

Application Number: WNS/2021/0931/MAO

Location: Land off Leather Lane, Middleton Cheney, OX17 2GE

Proposal: Outline planning permission for up to 21 dwellings with associated landscaping and parking. All matters reserved except access.

Applicant: Lagan Homes Ltd

Agent: Tetra Tech

Case Officer: Tom Ansell

Ward: Middleton Cheney

Reason for Referral: Major development contrary to the development plan

Committee Date: 6th April 2022

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO A S106 LEGAL AGREEMENT

Proposal

The application seeks outline permission for up to 21 dwellings on a parcel of land to the west of Leather Lane and Millers Way, a recently completed residential estate on the western side of Middleton Cheney. The application is for outline permission with all matters reserved except for access, which is to be taken from a turning head within Leather Lane. In support of the application the Council has received detailed access drawings to overcome highway concerns relating to the existing layout within Leather Lane, an indicative site layout and a parameters plan showing where development blocks, estate roads, planting and the attenuation pond will be located within the site.

Consultations

The following consultees have raised **objections/made observations** in respect of the application:

- Planning Policy, Middleton Cheney Parish Council, Conservation, Lead Local Flood Authority (new information has since been submitted to address these concerns), Local Highway Authority (new information has since been submitted to address these concerns), Development Management (Section 106 function), Environmental Protection, WNC Ecology

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

- Building Control, Crime Prevention Design Advisor, Thames Water, Anglian Water, Ramblers Association, Strategic Housing

4 letters of objection have been received and 2 letters of support 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
- The impact of the development on highway safety
- Affordable housing, impact on local infrastructure and S106 matters

All other matters relating to scale, layout, design and landscaping are reserved for a future application. However, the following matters also require consideration at this stage.

- Landscape & visual impact of developing the site
- Residential amenity
- Flood risk
- Ecology

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 is a parcel of land around 1ha in size located to the west of Leather Lane, a small estate road that forms part of the larger recently completed Millers Way housing development on the western edge of Middleton Cheney.
- 1.2 The site is presently a relatively unmanaged paddock nearly wholly surrounded by mature trees and hedgerows, affording it a somewhat tranquil, rural character. To the south is a Grade II listed building known as Springfield House, which is accessed via a Public Right Of Way (PROW) from Glover's Lane to the west. To the north is a large site upon which a development of circa 30 dwellings has recently commenced construction (this site contains an attenuation pond to its southern boundary). To the west is open countryside, separated from the site by a copse that contains a small pond. As already established, to the east are recently constructed (and now occupied) residential dwellings within the Millers Way residential estate.
- 1.3 Middleton Cheney is a Primary Service Village (Category B) and is recognised as being one of the largest settlements within the district other than Brackley and Towcester (the

Rural Service Centres). The site sits on the village's western edge, to the north of Main Road, the main highway through the centre of the village from the A422.

2. CONSTRAINTS

- 2.1. The application site is in open countryside, in that it is outside of Middleton Cheney's settlement confines as defined by policy SS1 of the Local Plan Part 2 (LPP2). It should be noted that the recently commenced residential development to the north is within the settlement confines.
- 2.2. The site lies to the north of a Grade II listed building and conservation area. The paddock potentially contains archaeological assets, is within 2km of a local wildlife site and is regarded as a potential habitat for protected species. A PROW flanks its eastern boundary (running north to south). This PROW will be inevitably affected by the creation of a new access into the site. Another PROW runs east to west to the south of the site, near the Grade II listed building. This will not be affected by the development.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The development seeks outline permission with all matters reserved except for access for up to 21 dwellings within the 1ha parcel. This will include estate roads into the site, two indicative development blocks to the north and south of this, an attenuation pond in the south-western corner, and strategic landscape buffers/screening on the northern, western and southern edges.
- 3.2. Details plans concerning the access arrangements (and required amendments to the turning head within Leather Lane) have been submitted for review by the Local Highway Authority (LHA).
- 3.3. The applicant proposes a policy compliant amount of affordable housing (50%) which can be secured via a legal agreement.

4. RELEVANT PLANNING HISTORY

- 4.1. There is no planning history directly relevant to the site but the following planning history is considered relevant to the current proposal:

| Application Ref. | Proposal | Decision |
|------------------|------------------------------------------------------------------|---------------------------------------|
| S/2012/0004/MAR | Residential development of 79 dwellings | Approval 14 th May 2012 |
| S/2019/1953/MAF | Development of 32 homes and associated access and infrastructure | Approval 12 th May 2021 |

- 4.2. Pre-application advice was sought for 23 dwellings on the same parcel of land under reference P/2019/0279/PRM. Below is a paragraph from that report setting out the Council's position on the principle of development:

'I am of the view that the principle of development conflicts with an up-to-date development plan and in accordance with Paragraph 12 of the NPPF "Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted". I do not consider in this case that there have been any material considerations demonstrated that indicate that this plan should not be followed and that a decision should be taken to depart from the development plan.'

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 Northants 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
- S3 – Scale and Distribution of Housing Development
- S6 – Monitoring and Review
- S10 – Sustainable Development Principles
- H1 – Housing Density and Mix and Type of Dwellings
- H2 – Affordable Housing
- BN7a – Water Supply, Quality and Wastewater Infrastructure
- INF1 – Approach to Infrastructure Delivery
- INF2 – Contributions to Infrastructure Requirements
- R1 – Spatial Strategy for the Rural Areas

South Northants Local Plan (Part 2) (LPP2)

- 5.4. The relevant policies of the LPP2 are:

- SS1 – The Development Hierarchy
- SS2 – General Development Principles
- LH1 – Development within town and village confines
- LH8 – Affordable Housing
- LH10 – Housing Mix and Type
- SDP2 – Health Facilities and Well Being
- INF1 – Infrastructure Delivery and Funding
- INF4 – Electric Vehicle Charging Points
- GS1 – Open Space, Sport and Recreation
- HE1 – Significance of Heritage Assets
- HE2 – Scheduled Ancient Monuments and Archaeology
- HE5 – Listed Buildings
- HE6 – Conservation Areas
- NE4 – Trees Woodlands and Hedgerows
- NE5 – Biodiversity and Geodiversity
- NE6 – SSSIs and Protected Species

Material Considerations

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

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Supplementary Planning Document: Parking Standards and Design
- Developer Contributions
- SNC Design Guide
- Fire Year Housing Land Supply Report 2019
- Upper Middleton Cheney Conservation Area Appraisal and Management Plan

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 |
|---------------------------------|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Building Control | | No objections , all surface water to soakaway, radon protection required |
| Crime Prevention Design Advisor | | <i>'The indicative site layout shows a development in keeping with designing out crime best practice in that the houses have predominantly back-to-back gardens; parking is on plot to the side or to the front and the houses address the street.'</i> |
| Thames Water | | No objections to the information provided either on foul water or surface water. Note that Anglian Water are the water supplier for this area. |
| Ramblers Association | | <i>'The only part of the footpaths likely to be affected by the proposed development will be where the proposed new vehicular access crosses footpath Au3 which seems to be outside the site boundary. It goes without saying that the continuity of AU 3 must be maintained.'</i> |
| Planning Policy | | <i>'In this instance, the exemption criteria [set out in the Council's Development Plan] are not complied with and, in consequence, the policies of the Development Plan are not supportive of the current proposals.'</i> |

