

South Northants Homes Burcote House Burcote Road  
Towcester NN12 6TF

S/2020/0498/MAF

**Case Officer:** Daniel Callis

**Applicant:** Grand Union Housing Group

**Proposal:** Demolish the existing office block and construct a three-storey apartment block consisting of 20 no. apartments and associated parking spaces.

**Ward:** Towcester Brook

**Councillors:** Cllr Richard Dallyn, Cllr Martin Johns and Cllr Lisa Samiotis

**Reason for Referral:** Major development

**Expiry Date:** 10 July 2020

**Committee Date:** 6 August 2020

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **RECOMMENDATION: GRANT PERMISSION SUBJECT TO THE LEAD LOCAL FLOOD AUTHORITY REMOVING ITS OBJECT AND SUBJECT TO CONDITIONS AND A S106 LEGAL AGREEMENT**

#### **Proposal**

The proposal is to demolish the existing office building and erect a part-3 storey, part-2 storey residential buildings containing 20 apartments. The building would be positioned a little closer to Burcote Road (and the protected trees), with residents' parking, cycle store and refuse store located to the road. Vehicular access would be via the new access road serving the Bellway development behind.

Of the 20 apartments proposed, 12 (60%) would be affordable (shared ownership) and the remaining 8 (40%) would be for open market sale.

#### **Consultations**

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

- Lead Local Flood Authority

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

- Towcester Town Council, SNC Planning Policy, SNC Environmental Protection, SNC Building Control, SNC Leisure Services, NCC Highways, NCC Archaeology, NCC Infrastructure, Crime Prevention Design Advisor, Anglian Water

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

- SNC Strategic Housing

No letters of objection have been received and no letters of support have been received.

#### **Planning Policy and Constraints**

- The application site is within the Towcester Town Confines
- The trees at the front of the site are protected by a group TPO
- The site is within 2km of two Local Wildlife Sites

The application has also been assessed against the relevant policies in the NPPF, the

adopted West Northants Joint Core Strategy, the newly adopted Part 2 Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

## **Conclusion**

The key issues arising from the application details are:

- Principle of Development
- Design, and impact on the character of the area
- Residential amenity
- Access and parking
- Ecology impact
- Arboricultural Impact
- Flooding and surface water drainage impacts
- S106 contributions

The report looks into the key planning issues in detail, and Officers conclude that, provided suitably amended plans are received that address the Lead Local Flood Authority's concerns, the proposal is acceptable subject to conditions and a S106 agreement.

**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 site is located in Burcote Road, Towcester and is currently the site of the existing Wood Burcote House office building. The site has both vehicular and pedestrian access, via Burcote Road.
- 1.2. The site comprises of a rectangular parcel of land, which is approximately 2,812 sqm. The site is generally quite flat but does slope down towards the highway boundary at the front. There are a number of trees along the site frontage, all of which are covered by a group Tree Preservation Order (TPO).
- 1.3. The existing building is of brick construction, with an unusual roof which has a shallow pitched ridge and gabled roof.
- 1.4. The site is located in an area of predominantly residential housing. The rear garden of houses in Plessey Close back onto the northern boundary, which is defined by a close board fence (and hedge for the part to the front of the existing office building).
- 1.5. There is a mixed employment and housing development currently being constructed to the rear (east) of the site by Bellway Homes, which will share the newly constructed access road, which the site is accessed from. The land immediately to the rear will be a development of B1 start/incubator units, with 90 dwellings on the land beyond.
- 1.6. To the south is the BAE Systems premises.

### **2. CONSTRAINTS**

- 2.1. The application site is within the Towcester Town Confines.

- 2.2. The trees at the front of the site are protected by a group TPO.
- 2.3. Within 2km of two Local Wildlife Sites.
- 2.4. The employment use to the south is not subject to any restrictions.

### 3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1 The proposal is to demolish the existing office building and erect a part-3 storey, part-2 storey residential buildings containing 20 apartments. The building would be positioned a little closer to Burcote Road (and the protected trees), with residents' parking, cycle store and refuse store located to the road. Vehicular access would be via the new access road serving the Bellway development behind.
- 3.2 Of the 20 apartments proposed, 12 (60%) would be affordable (shared ownership) and the remaining 8 (40%) would be for open market sale.

