

## **Committee Report**

**Item No:** 7A

**Reference:** DC/21/00754

**Case Officer:** Jo Hobbs

**Ward:** Chadacre

**Ward Member/s:** Cllr Michael Holt, Cllr Stephen Plumb

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## **RECOMMENDATION – DELEGATE DETERMINATION TO CHIEF PLANNING OFFICER**

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### **Description of Development**

Planning Application - Part demolition and replacement of existing logistics space, new construction of a biomass boiler building and bridge link, alterations to existing logistics building to accommodate a new chocolate production facility, construction of a new waste water treatment building, new gatehouse and 2 weighbridge offices, and other associated works.

### **Location**

GCB Factory and Premises, Lower Road, Glemsford, Sudbury Suffolk CO10 7QS

**Expiry Date:** 15/10/2021

**Application Type:** FUL - Full Planning Application

**Development Type:** Major Large Scale - Manufacturing/Industrial/Storage/Warehouse

**Applicant:** GCB Cocoa

**Agent:** Mr Kevin Bayliss, BE Design

**Parish:** Glemsford

**Site Area:** 7.2ha

**Density of Development:**

Gross Density (Total Site): N/A

Net Density (Developed Site, excluding open space and SuDs): N/A

**Details of Previous Committee / Resolutions and any member site visit:** None

**Has a Committee Call In request been received from a Council Member (Appendix 1):** No

**Has the application been subject to Pre-Application Advice:** Yes DC/20/05179 – principle of development considered acceptable but matters such as landscape, design, flood risk, highways and ecology all required further consideration.

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## **PART ONE – REASON FOR REFERENCE TO COMMITTEE / EXECUTIVE SUMMARY**

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The application is referred to Planning Committee for the following reason/s:

- Major development for the erection of industrial building/s with a gross floor space exceeding 3,750 sqm

At this point in time officers are unable to undertake an overarching planning balance, accounting for the development plan and other material considerations, because the complete impacts of the application proposal are not yet known.

The application is brought to Committee in exceptional circumstances where no recommendation for determination is available at present but in light of the commercial imperative, urgent views are sought from Committee where the most expedient treatment of the application would, in officers' opinion, be a resolution to delegate authority for the determination of it to the Chief Planning Officer.

The application development is highly likely to pose a number of serious harms in a variety of ways; not least, by virtue of its sheer mass and bulk, notably high levels of harm to the landscape and less than substantial (but not insignificant) harm to a range of designated (and non-designated) heritage assets. In respect of the latter, there must be a presumption that planning permission will be withheld.

The potential for harm to SSSI in the vicinity poses great risk and it is not yet clear whether there would be any adverse impact by virtue of emissions, or not. Natural England have concerns with the approach and methodology undertaken by the applicant and cannot presently be satisfied on the likely impacts and consequent effects. In accordance with the NPPF, development that would pose harm to a SSSI should not normally be permitted. It is also not yet clear whether the application development would be safe from flooding for its lifetime and would not increase flood risk elsewhere.

However, weighed against those serious likely known, and potential, harms would be the considerable economic benefits to flow from allowing development to proceed where the occupier is known and is in a position to deliver; a much-needed boost both to the local and broader economy, and local job creation. Members might consider those benefits to be overwhelmingly weighty; officers do not consider that such a view would be unreasonable in the circumstances, notwithstanding any breach of the development plan as a whole that might be present.

In light of the commercial imperative, officers therefore bring the item to Committee to present the application as it sits and seek Members' views on the proposed development and its appropriateness, bearing in mind the factual position as known. Officers wish to seek delegated authority to deal with the application in light of any comments recorded, where officers – in the spirit of policy CS1 – will work proactively with the applicant to find solutions which mean that the application can be approved where possible. In light of the technical issues that remain in play, and where there is no evidence at this point in time to suggest that they cannot be capable of positive resolution, officers anticipate that the application might be acceptable weighing into account the likely harms and benefits.

In the event that, subject to resolution for delegated authority, officers find that it is not possible to resolve any outstanding issues in a satisfactory manner such that in their opinion planning permission can be granted, the application will be returned to Committee for further consideration.

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## **PART TWO – POLICIES AND CONSULTATION SUMMARY**

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### **Summary of Policies**

#### **Babergh Core Strategy 2014:**

- CS1 Applying the Presumption in favour of sustainable development in Babergh
- CS2 Settlement Pattern Policy

- CS3 Strategy for Growth and Development
- CS13 Renewable/Low Carbon Energy
- CS14 Green Infrastructure
- CS15 Implementing Sustainable Development in Babergh
- CS21 Infrastructure Provision

[Policy CS11 is not considered to apply because while the site falls within the parish of Glemsford the development is not, strictly speaking, considered to be for the Core Village of Glemsford on account of its siting within the countryside far removed from the settlement boundary in both a spatial and functional sense]

#### Saved Policies in the Babergh Local Plan (2006):

- EN22 Light Pollution – Outdoor Lighting
- CN01 Design Standards
- CN06 Listed Buildings
- CN08 Conservation Areas
- CR02 AONB Landscape
- EM20 Extension of Employment Sites
- TP15 Parking Standards – New Development
- TP16 Travel Plans

#### Supplementary Planning Documents

- Suffolk Adopted Parking Standards (2019)
- Dedham Vale AONB and Stour Valley Management Plan (2016-2021)

#### Other material planning considerations

NPPF National Planning Policy Framework 2021

#### **Neighbourhood Plan Status**

This application site is in the Glemsford Neighbourhood Plan Area. The Neighbourhood Plan is currently at Stage 1: Designated neighbourhood area. Given its infancy the NP is not afforded any weight.