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| Planning Policy [addendum] | | <p>The JCS examination Inspector (paragraph 199) considered it '<i>desirable and acceptable in principle that the NRDA is taken as one joint area for the assessment of housing delivery</i>'. The most recent Five Year Housing Land Supply statement demonstrates a 4.8-year supply in the NRDA (1st April 2021).</p> <p>The Middleton Cheney appeals inspector was clear that just because there is no five-year supply within the NRDA, that should not then open up wholesale development opportunities within the rural areas.</p> |
| Strategic Housing | | No objections , ' <i>...the SHMA and local</i> |

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|--------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | <p><i>housing needs data indicate that a minimum of 183 new affordable homes are required per annum in the South Northamptonshire area. The proposed development would help to meet some of this need.'</i></p> <p>Further comments provided on affordable housing provision and mix.</p> |
| Development Management (Section 106 function) | | Provides expected contributions in respect of education, libraries and fire hydrants etc. |

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|---------------------------------|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Middleton Cheney Parish Council | | <p><i>'The application site is outside the village confines and is therefore contrary to Policy LH1 of the South Northamptonshire Local Plan Part 2 and Policy R1 of the West Northamptonshire Local Plan Part 1. The applicant has not addressed this in their submission material and provided no material considerations that justify a departure from this policy.'</i></p> <p><i>'The proposed development is around 21 dwellings per hectare. Given Middleton Cheney's role as a primary service village (Policy C2 of Local Plan Part 1) and the services offered in the village, this is a gross misappropriation of land. The proposal would also therefore run contrary to Policy H1 of the Local Plan Part 2 and Paragraph 124 of the NPPF 2021. Given the need to address climate change, and meet Government's carbon reduction targets, allowing development of such low densities would be anathema to our national commitments.'</i></p> <p>Queries also raised in respect of the data collected by the traffic surveys.</p> |
| Lead Local Flood Authority | | <p>Raised queries in respect of submitted information. New information has since been submitted to address these concerns, but no response has been received from the LLFA at the time of writing this report.</p> |
| Anglian Water | | <p>No comments to make.</p> |
| Conservation | | <p><i>'The site lies to the north of a C17 house built in squared coursed ironstone and limestone, the building is Grade II listed; proposals should seek to sustain and enhance significance, which includes its setting, of heritage assets. The significance of the building lies primarily in its age, vernacular construction and form,</i></p> |

| | | |
|------------------------|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | <p><i>survival of historic fabric and features, etc. Its setting, which extends beyond its curtilage and immediate environs has changed little over the years having always being located at the edge of the settlement accessed via a private lane / public right of way and is essentially located in the open countryside, the rural setting makes a limited but positive contribution towards overall significance. ...the development will still encroach into rural setting of the listed building urbanising the character of the surrounding area and resulting in harm to its rural setting and therefore significance of the listed building. This harm, which is considered to be less than substantial, should be weighed against the public benefits of the proposal (Para 202 of the NPPF).'</i></p> |
| Environment Protection | | <p>Recommends...</p> <ul style="list-style-type: none"> • Noise Impact Assessment (preoccupation) • Construction Management Plan (pre-commencement) • All contamination conditions • EV charging points etc |
| Ecology | | <p><i>'Based on the findings of the report it is unlikely that the development proposed will have a significant impact on protected species or habitats if the mitigation identified in section 6 of the Ecological Appraisal are followed fully and successfully. The report includes a number of enhancements in section 6.2 which will ensure a net gain in biodiversity is achieved.</i></p> <p><i>I have recommended conditions for the production of a Construction Environment Management Plan (CEMP) and a Landscape and Ecological Management Plan (LEMP) to integrate the mitigation measure outlined, to guide the future management of the habitats to achieve net gain and a sensitive lighting strategy for bats.'</i></p> |

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| Local Highway Authority | | <p><i>'The LHA has agreed the change of carriageway width to enable the proposed development to meet the current highway standards.</i></p> <p><i>'With regards to the existing turning head</i></p> |
| | | <p><i>from which it is proposed that this development will take access, alterations will be required to remove the turning head and ensure a consistent road/footway design. If the road has been adopted by the Local Highway Authority, sections of the turning head will require "Stopping Up" under Section 247 of the Town and Country Planning Act (TCPA) in order to remove highway rights. Should the road still be unadopted, this will require negotiation with the land owner and likely Deed of Variation of the Section 38.'</i></p> |

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 4 letters of objections and 2 letters of support raising the following comments:

Objection

- Concerns over the access to the development being taken off Leather Lane and through Miller's Way due to its layout/design, safety of pedestrians due to blind crossing points, the practicality of using the turning head within Leather Lane etc.
- Concerns over increased sewage flow and rainwater runoff, increased footfall down Glovers Lane which is already dangerous due to the traffic attending the nursery school.
- Concerns that access might be taken in the future from Springfield Cottage to the south.
- Middleton Cheney has no doctor's surgery (*response received on 1st August 2021*), and new development will result in increased pressure.
- Dwellings within the development will look out over the back gardens of neighbouring dwellings (within Miller's Way), and there will be frontages that face bedroom windows, intruding upon privacy and affecting outlook.

Support

- The scheme proposed is preferable to others that have been considered, as it is considerably greener than other developments that have been passed recently.
- Surface water flooding has been addressed by the balancing pond on the edge of the site, and many trees have been retained.
- A lot of Council time and taxpayer's money has been spent defending the two other sites in Middleton Cheney (Water's Lane, Thenford Road) which were subsequently lost despite the Council demonstrating a housing land supply.

- This site is the most sustainable within the village in terms of walking and cycling distances to schools, shops, pharmacy and bus stops.

No further comments have been received at time of writing from any neighbours in response to the Council's reconsultation on the site access plans, parameter's plan and revised indicative layout plan.

8. APPRAISAL

Principle of Development

- 8.1. The adopted Development Plan for South Northamptonshire comprises the West Northamptonshire Joint Core Strategy (LPP1) and the Local Plan Part 2 (LPP2).
- 8.2. LPP1– this Plan was adopted in December 2014. Spatial Objectives 1, 3, 11 and 12 are amongst those that provide direction to the policies of the LPP1. These seek to provide a range of housing in sustainable locations; to reduce the need to travel and promote sustainable travel modes; to ensure all residents have access to a home that they can afford and that meets their needs; and state that housing development will be focused at the most sustainable location of Northampton, supported by Daventry, Towcester and Brackley in their roles as rural service centres. Limited development will take place in the rural areas to provide for local needs and to support local services. Alongside this is the objective to protect and support rural communities to ensure they thrive and remain vital. The LPP1 policies most important for determining the acceptability in principle of development are policies SA, S1, S3, S10 and R1.
- 8.3. LPP2 – this plan was adopted in July 2020 and replaces Saved Policies from the 1997 Local Plan. LPP2 establishes a new settlement hierarchy and settlement confines for the District as well as a range of general development management policies used to determine proposals. Policy SS1 establishes that Middleton Cheney is a Primary Service Village, which are settlements likely to be more suitable for limited development than Secondary or Small Villages. The most important policies in LPP2 for determining the acceptability in principle of development are Policies SS1 and LH1.
- 8.4. Housing Land Supply – a Housing Land Availability Study South Northants Area from May 2021 demonstrates that there is a supply of 6.23 years of deliverable housing sites, and this supersedes the April 2020 Study which found there was a supply of 8.26 years of deliverable sites.

Assessment

- 8.5. The LPP1 is now over 7 years old. Accordingly, a review of the LPP1 policies was undertaken in accordance with the Town and Country (Local Planning) (England) Regulations 2012 (as amended). This review identified that many of the policies in the LPP1 remain up to date and consistent with the NPPF. It is on that basis that they should continue to be given full weight as part of the development plan for the purposes of decision making. This includes policies S1 and R1 and, importantly, Policy S3 which should continue to be used for the purposes of 5-year housing land supply calculations until such time as the West Northants Strategic Plan is produced.
- 8.6. Policy S1 sets out the general distribution of growth across West Northamptonshire, with development in rural areas being limited with an emphasis on enhancing and maintaining character and vitality, shortening journeys and facilitating access to jobs and services,

strengthening rural enterprise and linkages between settlements, and respecting tranquillity.