### 4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
<b>S/2019/0579/PA</b>	<b>Determination as to whether prior approval is required (under Class O of Part 3 of the above Order) for the change of use of Offices (Use Class B1(a)) to residential (12 units) (Use Class C3) in respect of: the transport and highways impacts of the development; contamination risks on the site; flooding risks on the site, and impacts of noise from commercial premises on the intended occupiers of the development.</b>	Prior Approval GRANTED

- 4.2 The above was an application last year by the applicant seeking prior approval for the conversion of the existing office building into 12 residential flats. The Government has made it 'permitted development' to convert offices to residential, subject to an application for 'prior approval', which can only consider certain impacts of any such proposal (but not the principle of it).

### 5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions have taken place with regard to this proposal:

<u>Pre.App Ref.</u>	<u>Proposal</u>
P/2019/0242/PRM	Demolition of the existing Wood Burcote house currently used by Grand Union Housing group offices, and the construction of 1x 1-bed and 19x 2-bed apartments [20 dwellings total]
P/2019/0326/PRM	Follow-up pre-app for the same proposal.

- 5.2. The above pre-apps were submitted to the Council in Autumn 2019. Officers indicated that they could support the principle of the proposal, but made comments relating to various issues, such as layout and amenity

## 6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site and by advertisement in the local newspaper. The final date for comments is 30<sup>th</sup> July 2020, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No comments have been raised by third parties.

## RESPONSE TO CONSULTATION

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. TOWCESTER TOWN COUNCIL: **Comments** as follows:

- Welcomes provision of the much-needed social housing this development will deliver.
- However, it considers the design for the apartment block should be revisited with the purpose of bringing forward an improved proposal which would be more in keeping with its surrounds.
- The development would also benefit from the inclusion of at least a small area of amenity space for its residents.

### CONSULTEES

- 7.3. SNC PLANNING POLICY: **Comment** as follows:

- The development lies within the town confines of Towcester where the relevant policies of the Development Plan support the provision of new homes.
- However, the proposal will result in the loss of a commercial property and therefore represents an unjustified loss of a commercial employment generating use which is resisted policy E1 of the JCS and Policy EMP2 of the Local Plan Part 2.
- Without a full justification for such a loss, in accordance with the requirements of these policies, the principle of the scheme would be contrary to current planning policy.
- Whilst it is noted that Prior Approval was granted, April 2019, for the conversion of the existing building under Class O for the change of use of offices to 12 residential units; this proposal does not fall within the auspices of Class O, and therefore development plan policies are considered to apply.

- 7.4. SNC STRATEGIC HOUSING: **Support** the proposal for the following reasons:

- The proposal provides 60% affordable housing against a policy requirement of 40%.
- The over provision of affordable units combined with provision of market rent units and the charitable status of Grand Union Housing Group is considered to

balance the absence of affordable or social rent homes on the development, particularly considering the scale and nature of the scheme.

- The development meets the minimum space standards recommended by the government.
- The development appears tenure blind.

7.5. SNC ENVIRONMENTAL PROTECTION: **No objection**. Raise concerns that the provision of openable windows for the noise sensitive uses fronting apartments on the eastern elevation of the development will potentially introduce a risk of conflict with continuation of an existing business and the proposed measures will not be sufficient to meet the aims of paragraph 182 of the NPPF.

7.6. However, have no objection if bedroom windows on the eastern (rear) façade of the building are to remain closed and unopenable since that would avoid the risks of conflict with the existing business. However, this is also dependent upon window glazing measures being designed to deal with the acoustic character of the noise source at the BAE site as mentioned above, and occupants being able to maintain an appropriate level of ventilation and thermal comfort whilst protecting themselves against that source including in overheating conditions.

7.7. Request conditions relating to:

- External noise mitigation and relevant windows being fixed shut
- Construction method statement
- Hours of construction
- Land contamination
- Asbestos survey
- Provision of EV charging infrastructure

7.8. SNC ARBORICULTURE: No response received at time of writing report.

7.9. SNC BUILDING CONTROL: **No objections** or further comments.

7.10. SNC LEISURE FACILITIES: **No objection**. Welcome that the footprint does not encroach upon the green space and that there is secure cycle parking.