#### **Consultations and Representations**

During the course of the application consultation and representations from third parties have been received. These are summarised below.

#### **A: Summary of Consultations**

##### **Town/Parish Council**

**Glemsford Parish Council**  
Approval.

**Long Melford Parish Council**  
No comment.

## **Braintree District Council**

The existing buildings are only about 12m high. The proposed maximum building height will range from 25m to 39.5m. Although the remodelling of the cocoa processing building will utilise the existing building footprint, it is considered that the overall building bulk and scale are excessive as compared to the site size. The proposed development will be highly visible from the public vantage points in all directions, in particular from the further south within and beyond the SSSI. The resulting buildings will have a modern appearance which is highly incompatible with its rural location, in particular in close proximity to the SSSI and LNR. It is also noted that the amount of car parking provision has been significantly reduced to cater for the new biomass building, new weighbridge, gatehouse and widening works. Officers are of the view that the proposal represents an over-development of the site. The additional buildings and floorspace should not be achieved by sacrificing the character and appearance of the rural area nor parking provision and there is a lack of room for meaningful and appropriate landscaping and boundary treatment.

It is noted that the applicant has responded on 29 April 2021 to some consultee comments in relation to the design, building height, mass and materials. The applicant only provided some additional explanation without proposing changes to the overall height, mass or scale. The applicant insisted that the main cladding material (profiled silver metal cladding) which reflect the surroundings will give the illusion of the buildings disappearing. Officers cannot agree with this statement as the resultant buildings as shown in the proposed 3D views (Drawing No. 1007) are bulky, have overly modern appearance and impose a stark contrast to the local rural area.

Whilst it is accepted that the proposed building height may be necessary for the production process and to save energy consumption, the proposed building heights are far too high in such a rural location and clearly not suitable for such a sensitive yet small site. The proposed materials would not be sufficient enough to mitigate the harmful visual impacts of the development and the excessive amount of reflective elements will also insert detrimental impacts to the AONB Project Area.

Despite the submitted Landscape and Visual Appraisal (January 2021) has identified that the areas to the immediate south of the site has high sensitivity to the proposal, only 2 viewpoints within the boundary of Braintree District (04 and 05) are included. The 2 viewpoints showed that the resulting development is visible and appeared to be continuous, which clearly disturb the tranquillity landscape currently enjoyed from the District's public right of way/footpath(s) and protected lane. The detrimental landscape and visual impacts also impact on the setting of numerous Grade II listed buildings at a higher ground level. The LVA is therefore not acceptable and failed to demonstrate that the highly sensitive landscape character of the area would not be adversely affected by the proposal nor preserving and enhancing the significance of designated heritage assets. The authority echoes the views of the AONB Planning Officer that the proposal would be visually dominant within the Project Area, in particular to the south of the site and the proposed bulky buildings will break the skyline of the southern valley slopes.

The landscape agent acting on behalf of the Applicant has contacted our Officers between May and June in relation to the landscape and visual impacts of the proposed development. It is disappointed that the addendum of the Landscape and Visual Appraisal has not taken into account the comments provided by our Officers via email dated 8 June 2021. The additional information provided still does not address our previous concerns.

As mentioned previously, the resulting development would be highly visible and the build form would appear to be continuous, especially when viewed from the Braintree District administrative area. Officers cannot agree that the provided viewpoints accurately demonstrate the impacts imposed by the proposal in terms of harm to the intrinsic character of the rural countryside, the detrimental harm to the highly sensitive landscape as well as the less than substantial harm to the designated heritage assets within Braintree District. It is clear from the submitted cladding comparison that the resulting development would be visually

dominant, regardless of the cladding finishes. The scale, mass and bulk of the buildings are incompatible to the surroundings and the adverse impacts would not be overcome simply by the materials. This authority therefore maintains the view that the site is too sensitive and not suitable for such a modern and bulky development, and our objection remains.

It is noted that the Revised Construction Environmental Management Plan (July 2021) has highlighted the need to use bats-friendly lighting during construction phase, however, any external lighting during operational phase should also be ecologically friendly and details should be provided prior to installation.

It is noted that various statutory consultees have maintained their objection/holding objections or still have serious concerns on the proposal. The District Council would expect that the comments from the AONB Planning Officer, Natural England, Suffolk County Council SUDS, Ecological Consultant of Essex County Council Place Services, and your Heritage and Design Officer would be taken into account, prior to determination of the application.

**West Suffolk Council**

No comments.

**National Consultee**

**Natural England**

We can confirm that the documents submitted on the 20 and 21 July 2021 satisfactorily provide the information requested. As such the applicant has agreed to apply mitigation measures appropriate to site at 'high risk' of dust pollution in regard to Glemsford Pit Site of Special Scientific Interest (SSSI) as per our advice. We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

From the information supplied we advise that there are no impacts on the SSSI expected from the foul water and surface water drainage strategy.

Our outstanding concerns (28 July 2021, ref 358807) relate to the Air Quality Assessment, which still requires further work as detailed within our previous response to ensure that we can suitably advise on the potential air quality impact on Glemsford Pit SSSI. Without this information, Natural England may need to object to the proposal.