- 8.7. Policy R1 addresses the specific distribution of rural growth, which is to be informed by settlement hierarchies established in LPP2. In all cases development in the rural areas will be required to provide an appropriate mix, including affordable housing; to not affect open land of particular significance to the form and character of the village; to preserve areas of historic and environmental importance; to protect residents' amenities; to be of an appropriate scale; to promote sustainable development and to be within existing confines unless there are particular or exceptional circumstances. R1 goes on to say that once the requirement for the rural areas has been met development will only be permitted where specific criteria apply, including the retention of a local facility or service (criteria (ii)) where this is supported by an effective community consultation exercise (criteria (iii)).
- 8.8. The proposed development is not considered by Officers to comply with the requirements of Policy R1 in respect of its location outside the village confines. The application is directly in conflict with R1(g) as there are no exceptional circumstances (as set out by the policy) that would justify development outside the confines in this instance. The development would provide affordable housing and could make appropriate contributions to local infrastructure but is not exceptional in this respect.
- 8.9. In terms of LPP2, such development is also not supported by Policy SS1 for Primary Service Villages and Policy LH1 concerning residential development inside and outside of settlement boundaries. New development should be within the settlement boundary unless otherwise indicated in the Plan. In this instance the site is not otherwise allocated for housing in the Plan and the development would not fall within any of the exception criteria such as; starter homes/discounted market housing; entry level and single plot exception sites; self and custom built homes; specialist housing; residential and nursing care.

Material considerations

- 8.10. The Development Plan is considered up to date and therefore full weight can be applied to it. However, Officers consider it prudent to look at material considerations that could influence the Council's position on this submission.
- 8.11. Firstly, as noted above, policy compliant affordable housing provision will be provided (and could be secured via a legal agreement if the Council were mindful to approve). Strategic Housing have acknowledged a need for affordable housing units and have no objections in principle. The scheme would deliver 11 (rounded up) affordable units, going some way to meeting a demonstrable demand. Positive weight is afforded to this.
- 8.12. Secondly, Middleton Cheney is a 'Primary Service Village' as established by policy SS1 of the Part 2 Local Plan. A settlement of this designation is recognised as having '*the highest levels of services and facilities*', meaning that, outside of the rural service centres, they are regarded as being the most sustainable locations within the district to focus new development.
- 8.13. Notably, Middleton Cheney has recently had two housing developments (totalling around up to 74 units) approved outside of the settlement confines by a Planning Inspector (appeal references APP/2830/W/20/3261483 (Waters Lane) and APP/2830/W/20/3259839 (Thenford Road)). Importantly, these decisions acknowledged that the Council *did* have an up-to-date housing supply, but the schemes were granted despite this, due to '*very site-specific context*' of the proposals.

- 8.14. Lastly, and as will be explored in subsequent sections of the report, it is acknowledged by Officers that the only issue with *this* application, notwithstanding the absence of a draft S106 agreement at present time, relates to the principle of development, and the scheme being contrary to the development plan. Essentially, the only harm caused by the proposal arises from this conflict.

Comparisons to the other Middleton Cheney appeal sites

- 8.15. Officers will first look at whether there is direct comparability between this site on the western side of Middleton Cheney, and the two sites on the eastern side that were considered as part of recent appeal decisions.
- 8.16. In Paragraph 93 of the Waters Lane/Thenford Road (WLTR) appeal, the Inspector notes that Middleton Cheney is the '*largest PSV in terms of number of householders and second largest by population*'. The Inspector lists a wide range of services and facilities that Middleton Cheney benefits from, including schools, shops, a library, a church and a public house. Its proximity to Banbury and Brackley (as higher order settlements) was also noted, along with public transport opportunities. The Inspector found that the village of Middleton Cheney was accessible, with no material conflict with policy C2 of the Joint Core Strategy (which seeks to maximise travel choice from non-car modes in new development).
- 8.17. Both sites in the WLTR appeal were located on the eastern side of the village, but related closely to the existing built form and infrastructure (i.e. roads and footpaths). Main Road, the two-laned highway that runs through the built-up centre of the village from the A422 and which provides easy pedestrian access to most of the facilities (and along which a footpath of usable quality runs most, if not all, of its length) is only 100m or less from the edges of the two developments.
- 8.18. In fact, Middleton Cheney's facilities are somewhat concentrated on the western side of the village, closer to this site off Leather Lane. However, reaching these from either Waters Lane or Thenford can be achieved via a number of different routes on foot through existing housing estates. Those travelling on foot do not have to necessarily follow the Main Road if they would prefer not to.
- 8.19. Looking at the village's relative position to higher order settlements, Middleton Cheney is approximately 3.5m east of Banbury and its employment opportunities and larger scale shopping facilities. Banbury is accessed along a dual carriageway (the A422) which crosses the M40 (junction 11). There is no need for those visiting Banbury from Middleton Cheney to pass through any smaller settlements or negotiate poor quality roads. The village is around 4m from Banbury Railway Station, which can be reached using public transport (bus) in 25 minutes.
- 8.20. Those opting to visit Brackley instead can use the A422 heading due south-east, which is a wide, free-flowing two-laned road of good quality. It does, however, pass through Farthinghoe, a smaller village.
- 8.21. Arguably then, the sites at Waters Lane and Thenford Road both benefit from a close relationship to a much larger settlement which can be reached via a superior highway network that facilitates faster and easier accessibility to employment and larger scale shopping opportunities.

- 8.22. In their concluding statements for the WLTR appeals that are referenced in paragraph 8.12 of this report, the Inspector was very clear that the decisions were made *'having regard to the very site-specific factors relating to this appeal'*.
- 8.23. It is clear that this site on the western side of Middleton Cheney also benefits from very site-specific factors that weigh heavily in its favour. In fact, the site is actually closer in proximity to the main 'hub' of Middleton Cheney, where a lot of the facilities are concentrated, and there are excellent pedestrian links to shops, schools and bus stops. It might even be argued that this site to the west of Leather Lane is even more favourably positioned, particularly in the context of policy C2 of the Joint Core Strategy (which seeks to maximise travel choices and non-car modes of transport).
- 8.24. Middleton Cheney continues to benefit from all of the facilities listed by the Inspector during their appraisal of the WLTR appeals. The Council can secure contributions towards local infrastructure, to ensure local educational and health-related facilities are able to absorb the pressure created by the new development.
- 8.25. Consequently, Officers find that the *'very site-specific'* factors identified by the Inspector determining the WLTR appeals applies wholly to this site on the western side of Middleton Cheney. Given the precedent established by the WLTR appeal decisions, particularly as these were made *despite* the Inspector concluding the Council had a housing supply (albeit a lower one than it presently does), Officers must afford significant weight to the fact that this proposal appears to be directly comparable to the two larger schemes allowed on the eastern side of the village.
- 8.26. To conclude, the factors that informed the Inspector's decision in the WLTR appeal, resulting in those schemes being allowed (against the Council's decision to refuse permission), are felt to fully apply to this smaller site on the western side of Middleton Cheney. This site is in close proximity to the numerous facilities, services and public transport links that the Inspector referred to as being important in generating site-specific factors, and this in turn is felt to weigh heavily in favour of the scheme.