7.11. NCC HIGHWAYS: **No objections** or further comments.

7.12. NCC ARCHAEOLOGY: **No objections** or further comments.

7.13. NCC INFRASTRUCTURE: **No objection**. Request S106 contributions in relation to: Early Years Education; primary education; secondary education, and; libraries, plus the provision of a fire hydrant or sprinkler system.

7.14. LEAD LOCAL FLOOD AUTHORITY: **Objection**. There is insufficient information available to comment on the acceptability of the proposed surface water drainage scheme for the proposed development.

7.15. CRIME PREVENTION DESIGN ADVISOR: **No objection**, but comment as follows:

- The site is very permeable enabling persons to walk all the way around the building and providing the anonymity criminals prefer. It is recommended that additional fencing is provided.
- In addition to the audio-visual system described for the front door the rear door will need a fob access, as will those doors leading out of the front door lobby area and the doors on the stair cores.
- The post boxes should be relocated to the sides of both the front and back doors so that the post man does not need to have access into the building.
- All flat entrance doors should comply with BS PAS24:2016 and be 3rd party accredited. The front and back doors should comply with LPCB LPS 2081 as this is a more robust standard recommended for more highly trafficked routes into and out of a building.
- All ground floor windows should comply with the requirements of BS PAS24:2016 and be 3rd party accredited products.
- The brick structure is to be recommended however I can see no indication of how it locks and further information is required. It would be more secure if the door was single leaf and to a recognised secure standard. Double doorsets are more difficult to adequately secure.

7.16. ANGLIAN WATER: **No objection.** The local sewerage network has adequate capacity to accommodate the development

7.17. NHS (NORTHANTS CCG): **No objection.** Request S106 contribution towards primary healthcare to serve the development

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

## 7. RELEVANT PLANNING POLICY AND GUIDANCE

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

8.2. The West Northamptonshire Joint Core Strategy Local Plan (Part 1) was formally adopted by the Joint Strategic Planning Committee on 15<sup>th</sup> December 2014 and provides the strategic planning policy framework for the District to 2029. The Joint Core Strategy replaced a number of the 'saved' policies of the adopted South Northamptonshire Local Plan 1997 though many of its policies are retained and remain part of the development plan. The relevant planning policies of South Northamptonshire's statutory Development Plan are set out below:

### WEST NORTHAMPTONSHIRE JOINT CORE STRATEGY 2014 (JCS 2014)

- SA – Presumption in Favour of Sustainable Development
- S1 – Distribution of Development
- S2 – Hierarchy of Centres
- S10 – Sustainable Development Principles
- E1 – Existing employment sites
- H1 – Housing density, mix and type
- H2 – Affordable housing

- BN2 - Ecology
- BN7a – Water supply, quality and wastewater
- BN9 – Pollution control
- T1 – Spatial strategy for Towcester

### SOUTH NORTHAMPTONSHIRE PART 2 LOCAL PLAN (Part 2LP)

The South Northamptonshire Part 2 Local Plan was adopted by the Council on 22<sup>nd</sup> July 2020 and now forms part of the Development Plan. Its policies can, therefore, now be given full weight.

The following Policies are considered relevant:

- POLICY SS1: The settlement hierarchy
- POLICY SS2: General development principles
- POLICY LH8: Affordable housing
- POLICY EMP2: Existing commercial sites
- POLICY SDP3: Health facilities and wellbeing
- POLICY INF1: Infrastructure delivery and funding
- POLICY INF3: Education facilities
- POLICY INF4: Electric vehicle charging points
- POLICY GS1: Open space, sport and recreation
- POLICY NE4: Trees, woodlands and hedgerows
- POLICY NE5: Biodiversity and geodiversity

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- SNC adopted supplementary planning guidance (SPGs) and documents (SPDs)
- Towcester Masterplan: The Council adopted the Towcester Masterplan in March 2011. The Masterplan identifies the application site as one of the Key Opportunity Sites in the town (Site TE – Towcester South and Site TH – Southern Gateway) to bring forward a mixed-use development of housing and employment of up to 3300 houses and 3000 jobs.
- SNC Design Guide
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

### 8.4. Council Corporate Priorities

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

The three corporate priorities are to ensure the District is “Protected, Green & Clean”, is a place which supports “Thriving Communities & Wellbeing” and is a

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

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

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

## **8. APPRAISAL**

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

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Access and parking
- Ecology impact
- Arboricultural Impact
- Flooding and surface water drainage impacts
- S106 contributions

### Principle of Development

9.2. Policy S2 of the Joint Core Strategy refers to Towcester as a 'Rural Service Town Centre', and policy T1 states that this role will be supported by '*housing development within the existing urban area*' (a).

