological importance will be subject to an ecological assessment and required to demonstrate: 1) the methods used to conserve biodiversity in its design and construction and operation 2) how habitat conservation, enhancement and creation can be achieved through linking habitats 3) how designated sites, protected species and priority habitats will be safeguarded. In cases where it can be shown that there is no reasonable alternative to development that is likely to prejudice the integrity of an existing wildlife site or protected habitat appropriate mitigation measures including compensation will be expected in proportion to the asset that will be lost. Where mitigation or compensation cannot be agreed with the relevant authority development will not be permitted.

Assessment

- 8.50. 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, The Standing Advice sets out habitats that may have the potential for protected species.
- 8.51. In this regard the site is in reasonable proximity to a river and comprises buildings that of an age that might in some instances accommodate protected species, notwithstanding the fact they are used around the clock for industrial purposes.
- 8.52. In order to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 the LPA 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.
- 8.53. 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.
- 8.54. The application is supported by a detailed protected species survey which concluded that the application site does not support habitats of importance for protected species. Furthermore, the Council's ecologist has reviewed this information and agrees with its conclusions. They recommend no conditions to further control this matter.
- 8.55. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England that the welfare of any EPS found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

9. FINANCIAL CONSIDERATIONS

- 9.1. CIL is not payable on the development as it does not comprise new residential or retail floorspace.
- 9.2. The economic development team have requested a contribution towards the West Northants Employment Support Service, which would be secured under a section 106 obligation. However, there is no policy basis for seeking this contribution and the matter could just as easily be addressed by requiring a local labour strategy to be provided by condition, which would specify how new jobs created by the development would be filled in order to maximise the economic benefits of the development locally. In this instance though, it is understood that there are not necessarily any jobs directly created by the development, as the proposal is an extension to future-proof existing operations rather than generate outright expansion. Therefore it is not proposed that this condition is attached.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. Matters weighing in favour of the proposed development may be summarised as:
- The application site is within an established employment site in one of the most sustainable towns in the District. The development of new employment uses is

therefore consistent with a raft of policies across both LPP1 and LPP2, as well as with the Brackley Masterplan. This is to be given very significant weight.

- The proposed development would help ensure the retention and growth of one of the biggest employers in Brackley and ensure that these economic benefits are not lost due to the business needing to relocate outside of Northants. This is to be given significant weight.

10.2. Matters weighing against the proposed development may be summarised as:

- The proposed development is a large and bulky building that will potentially be visible from certain locations in and around the eastern edge of Brackley. This is to be given limited weight as CGI images indicate this would not be incongruous and that the building would be perceived against its existing industrial context.
- A small area of the site encroaches into Flood Zone 2, which technically requires a sequential test to be undertaken to rule out the possibility of locating the development in an area of lower flood risk. This too is to be given limited weight as there are three material considerations indicating a full sequential test would not be appropriate; firstly there is already development on the site within the flood zone, secondly, as newbuild development the building can be properly mitigated against flood risk, and thirdly, the requiring a large business to wholly relocate so as to avoid a small area of (existing) flood risk is not considered reasonable.

10.3. In conclusion, Officers consider that the planning balance lies decisively in favour of granting permission. Those matters listed above that weigh against the proposal are not outright departures from the Development Plan and are a product of the particular circumstances of the proposal, being the only means by which the applicant can meet their needs without significant disruption. There are no material considerations that would justify a conclusion other than in accordance with the Development Plan, which is firmly supportive of the principle of development.

11. RECOMMENDATION / CONDITIONS AND REASONS

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO GRANT PERMISSION SUBJECT TO:

- 1. NO OBJECTION BEING RAISED BY THE LEAD LOCAL FLOOD AUTHORITY**
- 2. SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)**

CONDITIONS

Time limit and compliance with plans

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason : To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall not be carried out otherwise than in complete accordance with the approved plans and details unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning

(Development Management Procedure) (England) Order 2015 (as amended). The approved plans and details are:

Site Location Plan (drawing ref: AVBR-ASA-00-VS.00-D-A-9001_(S5-P02))
Proposed Ground Floor (drawing ref: AVBR-ASA-00-ZZ.00-D-A-0020_(S5-P04))
Proposed First Floor (drawing ref: AVBR-ASA-00-ZZ.02-D-A-0022_(S5-P04))
Proposed Roof Plan (drawing ref: AVBR-ASA-00-ZZ.04-D-A-0024_(S5-P04))
Proposed Ground Floor Demolitions (drawing ref: AVBR-ASA-00-ZZ.00-D-A-0040_(S5-P03))
Proposed First Floor Demolitions (drawing ref: AVBR-ASA-00-ZZ.00-D-A-0041_(S5-P03))
Proposed Cross Sections (drawing ref: AVBR-ASA-00-ZZ.ZZ-D-A-0082_(S5-P01))

All received by the Local Planning Authority on 16th July 2021.

Proposed Elevations (1 of 2) (drawing ref: AVBR-ASA-00-ZZ.ZZ-D-A-0063_(S5-P07))
Proposed Elevations (2 of 2) (drawing ref: AVBR-ASA-00-ZZ.ZZ-D-A-0064_(S5-P07))

Received by the Local Planning Authority on 16th December 2021.

Reason : To clarify the permission and for the avoidance of doubt.

Colour scheme

3. Notwithstanding the details on the approved plans, a colour scheme for the colouring of the external walls of the development shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. Thereafter, and prior to the first occupation of the development, the walls shall be finished and thereafter maintained in accordance with the approved colour scheme.

Reason : In order to safeguard the visual amenities of the area in accordance with Policy SS2 of the South Northamptonshire Local Plan.

Lighting

4. Details of any external lighting including the design, position, orientation and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason : In order to safeguard the visual amenities of the area in accordance with Policy SS2 of the South Northamptonshire Local Plan and Government advice in The National Planning Policy Framework.

Construction method statement

5. No development other than demolition shall take place until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:

- a) The parking of vehicles of site operatives and visitors;
- b) The routing of HGVs to and from the site;
- c) Loading and unloading of plant and materials;
- d) Storage of plant and materials used in constructing the development;

- e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- f) Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
- g) Measures to control the emission of dust and dirt during construction;
- h) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
- i) Delivery, demolition and construction working hours;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason : To ensure the environment is protected during construction in accordance with Policy SS2 of the South Northamptonshire Local Plan 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.

Gates

6. Any gate(s) at the point of access shall be sliding gates or hung to open inwards only and shall be retained as such thereafter.

Reason : In the interests of road safety to accord with Government guidance in Section 12 of the National Planning Policy Framework and Policy SS2 of the South Northamptonshire Local Plan to ensure that the gate does not open over the highway thus causing danger to road users.

Association with existing use

7. The development hereby permitted shall be used only in conjunction with the existing uses on the site and shall not at any time accommodate a separate business or use unless otherwise agreed in writing by the Local Planning Authority.

Reason : To ensure effective planning control, prevent the subdivision of the site and ensure the development retains appropriate access and service yard facilities in accordance with Policy SS2 of the South Northamptonshire Local Plan (Part 2).