Affordable housing

- 8.27. Turning to another factor that appeared to heavily influence the outcome of the WLTR appeals, the delivery of affordable housing was afforded significant weight by the Inspector. The following paragraph summarises the Inspector's position:

'On a District wide basis there has been a substantial under provision of affordable housing, with some households having to wait over a year for a home. These are households in need now and thus the provision of 27 affordable homes in an accessible location is a consideration that attracts significant weight in this case. Both parties agree therefore that the affordable housing provision secured should be given significant weight in this case.'

- 8.28. Officers do not have any figures before them to demonstrate whether the under provision of affordable housing has been measurably addressed since the determination of the WLTR appeals. Given the relatively short period of time that has elapsed, it is highly unlikely that the shortfall has been significantly addressed. Consequently, it might be argued that this scheme would also address an immediate need and as such similar importance should be given to securing the delivery of 50% affordable houses as part of the proposed scheme.

- 8.29. While Officers agree that affordable housing provision should be afforded weight, it is questioned whether the same 'significant' weight should be applied.
- 8.30. There is a potential cumulative impact of permitting market-led schemes outside of the settlement confines; specifically, the harm that such an approach would have on the adopted spatial strategy. There is a tangible risk that supporting a market-led housing development outside of the settlement confines simply because there are no other conflicts with the development plan, *and* the Council secures some affordable housing, will serve in the long term to severely undermine the spatial strategy and plan-led approach of focussing development in accordance with the adopted settlement hierarchy.
- 8.31. In referring to the delivery of 50% affordable housing as a reason to support a marketled scheme that is *contrary* to the development plan risks undermines the existence of policies within the plan that are intended to specifically encourage the delivery of affordable housing. For example, the Council recognises that there are opportunities for exception sites (i.e. 100% affordable housing) to be brought forwards on sites that are not necessarily within the settlement confines, but directly adjacent to them. The site before the Council today could potentially deliver a *policy compliant* scheme of purely affordable housing units, more comprehensively addressing the short fall of affordable housing within the district. However, it is very hard to imagine such a scheme ever being proposed if permission were granted for a market-led scheme.
- 8.32. However, Officers must again consider the outcome of the WLTR appeals, which is, unavoidably, a significant material consideration in the decision-making process of this specific application. The plan-led approach has been recognised and was addressed (to an extent) by the inspector determining the Middleton Cheney appeals, who stressed that it was only because of very site-specific factors that have been discussed in detail above (i.e. the size and sustainability of the village and the relationship of the sites to the village) that, together with the provision of demonstrably needed affordable housing, meant that the schemes before them were felt to be acceptable.
- 8.33. Officers take this to mean that, in the event that this site related to a lower order settlement, or even a Primary Service Village that was demonstrably less sustainable than Middleton Cheney (or if the site were in a less suitable location relative to such a settlement), the provision of affordable housing would not have, by itself, afforded sufficient positive weight to outweigh the technical conflict with the Development Plan.
- 8.34. However, Officers have already concluded that this site **is** felt to be directly comparable to the WLTR sites, insomuch that it relates exceptionally well to a highly sustainable settlement, providing excellent pedestrian links to the village's facilities and services and public transport links.
- 8.35. Given this, and in order to show consistent decision making, Officers must also conclude that *on this specific occasion*, solely because of Middleton Cheney's superiority as one of the more sustainable Primary Service Villages as established by the WLTR appeal decisions, the provision of affordable housing should add to the weight in favour of the application.

Conclusion

- 8.36. The Council can demonstrate a five-year housing land supply and as such all relevant Development Plan policies are considered up to date and paragraph 11(d) of the NPPF does not apply. The proposed development does not comply with policy R1 of the LPP1

or policies SS1 and LH1 of LPP2 and is therefore considered to be unacceptable in principle unless there are material considerations that outweigh these policies. The material considerations applicable to this scheme have been identified and appraised above.

8.37. A detailed summary and final conclusion will be provided in the Planning Balance and Conclusion section.

8.38. However, Officers are satisfied that, on the basis of the information before the Council, this application can be supported in principle.

The impact of the development on highway safety

8.39. Policy C2 of LPP1 requires development to mitigate its impacts on highway safety. Policy SS2 of LPP2 requires development to include a safe and suitable means of access for all people including pedestrians, cyclists and those using vehicles.

8.40. The NPPF also requires provision of a safe and suitable access for all users. Para 111 however makes clear 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

8.41. Access – The access would be taken through Leather Lane to the west of the site which is a minor estate road that projects off the slightly larger Miller's Way. Leather Lane has not been constructed to standards typically adopted by the Local Highway Authority; it has a 1.8m footway on one side and an approx. 1.1m service strip on the other side, and it is 5m wide. However, a Section 38 agreement [drawing 2019.07.12 'S38 Drawing 501 Rev M S38' will be shown to Committee] is in place for Miller's Way and Leather Lane, despite this.

8.42. In response to LHA comments, and in conjunction with Officers at the LHA, the applicants have devised a way of amending the existing turning head so the internal estate road – constructed to adoptable standards - ties coherently into the existing highway within Leather Lane, resulting in changes to the existing PROW that runs north/south to the east of the site.

8.43. To achieve this, the applicants will need the cooperation of Vistry Homes, as they will need to agree (as the present Street Manager) to a Deed of Variation to the present Section 38 agreement in place that covers the existing turning head. A letter of comfort is being procured from Vistry wherein this party will confirm that they are happy sign a S106 agreement formally confirming its agreement to the DoV to the existing Section 38. Officers have not seen this yet, but have been advised it will be received ahead of committee (and it will be subsequently included in the Written Updates document for the committee item).

8.44. Traffic generation - Officers note that some local residents have raised concerns about the suitability of Leather Lane and Miller's Way and even the safety of the B4025 to the north where the Miller's Way estate road meets the main highway. Officers are aware that approving a scheme of up to 21 units here will place additional pressure on the existing highway network.

8.45. The LHA document 'Development Management & Adoptions Specification and Standards for Highway Layouts' dated August 2019 advises that carriageways should be 5.5m wide where a single point of access serves more than 200 dwellings (Clause 2.b.iii.1). Clause 2.b.iii. advises that within estates of this sort, short sections of road 4.8m wide, with 1.8m wide service strips, can also be acceptable.

8.46. While Leather Lane does not have 2x 1.8m service strips, it is 5m wide, and as such is felt to comply (together with Miller's Way) with guidance established within the above document. The total number of units, even taking the new development to the north (of circa 30 units) into consideration, is considerably less than 200. The development will not result in a situation that conflicts with the guidance in the above referenced document, and as such the traffic generated by the development will not result in harm to the existing users of the public highway.

Conclusion

8.47. The application site is within an accessible location with sustainable travel opportunities available to future residents and visitors. The village amenities are located within easy walking distance, as well as public transport options.

8.48. The LHA, following negotiations with the applicants on how to best deal with the turning head in Leather Lane, have agreed with the proposed solution and offer no in principle objections to the scheme. Conditions can be used to ensure that all off-site highwayrelated works are implemented in a timely manner in accordance with details that are first seen and approved by the Highway Authority.

Affordable housing, impact on local infrastructure and S106 matters

Policy context

8.49. Policy INF1 both within the JCS and the LPP2 require new development to be supported by appropriate infrastructure.

8.50. In this case there are improvements and enhancements to infrastructure, services and facilities required as a result of this development. These contributions are listed below.