[Officer Comment: Regrettably, despite repeated attempts to overcome the issues raised by the statutory consultee, concerns remain in relation to the information submitted by the applicant where the extent of impact upon SSSI remains unknown. There may be no adverse impact but, equally, there is a possibility that there could be. Likewise, should an adverse impact be identified there is no mitigation proposed for consideration at present.]

**Environment Agency**

No objection.

**Historic England**

No comments.

**County Council Responses**

**Highways**

Lower Road is a 'A' classified highway (A1092). The existing vehicular accesses onto the highway is within 40mph speed limit. The existing accesses and visibility splays are sufficient for the speed limit as shown in Design Manual for Roads and Bridges (DMRB)

The proposal will generate 227 vehicle trips (additional 37 trips for the previous use of the site) in the morning Peak Hour; approx additional 1 vehicle every 2 minutes.

There are no footways linking the site to communities but there is a Public Right of Way footpath to Glemsford. It is expected that there would not be many staff walking to the site.

There have been 2 injury accidents in the past 5 years in the area. The analysis shows there are no patterns and no significant highway safety concerns.

Although the site may not be considered a sustainable location from a transport policy perspective, we consider the proposal would not have a severe impact on the public highway with regard to congestion, safety or parking. Therefore, the County Council as Highways Authority, does not wish to restrict the grant of permission as it would not have a severe impact on the road network (NPPF para 109). Conditions recommended.

### **Flood and Water**

A holding objection is necessary because the proposed discharge rate needs to be a fixed rate rather than viable unless long term storage is provided. The proposed storage are for surface water needs to be outside of flood zone 3. The holding objection is a temporary position to allow reasonable time for the applicant and the LLFA to discuss what additional information is required in order to overcome the objection(s). This Holding Objection will remain the LLFA's formal position until the local planning authority (LPA) is advised to the contrary. If the LLFA position remains as a Holding Objection at the point the LPA wishes to determine the application, the LPA should treat the Holding Objection as a Formal Objection and recommendation for Refusal to the proposed development. The LPA should provide at least 2 weeks prior notice of the publication of the committee report so that the LLFA can review matters and provide suggested planning conditions, even if the LLFA position is a Formal Objection.

The points below detail the action required in order to overcome our current objection:

1. Discharge rate needs to be limited to the Qbar for all events up to and including the 1:100+CC rainfall event i.e. 77 l/s.
2. Demonstrate that the surface water storage area will be outside of flood zone 3.
3. Submit cross sections of surface water drainage component.

[Officer Comment: the LLFA continues to object to the proposal remains to be satisfied that the application development would not increase flood risk elsewhere. The application remains incapable of determination as a result but there is no evidence to suggest that a technical solution cannot be found]

### **Archaeology**

No objection.

### **Development Contributions**

No objection.

### **Fire and Rescue**

We require a condition on the Decision Notice for the installation of Fire Hydrants.

### **Internal Consultee Responses**

## **Place Services - Landscape**

We recognise that in terms of landscape sensitivity to change, the site has a low sensitivity as the proposed development does not imply a change of use or activities on site, nor does the proposal extend beyond the existing site operation area.

We disagree with para 4.24 from the Landscape and Visual Impact Assessment report (LVIA), which considers that the surrounding landscape overall has a medium to high sensitivity to change. Due to the proximity of the site to the Special Landscape Area, the adjacent SSSI and LNR, both within the Stour Valley Project Area and being a Valued Landscape, it is considered that the surrounding landscape has a high sensitivity to change.

We have concerns over the proposed reflective material and light colour and its ability to make the new buildings less prominent and to blend into its surroundings and the landscape. Page 17 of the Design and Access Statement (DAS) indicates that this approach has been used before in rural settings successfully, but no examples have been provided to fully demonstrate that this can be. Place Services is a traded service of Essex County Council achieved for the proposed development. On this basis, we cannot agree with the statements of para 7.7 and 7.8 of the LVIA.

The sensitive receptors identified in the LVIA report have a high sensitivity to the proposed development. As shown on Viewpoint 02W and Viewpoint 07W the new buildings appear very prominent in the landscape. In the case of Viewpoint 07W, breaking the skyline.

We have concerns over the proposed height and mass for the new buildings and the proposed reflective material and light colour as this will make it difficult to adequately mitigate the visual and landscape impact of the development.

The justification based on the existence of industrial buildings on site does not demonstrate or justify that the height and mass of the proposed buildings is acceptable. In our professional judgement, we consider that the proposal will not be temporary or reversible and it will change the aesthetic and perceptual aspects of the landscape. The proposed development will have a medium to high adverse effect upon the Stour Valley Project Area / Valued Landscape and the local landscape character. Prior to determination we would expect to see further justification or a review on the height, choice of materials and colour is needed. Good practice examples for buildings of similar mass and height within a rural setting which uses cladding material / colour as the ones proposed need to be provided to demonstrate that appropriate mitigation can be achieved.

We would recommend a holding objection based on the concerns highlighted in this response.

## **Heritage**

I consider that the proposal would cause a range of less than substantial harm to various designated and non-designated heritage assets due to the scale and mass of the proposed buildings, which are out of keeping with the current surroundings of the heritage assets, reflective of their historic settings. I also maintain concerns regarding potential noise, odour and lighting impacts. However, please note that the levels of harm are not confirmed, as the available evidence is not as comprehensive as it could be.