9.3. Policy SS1 of the PART 2LP requires proposals for new development to be directed '*towards the most sustainable locations in accordance with the District's settlement hierarchy*'. This policy reiterates Towcester's role as a 'Rural Service Centre'.

9.4. Policy LH1(1) of the PART 2LP offers support in principle for residential development within town and village confines where it...

- a) *Provides for an appropriate mix of dwelling types and sizes; and*
- b) *Would not result in harm to the character of the area or the loss of public or private open spaces that contribute positively to the local character of the area (including residential gardens); and*
- c) *Does not need substantial new infrastructure or other facilities to support it; and*
- d) *Would not displace an existing viable use such as employment, leisure or a community facility*

9.5. Policy LH1(2) requires sites which are providing 10 or more dwellings to provide affordable housing in accordance with policy LH8. Policy LH8 of the Part 2LP and H2 of the Joint Core Strategy require new development to provide 40% affordable housing provision within the confines of Brackley and Towcester.

9.6. Policy E1 of the Joint Core Strategy states that “*change of use to other (non employment generating) uses will be resisted unless it can be demonstrated that the site is no longer economically viable for employment purposes in the long term, there is a clear conflict with adjoining uses, or its release would offer significant benefits to the local area*” [emphasis added]

9.7. Policy EMP2 of the Part 2LP states:

1. *Existing employment and retail sites and land allocated for commercial uses should be retained for employment use unless the following criteria are met:*
  - a) *The proposal can demonstrate that there are valid reasons why the use of the site for the existing or other commercial uses is not economically viable, including showing that the site has been marketed for at least 12 months and has been vacant in the long term; or*
  - b) *The proposal can demonstrate that there are valid reasons why the retention of the site for the existing or other employment or commercial uses is not compatible with and would have an unacceptable long-term impact on the surrounding area and its residents;*
2. *New dwellings will not be permitted within employment, retail or commercial sites except where this is in accordance with specific site proposals and policies set out in the development plan*

#### *Assessment*

- 9.8. Following the relocation of South Northants Homes, which occupied the existing building until recently, the site represents an opportunity to significantly boost the Council’s housing supply in a highly sustainable location which already benefits from good highway infrastructure and parking provision.
- 9.9. The development will result in the loss of existing office space (B1) which presently forms a significant source of employment. This would be contrary to policy E1 and EMP2 because there is no evidence demonstrating that the building is unsuitable or unviable to continue as office, or other employment. Similarly, there is no evidence of any conflict with existing neighbouring residential properties.
- 9.10. However, the building could be converted to residential units under existing relaxed GDPO regulations (Class O, Part 3). Indeed, prior approval was granted in 2019 for the conversion of the building into 12 flats, subject to further approval being sought for operational development (i.e. changes to the building’s external appearance).
- 9.11. In addition, on 21<sup>st</sup> July 2020 the Government published a new Class ZA to part 20 of the GPDO, which gives permitted development for demolition of existing B1(a) office buildings and the erection in their place of residential development. This new class of permitted development comes into force on 31<sup>st</sup> August 2020.
- 9.12. The Council has no ability to resist this loss of employment space as the permitted development regulations do not permit the Council to object to the change of use on this basis.
- 9.13. A change of use/conversion under Class O or demolition/rebuild under class ZA are both reasonable fallback positions in this instance and, therefore, which must be afforded significant weight as material considerations.

## *Conclusion*

- 9.14. In summary, and despite the identified conflict with loss of employment policies (E1 and EMP2), the principle of development is considered acceptable.

## Design and impact upon the character of the area

### *Policy context*

- 9.15. Policy H1 of the Joint Core Strategy requires new housing developments to have regard for the following considerations (amongst others):

- The location and setting of the site
- The existing character and density of the local area

- 9.16. Policy SS2 of the Part 2LP says permission will be granted where development “*uses a design-led approach to demonstrate compatibility and integration with its surroundings and the distinctive local character of the area in terms of type, scale, massing, siting, form, design, materials and details*”.