Affordable housing provision

8.51. The proposal must provide 50% affordable housing in accordance with a tenure split provided by the Council's Strategic Housing Department. This contribution is essential as it ensures the scheme is policy compliant and consistent with the Council's Development Plan (policies LH8 and LH10 of the LPP2). This requirement is acknowledged by the applicant in the planning statement (Paragraph 4.1.3: '*The site will include policy compliant levels of affordable housing (50%) and bungalow (5%) provision.*') This can be secured via S106 agreement.

Healthcare provision

8.52. The Clinical Commissioning Group (CCG) has requested a figure of **£10,676.50** based on the number of units proposed by the scheme, to be used towards expanding primary healthcare capacity within the settlement.

Refuse and recycling

- 8.53. The development generates a need for additional wheelie bins to be provided by the Local Authority, which also must ensure there is a waste collection service. In order to do this, a contribution of **£70 per dwelling** is sought.

On site amenity space

- 8.54. The site is not able to provide any amenity green space, or natural/semi-natural green space, and so an off-site commuted sum has been calculated on the basis that the development will generate a need for around 0.02ha of each (based upon a requirement of between 0.0005 and 0.0006ha per person, across a population of 49.35 at 2.35 persons per dwelling). The total off-site commuted sum for each has been calculated by adding the overall cost of provision to the cost of maintenance (which itself is calculated on a cost per m2 per year over a period of 20 years).
- 8.55. For **amenity green space**, the commuted sum will be **£7,369.93**, with the cost of provision making up £3,935.17 of that and maintenance £3,434.76.
- 8.56. For **natural and semi-natural green space**, the commuted sum will be **£2,161.53**, with the cost of provision making up £927.78 and the cost of maintenance totalling £1,233.75.

Off-site playing fields

- 8.57. The type of development proposed will generate a need for additional playing fields and equipment associated with those fields. The Council seeks payment of a financial contribution towards provision and maintenance of off-site playing fields in the locality of circa **£924.70** per dwelling.

Children's play and provision for young people

- 8.58. The development will generate the need for an additional 0.01ha of children's play areas and space for young people. This cannot be provided on site, so a further commuted sum has been calculated which will go towards enhancing existing play areas and spaces within the locality. The commuted sum has been calculated at **£23,824.95**, with £14,719.87 of that forming the overall cost of provision, and £9,105.08 forming the cost of maintenance.

Allotments

- 8.59. The development generates a need to provide or enhance existing allotment facilities within the locality, although Officers note that such facilities aren't readily available or easily providable. The total requirement generated by the development is 0.01ha, and would attract a contribution of **£1,390.19**, with £857.21 going towards provision and £532.98 going towards maintenance. In the event that is deemed impractical or unreasonable to request this money, an allotments contribution will not be included within the S106 agreement.

Library contributions

- 8.60. A contribution is required towards the improvement, enhancement or expansion of library facilities within Middleton Cheney that will serve the development. Contributions will be calculated on a 'per dwelling' basis, when the housing mix is known, in accordance with this table:

| | | | | |
|-------------------------|--------------|--------------|--------------|---------------|
| Size of Dwelling | 1 bed | 2 bed | 3 bed | 4+ bed |
| Cost per unit | £109 | £176 | £239 | £270 |

Education – early years services

- 8.61. The EGRT has not provided a total figure for early years services, as the ‘sufficiency of capacity’ evidence base is currently being updated, and it is not possible to determine the current capacity and likely impact of this development on the demand. The EGRT have provided the multipliers, however, that would apply in the event a contribution was required:

| | | | | |
|-------------------------|--------------|--------------|--------------|---------------|
| Size of Dwelling | 1 bed | 2 bed | 3 bed | 4+ bed |
| Cost per Unit | £0 | £3,724 | £3,972 | £4,220 |

- 8.62. Further consultation with the EGRT will therefore form an integral part of the completion of a subsequent S106 agreement.

Education – primary

- 8.63. The EGRT advises that Middleton Cheney Primary Academy would most likely serve the development, but that as of July 2021 this was exceeding the DfE’s recommended capacity thresholds. A contribution towards the provision of additional capacity will therefore be required to adequately mitigate the impact of the proposed development and to ensure that children residing at the properties can attend a local school.

- 8.64. The multipliers for the contributions are provided below.

| | | | | |
|-------------------------|--------------|--------------|--------------|---------------|
| Size of Dwelling | 1 bed | 2 bed | 3 bed | 4+ bed |
| Cost per Unit | £0 | £1,614 | £3,972 | £4,592 |

Education - secondary

- 8.65. Notwithstanding the figures set out by the EGRT for secondary education contributions, SNC’s Infrastructure Funding Statement makes it clear that funding for secondary education should come from CIL. Therefore, Officers contend that a separate sum should not be sought via S106.

Conclusions

- 8.66. The development will result in the need for improvements and enhancements to local infrastructure in order to mitigate its impact. The proposal also needs to provide 50% affordable housing. These contributions and provisions would need to be included in a S106 agreement. Where there is no signed S106 agreement accompanying this application, it is submitted that the application could be granted approval subject to one being prepared and signed by the necessary parties.
- 8.67. Landscape & visual impact of developing the site

Legislative and policy context

- 8.68. The site affects the setting of a Conservation Area and a Grade II listed building.

- 8.69. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 8.70. Likewise, Section 66 of the same Act states that: In considering whether to grant planning permission for development which affects a listed building or its setting, the local *planning authority...shall 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.* Therefore, significant weight must be given to these matters in the assessment of this planning application.
- 8.71. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).* This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Policy BN5 of the JCS 2014 echoes this guidance.
- 8.72. Policies HE1, HE5 and HE6 of the Part 2 LP guide development affecting designated and non-designated heritage assets and their settings including conservation areas and listed buildings. Policy HE2 covers Scheduled Ancient Monuments and Archaeology, Policy HE3 Historic Parks and Gardens, and Policy HE7 Non-Designated Heritage Assets.
- 8.73. Looking at policies that affect general visual impacts on the existing landscape, LPP1 Policy R1 requires development to not affect open land which is of particular significance to the form and character of the village; to preserve and enhance areas of historic or environmental importance including those identified in Village Design Statements and to be of an appropriate scale to the settlement. Policy S1 (criteria D) requires development in the rural areas to be limited, with the emphasis on respecting the quality of tranquillity and enhancing and maintaining the distinctive character of rural communities.
- 8.74. Policy SS2 of LPP2 requires development to maintain the individual identity of villages and to not result in the unacceptable loss of undeveloped land, open spaces and locally important views of particular significance to the form and character of a settlement and to integrate with its surroundings and the character of the area.

Assessment

- 8.75. The application is accompanied by a Landscape Visual Appraisal which concludes that the site has a medium landscape sensitivity, and that no landscape impact as a result of the development would be 'substantial', although there would be a number of moderate adverse effects on viewpoints of the site to the south. The LVA advises that *'within the wider landscape the Site and its surrounding vegetation are largely obscured and screened from view by a combination of topography and vegetation.'*
- 8.76. An independent review of this appraisal submitted in support of the previous planning application generally agrees with its conclusions, although suggests that some of the effects may have been downplayed slightly and that there were some omissions, particularly in respect of reference to key planning policies, and a lack of methodology and definitions.