Following my previous comments, further verified views/CGIs, attempting to show how the proposed factory buildings would likely appear within the settings of most of the heritage assets for which this was requested, or at least additional photographs for others, have been submitted. This was particularly in relation to the main factory building proposed, of nearly 40 metres in height. These additional views/CGIs are not entirely to the level of detail that I would have preferred. The way that the form of the new buildings is not overlaid on the photographs where there is currently vegetation in the way is particularly unhelpful, as it restricts the ability to understand how the buildings may appear in a slightly different position within

the setting of the same heritage asset, where current vegetation cover may be lower, which may otherwise be easier to appreciate if the CGIs ignored the vegetation. Furthermore, it would seem to imply that this vegetation would act as a permanent screen, and at the same level as at the time the photographs were taken (late spring), whereas, as previously highlighted, this could not be guaranteed.

The CGIs also only show an outline of the proposed building, rather than blocking in the proposed building, which makes it more difficult to understand what the perceived mass of the building would be.

Nonetheless, based upon the information the CGIs provide, I consider that I can provide a broad assessment of the impacts the proposal would cause on the heritage assets and thus roughly define a level of harm in each case. For example, the viewpoint selected for Potash House results in the factory buildings largely being obscured by a current bush, but suggest that if the viewer moved slightly, or the bush was removed, the factory buildings would be very noticeable within the setting of this asset. In general, where the proposed factory buildings would be visible within the setting of a heritage asset, I consider that their impact would be negative, particularly the main building of nearly 40 metres in height, as features entirely out of scale and out of keeping with the rural village or open countryside setting of the assets and, in some cases, and overly dominant feature within that setting as well. My assessment of the levels of harm relative to each asset are set out below:

Potash House (Grade II) – A low to medium level of less than substantial harm, as the factory buildings would likely be a particularly dominant incongruous feature within its setting.

Three Turns (Potential NDA) – A low to medium level of less than substantial harm – as for Potash House.

Barns at Lodge Farm (Potential NDAs) – A low to medium level of less than substantial harm – as for Potash House.

The Church of St Mary, Glemsford (Grade I) – Probably a low level of less than substantial harm. This is more difficult to assess, as no CGI has been produced for the church from the tower, as requested, but based upon the drone photograph provided, it seems likely that the new factory buildings would be fairly noticeable from the tower. The Heritage Statement argues that views from the church tower do not contribute to the building's significance because it was/is not a publicly accessible space. However, Historic England's The Setting of Heritage Assets guidance (2017, 2) states that "the contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting." It appears the tower roof is currently an accessible space (if not a public one), and it may have been historically, and thus views from the tower, and the way they likely reinforce the historically rural setting of the church, may be/have been appreciable by those who had, have and in the future may have, access to this space.

Glemsford Conservation Area – Probably a low level of less than substantial harm. Some glimpses of the factory buildings would occur from the southern tip of the Conservation Area along Skates Hill, as well as the aforementioned views from the tower of The Church of St Mary, which is within the Conservation Area. Additionally, some panoramic long-distance views towards the Conservation Area from Braintree District, highlighting its rural setting, would likely be considerably obscured by the new building.

1-3 Low Road (Grade II) – A very low to low level of less than substantial harm. This one is more difficult to assess from the CGI provided, but it seems likely that the factory buildings would be less noticeable within its setting than for the assets referred to above.

The Church of the Holy Trinity, Long Melford (Grade I) – Potential for a very low level of less than substantial harm - as with The Church of St Mary, Glemsford, but the greater distance should mean the factory buildings are less noticeable and thus the level of harm would be lower.

Long Melford Conservation Area – Potentially a very low level of less than substantial harm. Reference is made in the Heritage Statement to the potential for the taller elements of the factory buildings to be viewed between trees from this Conservation Area, and changes in vegetation cover could increase these. CGIs of these views are not provided, but given the distance, it seems unlikely the harm would be greater than ‘very low.’

Kentwell Hall + Registered Park and Garden (Grade II\*). Potentially a very low level of less than substantial harm – as for Long Melford Conservation Area.

Melford Hall (Grade I) – Potential for a very low level of less than substantial harm – as with Long Melford Conservation Area.

The Heritage Statement also identifies harm to other assets, particularly ancillary, but separately listed, structures within the grounds of Kentwell or Melford Hall. However, it does not appear that the proposed buildings would be visible from these assets specifically, and thus I do not consider that their significance would be harmed.

N.B. More comprehensive verified views/CGIs may allow for more definitive levels of harm to be identified.

I also have concerns at this stage about the proposed external cladding materials for the new buildings and whether its apparent reflective qualities would work in the way suggested, in practice.

As per my previous comments, I consider that noise, odour and lighting potentially generated by the factory could also negatively impact nearby heritage assets. In line with the latest comments submitted by Environmental Health (Noise/Odour/Light/Smoke) and having discussed with them, the current application documents are not considered to provide sufficient information to assess the noise and odour that would/may be generated from the factory and thus, from my perspective, how this would be experienced within the setting of any heritage assets. Thus, in line with the comments from Environmental Health, more information in this regard would be required.

In regard to lighting, I note that it has been stated that the only new external lighting proposed is the replacement of some existing car park light columns. I am satisfied that this would not be a heritage issue. However, I am aware that there may be requirements and regulations for externally lighting a building of the size proposed; for example, in regard to aircraft safety, and thus request that the applicant/agent confirm this.