- 9.17. The NPPF states that decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users<sup>46</sup>; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

## *Assessment*

- 9.18. The existing building was constructed in the late 1970s/early 1980s and is not especially remarkable or high quality in character. It stands within an area of mixed twentieth century development (of varying standards) and, whilst largely inoffensive, does not make a particularly positive contribution to the character of this part of the town. Consequently, its demolition creates an opportunity to provide a new building of higher architectural merit that would positively contribute to lifting the character of this part of Burcote Road.

- 9.19. The existing building sits some distance back from Burcote Road, and presently benefits from some off-street parking in front of the existing entrance to the offices.

- 9.20. The proposed residential development is considered to represent a high quality of architecture. The asymmetrical design approach, using inset balconies, a modest forward projection and an exposed brick 'framework' style feature on the northern end of the building, all work well together to create a building that has a consistent contemporary architectural identity.
- 9.21. Such a building would be notably different from the more orthodox and less ambitious architecture in the immediate vicinity and, while this will result in a building which is quite striking and prominent in this location, this would not be regarded as causing harm. Instead, together with more softer landscaping to the western elevation, it would be a high-quality addition and result in an uplift in the appearance of the street scene and would raise the expected standard of design for any other developments that are proposed nearby in the future.
- 9.22. The ancillary cycle store and communal bin stores would be high quality detached brick buildings in a flat roof style that was sympathetic to the contemporary character of the main building.

#### *Conclusion*

- 9.23. The proposal is considered to represent a high standard of design that would benefit the character of the site and its surroundings. The proposal is, therefore, in accordance with JCS policy H1 and Part 2LP policy SS2.

#### Residential amenity

- 9.24. Policy SS2(f) of the Part 2LP states that permission will be granted where development:

*"Will result in adequate a good standard of amenity for its future occupiers in terms of privacy, sunlight, daylight, outlook, natural ventilation, noise, odour and vibration; and will not unacceptably harm the amenity of occupiers and users of neighbouring properties and the area through noise, odour, vibration, overshadowing or result in loss of privacy, loss sunlight daylight or outlook, unless adequate mitigation measures are proposed and secured."*

- 9.25. In terms of impact upon existing neighbours, the properties in Plessey Close (to the north of the site) both side and back on to the northern end of the proposed building. The proposed building is 11m from the boundary with those gardens (the 3 storey section is 25m) and so the situation is not materially different from the existing office building in terms of impact on light and outlook. Given the separation distances, the proposal is not considered to result in an unacceptable impact on neighbouring amenity in this regard.
- 9.26. There would be no windows in the northern elevation of the proposed building and, therefore there would be no impact on privacy for neighbouring properties either. The cycle store, being adjacent to the northern boundary, would cause no particular harm in terms of noise or other disturbance.
- 9.27. The houses to the west are on the opposite side of Burcote Road and, with the existing (retained) mature trees to the site frontage as well, there would be no impact upon any aspect of residential amenity for these neighbours.
- 9.28. To the rear and south of the site are employment sites (the site to the rear is currently under construction for 'incubator' B1 units), so the proposal would cause no adverse impact here.

- 9.29. In terms of impact upon the residents of the proposed development itself, the building has all its living area windows on the front (west) and rear (east) elevations. All units would be afforded an appropriate and acceptable level of outlook, light and privacy. All living area rooms would be provided with natural daylight.
- 9.30. Windows of ground floor units would be given protection by a ring of 'defensive planting' around the building, preventing others from coming too close to openings and invading privacy. Additional fencing to restrict unauthorised access and anti-social movement (as suggested by the Crime Prevention Design Advisor) will be secured via condition.
- 9.31. The B1 units being constructed to the rear are considered compatible with adjacent residential development and, therefore, the use of that site should not have any undue impact upon the amenity of residents.
- 9.32. Arguably, the main amenity consideration with this proposal is the potential impact of future residents from the BAE Systems operation in the large building to the south of the site.
- 9.33. The applicant has submitted a noise impact assessment, which identifies plant noise audible at all times within the proposed development site. The assessment shows that the extraction plant noise from the existing commercial building would result in internal noise levels within rooms on the rear (eastern) side of the proposed building exceeding acceptable targets, both in terms of volume and especially at night due to the "highly perceptible tonal feature" of the noise.
- 9.34. As a result, the assessment of the BAE Systems' plant noise potentially results in a "significant adverse impact" (SOAEL – Avoid) upon future occupiers of the apartments on the eastern façade of the development when they have their windows open during the night.
- 9.35. The assessment of noise from BAE Systems' extraction plant shows that there is a potential conflict between the proposed residential use and existing business use and, as stated in section 182 of the National Planning Policy Framework 2019, "*Where the operation of an existing business.....could have a significant adverse effect on new development (including change of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed*".
- 9.36. It is, however, recognised that the internal noise target levels would be achievable on the eastern façade windows if they are to remain closed and unopenable. Such a measure, however, would have a knock-on impact upon the ventilation and thermal comfort of the building. If all windows on the rear of the building had to be fixed shut then residents would have no natural ventilation or access to the balconies shown on the proposed plans. Care is needed, therefore, to ensure that the measures taken to achieve the acoustic standard of the accommodation does not compromise other aspects of the living standard.
- 9.37. After further discussions with the applicant's noise consultant, the Council's Environmental Protection Officers have confirmed that, because the noise issue is predominantly only at night, they would only require the bedroom windows on the rear (east) elevation) to be sealed and remain unopenable. Other living area windows could be openable. This will allow residents to naturally ventilate living areas during the day, but protect residents from intrusive noise when trying to sleep. This will be secured via conditions.