- 8.77. It was recommended that the proposed site area be reduced to avoid loss of vegetation along the western side of the site, and that development on the southern boundary should be pushed further north away from Springfield House (the G2 listed building) and the conservation area.
- 8.78. should be augmented to reduce the impact of the development. It was also agreed that the conclusions of the earlier version of the LVA (that there would be no substantial effects upon the landscape) were correct and the similarities between the earlier and current LVAs satisfies Officers that this conclusion is still applicable.
- 8.79. The applicants have provided a response (via IDP Landscape Ltd) to the independent consultant's comments. In this, it is submitted that the main points of contention in respect of vegetation loss and the harm caused to the landscape visual receptors are reached due to assumptions made on vegetation removal based solely on the proposed site plan rather than the submitted Arboricultural Impact Assessment (AIA). It is argued that the vast majority of boundary vegetation will be retained as evidenced by this assessment, including a copse of trees that lie outside the western boundary of the scheme.
- 8.80. The applicant's response does not agree with the independent consultant's position that a 'Major Adverse' impact occurs to the character of the site, which is changed fundamentally. It is argued that development has occurred or has been approved within the site's setting in surrounding parcels of land, and therefore the change to the existing site is not wholly unprecedented.
- 8.81. Officers have considered the contents of the applicant's LVA and the subsequent responses made to both this by the independent consultant and the applicant's response via its own consultants. Having also visited the site (in summertime) and taken numerous photographs, Officers are of the view that, on the basis of the AIA, the amount of vegetation being lost as a result of the development is minimal, and the buffers shown as being retained both on the indicative site plan and, importantly, the parameters plan will be sufficient in securing additional robust planting that further soften and screen views of the development mainly from the south.
- 8.82. Officers agree with the independent consultant's view that the change to the site itself *will* be Major Adverse, inasmuch that a presently undeveloped, unmanaged and relatively tranquil green space will be lost forever. However, Officers also acknowledge the points made by the applicant's consultant, in that the context of the surrounding landscape has changed, and its 'loss' as an unmanaged paddock does not result in significant overall harm, despite the Major Adverse designation assigned by the independent consultant.
- 8.83. On this point, the site's relationship to surrounding natural boundaries and existing (and forthcoming) residential development is critical to the scheme's relative acceptability, from a visual impact/landscape impact perspective.
- 8.84. The site benefits from a natural western boundary formed by mature trees and a thicker copse (containing a pond), effectively capping further westward development. To the north, a scheme of circa 30 residential units has recently commenced, and once delivered will mean the site is effectively surrounded on three of its four sides by residential development. The development of this site would therefore be, somewhat logically, infilling the remaining land in this location that can be developed.
- 8.85. Furthermore, it is true that the only visibility afforded to the site will be to the immediate south. From here, as development peters out along Glover's Lane and towards

Springfield House, the development of the site might be viewed a little discordantly with the perceivable character and surroundings to those using the footpath.

- 8.86. However, the relatively lower density of the development (approximately 21 units per hectare) works in its favour, insomuch that it is logical and expected for development on the edges of settlements to gradually become looser and less dense in nature. While Officers note the Parish Council's position on the density, which suggests that it objects to the inefficient use of the land, Officers would regard a higher (30-35dph) scheme here as resulting in more harm, as it would inevitably have a more urban feel and appearance, less green space, and be pushed further towards the outer edges of the site (at more significant detriment to the setting of the Grade II listed building and conservation area)
- 8.87. The Conservation Officer notes that the development nonetheless results in an encroachment into the rural setting of the Grade II listed building, which in turn results in less than substantial harm. Officers consider this harm to be further reduceable through controlling the design, appearance, layout and landscaping of any subsequent scheme which is submitted (i.e. requiring high-quality materials and architectural detailing, requesting robust landscaping in the strategic zones identified on the parameters plan). Such harm would be easily counter balanced by the public benefits of securing the delivery of affordable units as well as generally bolstering the Council's housing supply in this sustainable location.

Conclusion

- 8.88. Having considered the site's relationship to surrounding residential development, its natural boundaries to the west, the contents of the submitted LVA and subsequent review/response to that review, and the indicative layout plan/parameters plan, Officers are satisfied that, with the exception of the loss of the site as a presently undeveloped and unmanaged paddock, developing the site will not result in unacceptable long-term harm to the appearance or character of the settlement in this location.
- 8.89. The Council retains sufficient control through future reserved matters applications (and conditions) to ensure any subsequent scheme delivered here is of an appropriately high quality, in keeping with the site's location on the edge of the district, forming a bridge between the denser and more urban centre of the village and the undeveloped open countryside to the west, beyond.

Residential amenity

- 8.90. Officers note that a respondent has aired concerns that the development will result in harm to amenities through overlooking (of both windows and outside amenity space), and loss of outlook.
- 8.91. The exact layout, design and appearance of the dwellings (including where openings will be positioned) will be determined at a later date. However, given the above concern it is prudent for Officers to consider whether providing any form of development within the development block areas as established by the parameters plan is likely to result in harm to the amenities of those neighbouring the site.
- 8.92. Plots 1 – 5 and 14 – 19 will *likely* have windows facing towards properties in Leather Lane and Miller's Way, as the parameters plan to some degree prescribes the eventual layout of dwellings within the development blocks. The relationship between proposed dwellings within the development site and those in Leather Lane/Miller's Way isn't terribly intimate, with private drives, landscaping strips and a PROW all lying between the two.

- 8.93. The distance between the facades of properties within the site and the existing properties opposite is shown as being around 18-22m, in line with the Council's recommendations in its Design Guidance (Chapter 4.7). This distance ensures that direct window-to-window overlooking and loss of privacy is highly unlikely. The distance between plots 2 – 5 and number 36 Miller's Way is a little more, between 22m and 26m (the latter distance being from the indicated façade of the new properties to the boundary that demarcates the rear garden to 36). Again, these distances will exceed the recommended separation distances.
- 8.94. The indicative layout therefore shows how 21 units can be provided in a manner that safeguards the amenity of existing occupiers in the properties opposite. It also shows how all future residents of the development can benefit from reasonably proportioned private amenity spaces that are not overlooked or 'hemmed in' by surrounding built form.
- 8.95. Consequently, Officers find that developing the site does not represent a risk of causing harm to the amenities of existing and future occupiers of Leather Lane, Miller's Way or the development site. The reserved matters applications will afford Officers sufficient power and opportunity to ensure eventual layouts and window positionings do not result in overlooking or loss of privacy to individual properties.

Flood risk

- 8.96. The site is wholly within a Flood Zone 1, which carries the lowest risk of flooding. Thames Water and Anglian Water have offered no objections in respect of foul water drainage and surface water drainage, although the latter is simply the water provider in this area and has not offered any comments at all.
- 8.97. As the site proposes more than 10 dwellings, and is therefore a 'major' development, the application is accompanied by a Surface Water Drainage Strategy. This was amended in response to comments raised by the Lead Local Flood Authority, which required confirmation on whether there existed permission for the applicants to discharge or cross third-party land and also for figures to be updated such that they reflected a worst-case scenario.
- 8.98. Officers note that Appendix D within the revised statement clearly shows permission being granted for access to the stream on the adjacent land for discharge purposes. Furthermore, the attenuation volume required has been adjusted to reflect the worstcase scenario (page 12 of the report). However, despite consulting the LLFA back in September, no response has yet been received confirming this consultee's satisfaction with the revision, or recommending any conditions.
- 8.99. Officers will continue pressing the LLFA for a response to the revised information, such that this might be provided in the updates (along with any recommended conditions). In the meantime, Officers are satisfied, from reviewing the revised information, that the concerns are likely to have been addressed.
- 8.100. At any rate, it is clear that there is no in principle objection on flood risk or drainage grounds from the LLFA or any other relevant authorities. As such, flood risk and drainage are considered to be appropriately mitigable through the use of planning conditions, which will be established with the LLFA prior to any decision being issued.

Ecology Impact

Legislative context

- 8.101. 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.
- 8.102. 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

- 8.103. 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.
- 8.104. 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.
- 8.105. 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.
- 8.106. 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.