The proposal would therefore not meet the requirements of Local Plan policies CN01, CN06 and CN08.

### **Place Services - Ecology**

Holding objection due to insufficient ecological information upon Glemsford Pits Site of Special Scientific Interest (SSSI).

We have reviewed the Preliminary Ecological Appraisal and Preliminary Roost Assessment (Adonis Ecology Ltd, December 2020), provided by the applicant, relating to the likely impacts of development upon designated sites, protected and Priority species & habitats.

In addition, we have reviewed the Air Quality Assessment – Rev C (Aval Consulting Group, July 2021) and the Air Quality Addendum - Impact on Glemsford Pits SSSI (Aval Consulting Group, June 2021), Construction Environment Management Plan (Delta-Simons, July 2021) and the Addendum to Drainage Strategy and SuDS Report (BE Design Ltd, July 2021) which has been submitted to outline the likely

impacts upon the adjacent Site of Special Scientific Interest and provide mitigation strategies to demonstrate that the proposals will not impact the SSSI's favourable conservation status.

Furthermore, we note the further comments provided by Natural England (Ref: 357489 & Ref: 358807). It is highlighted, that Ecology - Place Services previously had no objection subject to securing ecological mitigation and enhancement measures for this application, following the further information provided in June 2021. However, following the further information provided by Natural England (Ref: 358807), it is indicated that we now are not satisfied that sufficient ecological information is available for determination for this application. This is because Natural England have consulted an Air Quality specialist within their team, which has identified fundamental problems with the results of the Air Quality Addendum - Impact on Glemsford Pitts SSSI (Aval Consulting Group, June 2021). This may result in the figures exceeding the specified thresholds as highlighted within Government Guidance<sup>1</sup>. These inconsistencies were not identified initially in Ecology - Place Services comments (02 June 2021) and as a result we request that further information should be submitted to meet the requirements of Natural England's further comments prior to determination. This is necessary to provide air quality assessment, which appropriate assesses the likely impacts upon Glemsford Pits SSSI.

In terms of impacts during the construction phase we had noted that the Air Quality Assessment (Aval Consulting Group, April 2021) had identified the risk of dust pollution upon Glemsford Pits SSSI and had applied criteria from IAQM (2016). The conclusions of the Air Quality Assessment were considered acceptable, and we were satisfied that a finalised mitigation strategy could be secured via Construction Environmental Management Plan. We noted Natural England's comments on utilising appropriate professional judgement alongside the IAQM guidance<sup>2</sup>, which recommend the applicant should apply mitigation measures appropriate to site at 'high risk' of dust pollution. Nevertheless, we were satisfied that the applicant's consultant had followed appropriate methodology and that appropriate mitigation measures had been set out to avoid impacts upon the Glemsford Pits SSSI (in line with IAQM guidance for construction dust measures to mitigate 'Medium Risk' effects).

We now note that a Construction Environment Management Plan (Delta-Simons, July 2021) has been submitted to meet the requirements of Natural England's comments (Ref: 357489), as well as an amended Air Quality Assessment – Rev C (Aval Consulting Group, July 2021). These now include mitigation measures to mitigate 'high risk' effects of dust pollution. It is indicated that we support the measures for biodiversity contained within the Construction Environment Management Plan, which are in line with the Preliminary Ecological Appraisal and Preliminary Roost Assessment (Adonis Ecology Ltd, December 2020). This also provides adequate measures to avoid impacts from construction lighting upon Glemsford Pits SSSI and foraging and commuting bats. Therefore, we are still satisfied that sufficient information has been contained within the Construction Environmental Management Plan, which should be secured and implemented in full. However, a Wildlife Friendly Lighting Strategy will still be required prior to beneficiary use to avoid impacts from lighting during the operational phase. In terms of foul water and surface water drainage strategy, we had noted in our initial review of the application that the developer planned to facilitate the existing pumping station and rising main to discharge both the domestic wastewater and trade effluent off-site for any foul water drainage. In addition, we had noted planned to utilise the existing gravity outfall which discharges to River Stour for the surface Water Drainage, which is located away from Glemsford Pits SSSI. Therefore, we are still satisfied that the proposed drainage strategy will have no impact to the Glemsford Pits SSSI.

Consequently, the further air quality information is required to enable the LPA to demonstrate compliance with its statutory duties under the Wildlife and Countryside Act 1981 (as amended) and NPPF 2021, as well as its biodiversity duty under the NERC Act 2006.

#### **Environmental Health – Contamination**

No objection.

## **Environmental Health – Noise/Odour/Light/Smoke**

I have had regard to the Noise Impact Assessment (NIA) submitted with the application (produced by AVAL, Job code 91352, dated 27 April 2021, revision A). This assessment also encompasses the impact of noise on workers – however this is not within the remit of environmental protection and would be enforced by the Health and Safety Executive. I will therefore offer no comment on this element of the report.

A background survey has been undertaken to determine existing noise levels at the closest receptors to the factory. Section 1.3 of the NIA states that “at this stage of the planning process, there are no specifications and noise emission data for any of the external equipment to processes involved as the site is not operational” therefore the NIA is limited to some noise sources only and is not representative of the whole site.