9.38. As a result, the proposal is considered to comply with Part 2LP policy SS2(f) and provide an acceptable level of amenity for existing and future occupiers.

#### Access and parking

9.39. The proposed site layout moves the current parking area to the rear of the new building. vehicular access would be via a new cross-over off the new estate access road that runs perpendicular to Burcote Road. This road is straight and the proposed access would be safe, effective and adequate in terms of dimensions, visibility, etc.

9.40. The car park to the rear would contain 40 parking spaces, with 2 spaces per flat/apartment. This provision is sufficient to comply with the SNC Parking: Standards and Design SPD. The car park is laid out in an efficient manner that makes it convenient for residents.

9.41. The communal bin stores would be provided at the near end of the car park giving close and convenient access for kerbside refuse collection.

9.42. A secure cycle store would be provided towards the back (north) corner of the car park, giving resident the ability to store bikes in a convenient location.

9.43. Pedestrian access to the building would be available from both the front (Burcote Road) and rear (car park) elevations.

9.44. Overall, and with no objection from the Local Highway Authority, the proposals are considered to comply with Part 2LP policy SS2.

#### Ecology Impact

##### *Legislative context*

9.45. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

9.46. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.

9.47. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.

9.48. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be

made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:

- 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.

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

#### *Policy Context*

9.50. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

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

9.52. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

9.53. Policy NE3 of the Part 2 LP relates to green infrastructure corridors and requires that proposals contribute to the delivery of green infrastructure that meets the needs of communities both within and beyond the boundaries of the district, including the establishment of new infrastructure and improvements to the quality, use and provision of existing infrastructure. Policy NE4 seeks to protect and integrate existing trees and hedgerows wherever possible and Policy NE5 requires that proposals conserve and enhance biodiversity and geodiversity in order to provide measurable net gains.

- 9.54. Policy BN2 of the JCS 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. Policy BN3 specifically relates to the enhancement and creation of woodland.
- 9.55. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.56. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

- 9.57. 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:
- a. present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

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

- b. a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
  - c. an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.58. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site consists of a well-managed building of relatively modern construction. The surrounding landscaping comprises closely mown lawns, established hedgerow and mature trees. The hedges and trees, however, are not be affected by proposals.
- 9.59. Having considered Natural England's Standing Advice and taking account of the site constraints it is considered that the site has limited potential to contain protected species and any species present are unlikely to be adversely affected by the proposed development.

- 9.60. The applicant has submitted an 'Ecological Walk-Over Survey and Daytime Bat Assessment' which also concludes that protected species are unlikely to be present.
- 9.61. As such, no further survey is required. However, an informative reminding the applicant of their duty to protected species shall be included on the decision notice and is considered sufficient to address the risk of any residual harm.
- 9.62. As recommended by the applicant's ecologist, conditions will be included to require provision of ecological enhancements, such as bird, bat and invertebrate boxes and 'hedgehog gates'. Conditions will also require careful 'hand' demolition of the roof of the existing building, as well as for clearance works to avoid bird nesting season.