- 8.107. 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

- 8.108. 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, and in this regard the site is felt to have potential due to being an unmanaged meadow in a semi-rural location, surrounded by mature trees and hedgerows and a body of water.
- 8.109. 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.
- 8.110. 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.
- 8.111. The application is supported by a detailed protected species survey which has been reviewed by the Council's Ecology Officer, who has subsequently recommended a range of conditions which work with the survey to mitigate the impact on protected species.
- 8.112. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, 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 presently unknown due to the outline nature of the application. CIL figures will be generated when total floorspace is eventually known during the reserved matters application.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The paragraphs 8.1 – 8.38 ('Principle') explore whether the site before the Council today is comparable to two other sites in Middleton Cheney that were recently granted approval at appeal. This exercise sought to establish whether this site benefits from the same very specific factors that resulted in those two other sites having permission granted for circa 70 dwellings, despite being outside of the settlement confines and despite the Inspector agreeing that the Council had a five-year housing supply. The purpose of the exercise was to establish whether there exists justification for the Council taking a similar exceptional approach to this development that, on face value, conflicts with the development plan and results in harm.
- 10.2. Those paragraphs also look at whether the provision of affordable housing should be afforded such significant weight as to also outweigh the harm arising through the technical conflict with the development plan.
- 10.3. Officers find that the site at Leather Lane is directly comparable in terms of sustainability to the other two sites subjected to appeal, and that its location on the western side of the settlement, in a logically 'confined' parcel of land surrounded on three sides by residential development, causes it to actually benefit from a better proximity to services, infrastructure and other high order settlements than the two sites on the eastern side of the settlement. It was therefore concluded that there are important site-specific factors in respect of the Leather Lane site that should add positive weight to the scheme, as per the Inspector's conclusions at Waters Lane/Thenford Road.
- 10.4. Officers remain concerned that supporting market-led schemes outside the settlement confines serve to undermine the spatial strategy. In particular, the Council has recently adopted policies which are intended to encourage the delivery of affordable housing through (for example) exception sites.
- 10.5. In any other situation, where the settlement is of a lower status or even the same status as Middleton Cheney but has fewer, or less accessible facilities, or the site is in a less sustainable location relative to the settlement itself, to offer support to a market-led scheme that offers much less affordable housing than what might be achieved by an 'exception site' policy compliant scheme on the same (or different) site, would be considered to undermine the aforementioned policies within the spatial strategy.
- 10.6. However, and it is stressed on this particular occasion, for the same site-specific reasons that Inspectors found on the two appeal sites at Waters Lane and Thenford Road respectively, Officers conclude that the harm caused through this conflict with the development plan is outweighed by the demonstrable sustainability of the settlement and the site's proximity to its services and facilities, to public transport routes and higher order settlements.
- 10.7. Importantly, the provision of affordable housing in such a sustainable location is felt to add further positive weight to the scheme, although it is stressed that the provision of affordable housing alone is not a deciding factor in this conclusion; it does not, by itself, cause this application to be regarded as acceptable.

- 10.8. Therefore, the principle of development can be accepted, and as there is no other material harm identified as being caused by the development in any other regard, Officers must recommend approval of the outline permission.

11. RECOMMENDATION / CONDITIONS AND REASONS

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

- 1. THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND**
- 2. THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):**

- a) Payment of a financial contribution towards off-site amenity green space and natural and semi-natural green space of £9,531.46
- b) Payment of a financial contribution towards off-site playing fields and associated equipment of £924.70 per dwelling (index linked)
- c) Payment of a financial contribution towards off-site children's play area and space for young people of £23,824.95
- d) Payment of a financial contribution towards off-site allotment provision or enhancement of £1,390.19 (assuming local facilities or opportunities can be identified)
- e) Payment of a financial contribution towards the provision of refuse/recycling bins for the development of £70 per dwelling (index linked)
- f) Payment of a financial contribution towards educational infrastructure (early years (if needed) and primary) serving the development based upon multipliers that depend upon the numbers of bedrooms provided, as noted in the report above (Paragraphs 8.61 and 8.64)
- g) Payment of a financial contribution towards library infrastructure serving the development based upon multipliers that depend upon the numbers of bedrooms provided, as noted in the report above (Paragraph 8.60)
- h) Payment of a financial contribution towards primary health care provision for the development; contribution of £10,676.50
- i) Payment of the Council's monitoring costs of £1000

Further Recommendation - In the event that the planning committee refuse to grant planning permission the Assistant Director for Planning and Economy seeks delegated authority to agree the content of a S106 Agreement in the event that an appeal is received.

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON FRIDAY 8th APRIL 2022. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

- 1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied**

that the proposal provides for facilities, infrastructure or affordable housing provision that would be required as a result of the development. This is to the detriment of both existing and proposed residents and contrary to Policy INF2 of the adopted West Northamptonshire Joint Core Strategy. Policy INF2 permits new developments only where the on and off-site infrastructure necessary to support it and mitigate its impact can be provided through a reliable mechanism (such as a unilateral undertaking or other form of Section 106 legal agreement).

CONDITIONS

TIME LIMIT & GENERAL IMPLEMENTATION CONDITIONS

Time Limit (outline)

1. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

Reserved matters

2. Details of the layout, scale, appearance and landscaping (hereafter referred to as 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

Reason : To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

Compliance with Plans

3. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:
 - Drawing 02 'Location Plan 1:1250' received 28th June 2021
 - Drawing A114668 - PRJ01-TTE-00-ZZ-DR-O- 00009 [existing access arrangement] received 25th January 2022
 - A114668 - PRJ01-TTE-00-ZZ-DR-O- 00010 [proposed access arrangement] received 25th January 2022
 - Drawing 01 Rev F 'Site Plan 1:500' received 10th February 2022
 - Drawing 05 'Parameters Plan' received 14th February 2022
 - Document 10664_AIA.001 Rev A Arboricultural Impact Assessment prepared by Aspect Arboriculture, dated June 2021, received on 28th June 2021

- Ecological Appraisal prepared by Aspect Ecology, dated April 2021 and received 28th June 2021
- Document 'Surface Water Drainage Strategy' reference 784-AA114668 prepared by Tetra Tech, dated September 2021 and received 21st September 2021

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

Accord with Ecological Survey

4. The development hereby permitted shall be carried out in accordance with the recommendations, mitigation and enhancements set out in section 6 Ecological Appraisal, by Aspect Ecology, dated April 2021, 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.

CONDITIONS REQUIRING LOCAL PLANNING AUTHORITY WRITTEN APPROVAL OR TO BE COMPLIED WITH BEFORE ANY DEVELOPMENT COMMENCES

Protected species check

5. A maximum of two months prior to the commencement of the development, the site shall be thoroughly checked by a suitably qualified ecologist to ensure that no protected species, 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.

Landscape and Ecological Management Plan (LEMP)

6. Prior to first commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.

Reason : To protect habitats of importance to biodiversity conservation from any loss or damage 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.

7. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity)

has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of 'Biodiversity Protection Zones';
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication; The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- g) Use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason : To protect habitats of importance to biodiversity conservation from any loss or damage 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. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Construction management plan

8. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials; iii) storage of plant and materials used in constructing the development; iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities; vi) measures to control the emission of dust and dirt during construction; vii) a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To protect the amenities of nearby residents and to comply with Policy SS2 of the South Northamptonshire Local Plan.