Some internal noise sources are known and as a result Section 5.2 considers noise breakout from inside the factory. It states that ‘in the event of a worst-case scenario where all equipment would be operating at the same point in time, the noise levels from the factory would sum up to 103dB’. This figure relates only to internal noise breakout and not any of the external plant and furthermore does not include any penalties for factors such as tonality, impulsivity, intermittency and other sound characteristics, as per section 9.2 of BS4142:2014. I would ask that this be addressed. It is also unclear as to whether noise from the delivery bays have been taken into account in the calculation of this figure. In terms of noise breakout it is calculated that in order to ensure that internal noise is sufficiently attenuated or below existing background levels at the nearest residential receptor, an attenuation level of 58dB is recommended for the building facades facing the receptors. This would include appropriately attenuated openings including ventilation louvres. I would recommend that a condition be attached to any permission to the effect that full acoustic specifications for building facades, to include that of doors/windows, loading bays and ventilation louvres, should be submitted to the LPA along with report/calculations demonstrating that this value is met. Once the issues relating to sound characteristics above, and the matter of the loading bay have been addressed then I would suggest a condition requiring details of materials and calculations detailing that they meet this specification should be submitted to and approved by the LPA.

In terms of breakout noise from the biomass boiler housing, it is proposed that the facades should have a minimum acoustic attenuation of 32dBA – this would include all openings. Again, clarification is needed on whether this would include any penalties as outlined in section 9.2 of BS4142. I note that no windows are proposed on the facades facing the residential receptors, but doors would need to be attenuated to this level and kept closed at all times except for access and egress. As per the paragraph above, once the matter of sound characteristics has been addressed, a condition to require these elements be required.

Section 5.4 considers noise from lorries/HGVs on the access road (to the West of the site) and the impacts on receptor 2 (houses to the west of the site). In terms of mitigation of HGVs on the access road, it is proposed that acoustic fencing with a reduction of at least 15dB should be installed (this appears to be based on a daytime use only, which would need clarification). However, Section 6.3 states that ‘the suitability and need for the barrier will be assessed in detail when all plant information is finalised and confirmed as part of the noise mitigation strategy’. It is difficult to comment further without this information be available, but I would suggest that a condition will be needed to assure the attenuation afforded by the fencing. No details are given about the proposed use, if any, of the Eastern access road which is very close to Stone Cottages and I would request that this matter be clarified prior to determination. I note the eastern façade of the chocolate building does have a number of roller shutter doors proposed which would suggest that some operations may take place at this façade. No account has been made of this.

Section 7 of the NIA states, in conclusion, that ‘the noise levels emitted from the activities have been determined and a course of action have been proposed’. This is not the case. Only HGV movements to one of the access roads and noise breakout from internal sources have been considered. The conclusion

goes on to state that that 'a noise mitigation strategy will be developed and following approval a noise management plan will be adopted for operational noise management... following implementation of the approved and adopted mitigation strategy no further mitigation measures should be required in order to protect the amenity of local noise sensitive receptors as well as site personnel.'. I am unable to comment on whether a strategy that has yet to be written will be sufficient to protect the amenity of local residents. Furthermore, information on the external plant, HGV movements/idling whilst on site and noise from loading bays are not considered (particularly those on the western façade of the cocoa building). Whilst I appreciate that external plant may not yet be known, I would recommend that a condition be attached to any permission, requiring a noise assessment based on BS4142 to be submitted and approved by the LPA prior to commencement of operation to ascertain the likely noise level arising from all external plant. Mobile vehicles and loading/unloading of goods and to identify appropriate attenuation.

Finally, I note the emails from the agent on the subject of external lighting and also construction management plans – these are items which I had suggested could be controlled by means of condition.

I have had regard to the document 'Construction Environment Management Plan' (produced by Delta-Simons, Project no, 21-1086.01 issue 2). Section 3 considers noise and vibration. Whilst there is a reference in section 3.2.1 to the need for noise monitoring during identified activities, including piling, once again no information is given about location and methodology for noise or vibration monitoring, or noise/vibration limits are included. Section 3.4.2 references risk assessment although this appear sot be geared towards noise at work rather than the impact on neighbours. Given the scale of the development and the proximity of residential receptors I would consider this to be key and I would recommend the plan be revised to reference noise limits (as per BS5228) and identify ,monitoring points and how monitoring will be carried out (in terms of methodology and frequency).

I note the comments in section 3.1.1. about the applicants wish to apply utilise the extended construction hours scheme, which I understand runs until September 2021. Whether you feel the application for extended hours on this site is compelling will be a planning matter but I would again draw your attention to the proximity of residential receptors and suggest that if you are minded to extend hours then noisy works should be kept as far as possible to within the 'normal' construction hours, as below.

Section 3.1.3 gives details of 'normal construction hours'. I would again advise that the Weekend hours for this should be, Saturdays 09.00 – 13.00hrs, with no work permitted on Sundays and Public Holidays.

### **Environmental Health – Air Quality**

As the Biomass Boiler will be subject to a strictly controlled environmental permit that will control emissions to air I will not comment on those issues but note the comments of the Environment Agency who request early engagement with the permitting process. Overall the site is unlikely to be a significant variation to the previous uses of the site in terms of air quality as any variations to vehicles accessing and egressing the site will be unlikely to be of a scale that would lead to an exceedance of LAQM regulations. On account of that I would have no objections to the proposed development on the understanding that the biomass emissions will be controlled by the permit issued by the Environment Agency.