#### Arboriculture impact

- 9.63. The proposal retains the existing trees and hedge at the front of the site, leaving adequate space for the roof protection areas and also the tree canopies. The trees will be protected during construction and will, therefore, continue to make a positive contribution to the character of both the site and the wider street scene.
- 9.64. Conditions would be attached to any permission requiring the tree protection to be installed before demolition commenced.
- 9.65. No comments have yet been received from the Council's Arboricultural Officer and a further update will be provided prior to or at the Committee meeting.

#### Flooding and surface water drainage impacts

- 9.66. Policy BN7 of the JCS states that all new development should demonstrate that there is no increased risk of flooding to existing properties and should seek to improve existing flood risk management. Surface water management incorporating sustainable drainage techniques should be accompanied by a long-term management plan and protect and enhance water quality.
- 9.67. The NPPF seeks to ensure that in determining development proposals flood risk is not increased elsewhere and that development does not contribute to or is put at risk from unacceptable levels of water pollution.
- 9.68. The application site is located in Flood Zone 1 (lowest risk of flooding). There is however a small culverted watercourse (Wood Burcote Brook) that passes near to the site.
- 9.69. Preliminary 2D modelling of a culvert blockage shows some flooding along Burcote Road from Wood Burcote Brook. The proposed site is suitably raised above the blockage scenario flood level and a safe access route will be maintained in this situation.
- 9.70. A natural surface water flow route has been identified with the potential to affect the site. Flooding along this flow route is unlikely given the drainage system being installed as part of the adjacent Farriers Court development. Any flooding that does leave Farriers Court would be intercepted and conveyed to Burcote Road via the access road. The residual risk of flooding at Wood Burcote House will be managed by raising the finished floor level in line with normal building best practice.
- 9.71. With regards to surface water drainage from the site itself, the applicant suggests there will be an 18% reduction of drained impermeable area with the proposed development, which will serve to provide a similar reduction of runoff from the site.

The applicant proposes to direct run-off to the existing main sewer (as the existing building already does).

- 9.72. The Lead Local Flood Authority (LLFA) has initially objected due to the lack of detailed run-off modelling and plans for the proposed drainage and mitigation to prevent flooding. This is because the new building will need to meet current drainage standards and Building Regulations requirements, rather than being able to copy the existing situation.
- 9.73. In response to this, the applicant has submitted a Drainage Strategy, which includes details of a sustainable drainage system (SuDS) that includes permeable paving that will infiltrate water into an underground storage tank. The tank will allow partial infiltration of stored water into groundwater whilst also releasing attenuated water via a flow rate control into the nearby sewer.
- 9.74. The LLFA have been reconsulted as to the acceptability of the proposed strategy and an update shall be provided prior to, or at, the Committee meeting.

#### S106 contributions

- 9.75. Paragraph 54 of the NPPF advises that Local Planning Authorities should consider whether unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. The Heads of Terms as listed below form the basis for the formulation of planning obligations in order to mitigate the unacceptable impact of the development. It is considered that the impact of the development in terms of affordable housing, educational requirements, highway improvements, public transport provision and healthcare are all capable of being sufficiently mitigated.
- 9.76. All planning obligations have to meet the tests set out in Paragraph 56 of the NPPF.
- 9.77. Paragraph 57 of the NPPF advises that the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances, including whether the plan and the viability evidence underpinning is up-to-date.
- 9.78. Paragraph 64 of the NPPF advises that at least 10% of the homes in major housing developments should be available for affordable home ownership. Policy H2 of the JCS requires the provision of 40% affordable housing, to be provided as an integral part of the development with a tenure to reflect local housing need.
- 9.79. Contributions are to be sought as follows:
- Provision of 60% affordable housing on site (all as shared ownership) - *The policy requirement is for 40% affordable housing with a normal split of 75% affordable rent/25% shared ownership. In this instance, the applicant (a Registered Provider of affordable housing) is over-providing on affordable housing. The benefit of this over-provision is considered to outweigh any conflict with the normal tenure split requirement. Given the nature of the development, it also could be detrimental to the scheme if mixing affordable rent and private market apartments within the same block.*
  - Payment of a financial contribution towards off site public open space, play areas and sports pitches in the locality of **£2,064.40 per dwelling** (index linked) – *required because there is no on-site provision made*