9. Possible condition – to be confirmed by LLFA: Details of surface water drainage scheme

EXAMPLE WORDING:

No development shall take place until a detailed design of surface water drainage scheme for the site based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development should be submitted to and approved in writing by the local planning authority. The scheme shall

subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:

- a) details (i.e. designs, diameters, invert and cover levels, gradients, dimensions and so on) of all elements of the proposed drainage system, to include pipes, inspection chambers, outfalls/inlets and attenuation basins. Details of the drainage system are to be accompanied by full and appropriately cross-referenced supporting calculations.
- b) Cross sections of all control chambers (including site specific levels mAOD) and manufacturers' hydraulic curves for all hydrobrakes and any other flow control devices.
- c) Confirmation that the receiving highway drain is in a suitable condition and has the capacity to accept the proposed flow of 1.6 l/s wheel washing facilities;

Reason: To reduce the risk of flooding both on and off site in accordance with the NPPF and Policy BN7 of the Core Strategy for West Northamptonshire by ensuring the satisfactory means of surface water attenuation and discharge from the site.

10. Possible condition – to be confirmed by LLFA: Surface water drainage management scheme

EXAMPLE WORDING:

No development shall take place until a detailed scheme for the maintenance and upkeep of every element of the surface water drainage system proposed on the site has been submitted to and approved in writing by the Local Planning Authority and the maintenance plan shall be carried out in full thereafter. This scheme shall include details of any drainage elements that will require replacement within the lifetime of the proposed development.

Reason: In order to ensure that the drainage systems associated with the development will be maintained appropriately and in perpetuity, to reduce the risk of flooding due to failure of the drainage system.

Details of access/turning head alterations

11. Prior to the commencement of the development, details of the proposed construction, materials and surfacing of the access road into the site and its junction with Leather Lane, including all alterations required to the turning head within Leather Lane and the affected Public Rights of Way, shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details before first occupation of the dwellings and thereafter permanently maintained as such.

Reason - To ensure that an adequate and safe access is provided to the site in accordance with policy SS2 of the South Northamptonshire Local Plan.

Trees

12. No development shall take place until the existing tree(s) to be retained have been protected in accordance with the Tree Protection Plan (Appendix C of the Arboricultural Impact Assessment prepared by Aspect Arboriculture, dated June 2021 and received by the Local Planning Authority 28th June 2021) **and** a detailed Arboricultural Method Statement as recommended by **Paragraph 6.1.1** of the same report, which shall be

submitted to and approved in writing by the Local Planning Authority. Any barriers shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development and shall be maintained until all equipment machinery and surplus material has been removed from the site. Nothing shall be stored or placed within the areas protected by the barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the Local Planning Authority.

Reason : To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policies SS2 and NE5 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.

Archaeology

13. In line with the recommendations of the Archaeological Desk-based Assessment prepared by Orion Heritage Ltd and dated May 2021, and received 28th June 2021, no development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

This written scheme will include the following components, completion of each of which will trigger the phased discharging of the condition:

- I. fieldwork in accordance with the agreed written scheme of investigation;
- II. post-excavation assessment (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority);
- III. completion of post-excavation analysis, preparation of site archive ready for deposition at a store (Northamptonshire ARC) approved by the Planning Authority, completion of an archive report, and submission of a publication report to be completed within two years of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded and the results made available, in accordance with NPPF Paragraph 205.

CONDITIONS REQUIRING LOCAL PLANNING AUTHORITY WRITTEN APPROVAL OR TO BE COMPLIED WITH BY DEVELOPER BEFORE SPECIFIC CONSTRUCTION WORKS TAKE PLACE

Unexpected land contamination

14. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason - To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and

to ensure the site is suitable for the proposed use, to comply with Policy SS2 of the South Northamptonshire Local Plan

Fire hydrants

15. Full details of the fire hydrants to be provided or enhanced on the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any above ground works. Thereafter and prior to the first occupation of the development, the fire hydrants shall be provided or enhanced in accordance with the approved details and retained as such thereafter.

Reason : To ensure adequate water infrastructure provision is made on site for the local fire service to tackle any property fire in accordance with Government Guidance contained within the National Planning Policy Framework.

CONDITIONS REQUIRING LOCAL PLANNING AUTHORITY WRITTEN APPROVAL OR TO BE COMPLIED WITH BY DEVELOPER BEFORE OCCUPATION

16. **Possible condition – to be confirmed by LLFA: Verification reports re drainage**

EXAMPLE WORDING

No occupation shall take place until a Verification Report for the installed surface water drainage system for the site based on the approved Flood Risk Assessment, dated April 2020 prepared by Flood Risk UK has been submitted in writing by a suitably qualified independent drainage engineer and approved by the Local Planning Authority. The details shall include:

- a) Any departure from the agreed design is keeping with the approved principles
- b) Any As-Built Drawings and accompanying photos
- c) Results of any Performance testing undertaken as a part of the application process (if required / necessary)
- d) Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.
- e) CCTV Confirmation that the system is free from defects, damage and foreign objects.

Reason – To ensure the installed Surface Water Drainage System is satisfactory, complies with policy SS2 of the Development Plan, and is accordance with the approved reports for the development site.

EV Charging Points

17. No dwelling hereby permitted (with a garage or driveway) shall be occupied until it has been provided with electric charging equipment of AC Level 2 (or equipment providing for no lesser standard of efficiency) to serve that dwelling.

Reason : To comply with Policy S10 of the West Northamptonshire Joint Core Strategy and Policy INF4 of the South Northamptonshire Local Plan Part 2, and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

CONDITIONS TO BE COMPLIED WITH AT ALL TIMES

Removal of PD rights – extensions [enlargements only]

18. Notwithstanding the provisions of Classes A-D inclusive of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no enlargement of any dwellinghouse shall be undertaken at any time without the prior planning permission of the Local Planning Authority.

Reason : Taking into account the density of the site it is considered to be in the public interest to ensure the merits of future proposals can be assessed by the Local Planning Authority so that the amenities of the adjacent occupiers are not adversely affected in accordance with Policy SS2 of the South Northamptonshire Local Plan and Section 12 of the National Planning Policy Framework.

Removal of PD rights – fencing/walls/gates etc

19. Notwithstanding the provisions of Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no gate, fence, wall or other means of enclosure shall be erected, constructed or placed in any location, at any time, without the prior express planning permission of the Local Planning Authority.

Reason : To ensure that visibility and the openness across the site is protected in the interests of public and visual amenity in accordance with policy SS2 of the Local Plan and Government guidance contained within the National Planning Policy Framework.

Prohibited working hours during construction

20. No construction work including site clearance and delivery of materials shall be carried out except between the hours of 07.30 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturdays and at no times on Sundays, Bank and Public Holidays.

Reason : In order to protect the amenities of occupiers of nearby properties from noise outside normal working hours.

Use of native species

21. 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.

INFORMATIVES

Construction sites

1. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to

neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working **Protected species**

2. Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. If any vegetation or trees are to be removed, it should first be ensured that they do not contain nesting birds or roosting bats. For further information or to obtain approval contact Natural England.

Legal Agreement

3. Your attention is drawn to the associated planning obligation that was entered into in accordance with S106 Town and Country Planning Act 1990 prior to this decision notice being issued.

Community Infrastructure Levy

4. Please be advised that the Community Infrastructure Levy (CIL) will be applied to development on this site. The amount of levy payable will be calculated when the reserved matters application is submitted. The levy will be payable at the time the development commences. More information about the CIL (including the Charging Schedule, definitions of which developments are liable and which developments are exempt, and the instalments policy) can be viewed on our website: <http://www.southnorthants.gov.uk/7143.htm>

Application forms, guidance notes and relevant legislation on the CIL can be found on the government website, the Planning Portal: <http://www.planningportal.gov.uk>