### **Environmental Health – Sustainability**

I have viewed the applicant's documents in particular the Planning Statement and the Design and Access Statement and note the commitment to sustainability. The ratio of process energy used compared to energy demand from the building fabric is noted. The use of photovoltaic panels and the proportion of electric vehicle charging spaces to be provided within the car park is to be welcomed. I have no objection to this application. If the planning department decided to give permission I propose conditions.

### **Waste**

No comments.

## **Public Realm**

No comments.

## **Other**

### **AONB Officer**

The site lies within the Stour Valley Project Area which abuts the Dedham Vale Area of Outstanding Natural Beauty. The Project Area extends 3-4km either side of the River Stour westwards from the AONB boundary past Sudbury and Haverhill to near Great Bradley on the Cambridgeshire border. The Stour Valley Project Area is afforded special consideration through policies contained within the Dedham Vale AONB and Stour Valley Management Plan (2016-2021) which is material planning consideration.

The GBD factory site falls within the Central Stour and Glem Valley section of the Stour Valley Project Area. For this stretch of the Stour Valley, the Valued Landscape Assessment Report considers that 'the combination of intact historic villages and high-quality valley setting, and valley floor pastures coupled with the remote rural lanes on the southern valley sides give this part of the Stour Valley a high scenic quality and strong time depth. The intimacy and high-quality environment experienced in the settlements and the valley landscape is equivalent to areas of the existing Dedham Vale AONB.

The existing factory site also lies between the Valley Meadows and Rolling Valley Farmlands Landscape Character Types. (LCT).

The application proposes the redevelopment of an existing factory site, including the demolition or partial replacement of existing buildings, the construction of new buildings and associated works, a new chocolate production facility. The AONB team is not objecting to the principle of re-developing and re-using the existing factory site and the team acknowledge the economic benefits that the scheme could deliver locally. The team however has significant concerns about the height of the buildings being proposed as part of the redevelopment of the site. The proposal will deliver a 'cocoa building' approximately 40 metres tall, a new 26m tall building to house a biomass boiler and a 'chocolate building' 20m tall. Existing factory buildings are 12m tall. The Landscape guidance for the Rolling Valley Farmlands highlights that the visual impact of new vertical elements is increased by landform in this LCT and that new buildings are likely to have a significant impact on both the character and visual amenity of the valley floor and on the valley side. Without amendments the proposed scheme has the capacity to be visually dominant within the Project Area south of Glemsford.

The existing factory site nestles into the Stour valley bottom. The factory is currently only visible in oblique and filtered views from Hobbs Lane, Skate Hill and from parts of the Stour Valley path which runs west - east along the norther valley slopes to the west of Glemsford and in views for the minor road to the south overlooking Foxearth Meadows.

While many views are restricted by the surrounding rolling topography and intervening vegetation as concluded in the submitted Landscape and Visual Appraisal (LVIA), the much taller buildings proposed as part of this application are likely be much more visible over a greater distance in the valley. The proposed buildings will break the skyline of the southern valley slopes as recognised in the LVIA.

The LVIA is unclear about the reflective properties of the cladding proposed for use on the replacement and new buildings. Given the increased height and bulk of the new buildings proposed and the light colour choice for the cladding, it will be difficult to adequately mitigate the landscape and visual impacts of this development. Further consideration should be given to the need for such tall buildings and the colour choice of the external cladding. To assist the latter, please refer to the Selection and use of Colour in Development

Guide for the Dedham Vale AONB. There is a developed colour palette for the Rolling Valley Farmlands LCT in this document which should be considered for use in this scheme.

The AONB team note that BMSDC's Environmental Health team have requested the submission of a noise and odour strategy. We fully support the need for a noise assessment to ensure that tranquillity levels, which is one of the recognised special qualities of the Stour Valley is not eroded by the proposed development. While the AONB team welcome proposals in the planning application to replace existing site lighting with LED hooded down lighters, we also recommend that a lighting strategy is requested for the site. As with noise, tranquillity levels can be impacted by excessive light spill. Nocturnal wildlife using the site, the nature reserve and SSSI to the south and surrounding countryside can also be impacted by inappropriate lighting across the site. External lighting at this location should seek to reduce impacts on both.

As proposed the scheme does not currently meet the requirements of Paragraph 127 a-c of the National Planning Policy Framework. It only partially meets the policy requirements of section 3.1.5 of the Dedham Vale AONB and Stour Valley Management Plan (2016-2021) for new development to contribute to economic development while also contributing to the conservation and enhancement of the AONB and Stour Valley Project Area. It also fails to meet the policy requirement in section 3.2.7 of the management plan which supports new development that contributes to the conservation and enhancement of local character.

The team has reviewed the additional information submitted by Mr Bayliss about the cladding proposed for use on the new factory buildings. The concerns raised by the AONB team in our original response about the highly reflective nature and unsuitability of the cladding being proposed in the sensitive rural valley location remain. The height of the buildings being proposed are required for operational efficiency and remain unchanged. Given the taller and bulkier design of the new buildings and the metallic and reflective finish of the preferred cladding for use on these buildings the AONB team maintain that the development will be highly intrusive visually within the Stour Valley Project Area. The scheme is not considered to meet the requirements of Paragraph 127 a-c of the NPPF, or policies RLP80 and RLP90 in Braintree Council's Local Plan Review (2005) or policies CS5 and CS8 in the 2011 Core Strategy. The proposal only partially meets the policy requirements of section 3.1.5 of the Dedham Vale AONB and Stour Valley Management Plan (2016-2021) for new development to contribute to economic development while also contributing to the conservation and enhancement of the AONB and Stour Valley Project Area. It also fails to meet the policy requirement in section 3.2.7 of the management plan which supports new development that contributes to the conservation and enhancement of local character. For the reasons set out above the application is not supported.