- Payment of a financial contribution towards the provision of refuse/recycling bins for the development of **£70 per dwelling** (index linked) – *required to ensure the development is provided with appropriate refuse storage*
- Payment of a financial contribution towards Early Years educational infrastructure of **£3,724.00 per dwelling** (index linked) – *as required by NCC (possibly subject to further review)*
- Payment of a financial contribution towards Primary educational infrastructure of **£1,614.00 per dwelling** (index linked) – *as required by NCC*
- Payment of a financial contribution towards library infrastructure of **£109.00 per 1 bed unit and £176.00 per 2 bed unit** (index linked) – as required by NCC
- Payment of a financial contribution towards primary health care provision of **£10,168.90** (index linked) – *as required by the Northants Clinical Commissioning Group/NHS*
- Payment of a financial contribution towards Towcester Town Centre Fund of **£664 per dwelling** (index linked) – *as required by the Developer Contributions SPD and Towcester Masterplan*
- Payment of the Council's monitoring costs of **£1,000** – *as required by the Developer Contributions SPD*

9.80. All the above S106 requirements are subject to compliance with Regulation 122 and 123 of The Community Infrastructure Levy Regulations 2010).

9.81. The development will be subject to CIL payments which are non-negotiable. The contributions will be considered against the requirements of the relevant Local Planning Authorities infrastructure requirements. This is discussed further below.

#### HUMAN RIGHTS AND EQUALITIES

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

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

### **9. COMMUNITY INFRASTRUCTURE LEVY**

10.1 It is estimated that this development would attract a Community Infrastructure Levy (CIL) payment totalling £37,760.00 under the Council's current CIL Charging Schedule. This has been calculated based on increase in floorspace of 755.2sqm.

10.2 However it should be noted that certain reliefs and exemptions are available and if claimed could result in a reduced charge, unless disqualifying events occur. (For further information relating to CIL please visit <http://www.southnorthants.gov.uk/7143.htm>).

10.3 *Officer comment:- Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local*

*finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.*

10.4 *In this particular instance, the above financial payments are not considered to be material to the decision as they would not make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority and hence the calculated CIL amount referred to above is therefore provided on an information basis only.*

## **10. PLANNING BALANCE AND CONCLUSION**

11.1. The proposal generally complies with the relevant Development Plan policies and guidance listed at section 8 of this report and is considered to be sustainable development.

11.2. The loss of an existing employment use (and conflict with JCS policy E1 and Part 2LP polices EMP2) cannot be resisted in principle due to the applicant's reasonable fallback position for a conversion (or demolition and rebuild) under the allowances of the GPDO.

11.3. The proposed development is considered to represent a high standard of design that will benefit the character of the area. The development will also possess suitable means of access, adequate provision of parking and acceptable amenity for future residents (and neighbours). The existing trees at the front of the site will be retained and protected and there is no detrimental impact on ecology.

11.4. The development will deliver 60% affordable housing, which is more than the policy requirement (40%).

11.5. In light of the above and provided the LLFA confirms that it no longer objects to the application, there are no other material considerations that materially count against the development. Subject to the LLFA's response, in accordance with Paragraph 11 of the NPPF, permission should be granted.

## **11. 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 LEAD LOCAL FLOOD AUTHORITY REMOVING ITS OBJECTION AND**
- 3. 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) Provision of 60% affordable housing on site (all as shared ownership)**
  - b) Payment of a financial contribution towards off site public open space, play areas and sports pitches in the locality of £2,064.40 per**

dwelling (index linked)

- c) Payment of a financial contribution towards the provision of refuse/recycling bins for the development of £70 per dwelling (index linked)
- d) Payment of a financial contribution towards Early Years educational infrastructure of £3,724.00 per dwelling (index linked).
- e) Payment of a financial contribution towards Primary educational infrastructure of £1,614.00 per dwelling (index linked).
- f) Payment of a financial contribution towards library infrastructure of £109.00 per 1 bed unit and £176.00 per 2 bed unit (index linked).
- g) Payment of a financial contribution towards primary health care provision of £10,168.90 (index linked)
- h) Payment of a financial contribution towards Towcester Town Centre Fund of £664 per dwelling (index linked)]
- i) Payment of the Council's monitoring costs of £1,000.

#### CONDITIONS

A full list of conditions will be provided in the written updates, prior to the Committee meeting.

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