### **The Garden Trust**

Without a satisfactory HIA for all the heritage assets, and as far as the GT is concerned, the RPGs, it is not possible for us to ascertain what harm, if any, may be caused to the setting and significance of these sites. Until we are provided with more complete information as to visibility and possible effects upon the setting and significance of the three RPGs of Grade II\* Kentwell Hall, Grade II\* Melford Hall and Grade II Trinity Hospital, we wish to submit a holding objection.

### **Suffolk Preservation Society**

I write on behalf of the Suffolk Preservation Society (SPS) regarding the application for the above development. SPS is fully aware of the previous industrial uses of this site and the importance to the local economy of maintaining an employment use. We are therefore in general support of proposals which will continue to deliver a significant number of employment opportunities on the site. However this is a deeply rural area and the proposals include a significant increase in built form and therefore careful consideration must be given to the impacts of the proposals on the surrounding area.

The site is wholly within the Dedham Vale AONB Stour Valley Project Area and therefore shares some of the special qualities of the AONB landscape including scenic beauty and tranquility. It is a valued landscape, and the Dedham Vale AONB and Stour Valley Management Plan 2016-2021 covers the management of both the designated AONB and the Project Area. The Management Plan policies for the countryside, set out at 3.1.5, call for development to be supported where it contributes to the appropriate economic development and to the conservation and enhancement of the AONB and Stour Valley; and for the area to be protected, including its setting, from developments that detract from its natural beauty and special qualities, including its relative tranquillity.

#### Landscape Impact

The application site is located within a rolling rural landscape on a valley floor with rising topography to the north and south. The submission details the proposed replacement and additional buildings on the site will be significantly higher than the existing 12m buildings. These include a cocoa building at 40m tall and the building housing a biomass boiler at 26m with significant footprints, resulting in large bulky additions to the site.

Due to screening from trees both on and surrounding the site, the existing incongruous industrial use of the site is reasonably well contained within this otherwise rural area. However due to the rising topography the site is prominent in viewpoints from the north across the landscape and it is clear that the proposed larger scheme will be highly visible. In fact the significant increase in height will result in the buildings breaking the skyline in views from rising land, including from Hobbs Lane and Skate's Hill.

#### Heritage Impact

SPS concurs with the view of the authority's heritage officer that the large scale of the proposals may impact the setting of various designated and nondesignated heritage assets. The proposed works would likely be out of keeping with their existing settings which may lead to harm. This may be through increased noise, odour and lighting as well as their incongruous industrial appearance within an otherwise rural landscape. We agree with the opinion of the heritage officer that a Heritage Impact Assessment is required to inform a thorough assessment of heritage impact.

#### Proposed Mitigation

The LVIA accompanying the submission identifies a 'medium adverse' landscape impact on the Stour Valley Project Area and on visual receptors. In order to mitigate this harm we welcome the careful placement of the new buildings towards the rear of the site and we note that an innovative reflective metal cladding is suggested. SPS questions whether this is the best approach and would urge that serious consideration is given to the careful use of colour and non-reflective materials to break up the massing and bulk of the proposed new buildings in order to reduce their impact within longer views in the landscape, particularly where they break the skyline.

The 2015 Joint Babergh Mid Suffolk Landscape Guidance suggests that for large-scale buildings where the use of traditional materials is impractical, to make these buildings as inconspicuous as possible, the wall materials should blend with the colours and textures of the landscape; the materials should be of a low-reflective finish; and the roof of a rural building should be darker than the walls in order to help make the building appear smaller in scale. SPS recommends that although the site is within the Stour Valley Project Area rather than the AONB itself, the adopted 2018 Guidance on the selection and use of colour in development within the Dedham Vale AONB would be a useful starting point when considering the use of colour to mitigate impacts of developments within sensitive landscapes.

#### Anglian Water

Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

The foul drainage from this development is in the catchment of Glemsford Water Recycling Centre that will have available capacity for these flows

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments in the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board.

## **B: Representations**

At the time of writing this report at least five letters/emails/online comments have been received. It is the officer opinion that this represents three objections and two supporting submissions. A verbal update shall be provided as necessary.

Grounds of objection are summarised below:

- Odour;
- Infrastructure;
- Light/noise pollution.

(Note: All individual representations are counted and considered. Repeated and/or additional communication from a single individual will be counted as one representation.)

## **PLANNING HISTORY**

<b>REF:</b> DC/18/04687	Planning Application. Installation of new windows to first floor office.	<b>DECISION:</b> GTD 06.12.2018
<b>REF:</b> B/0208/79/FUL	Erection of extension to provide plant room.	<b>DECISION:</b> GRA 26.04.1979
<b>REF:</b> B/0170/74/FUL	Erection of service building, boiler house, sprinkler tanks, oil tank and pump house.	<b>DECISION:</b>
<b>REF:</b> B/0836/76/FUL	Erection of workshop.	<b>DECISION:</b>
<b>REF:</b> B/0766/83/FUL	Erection of single storey office extension.	<b>DECISION:</b> GRA 03.10.1983
<b>REF:</b> B/0006/76/ADV	Two illuminated signs.	<b>DECISION:</b>
<b>REF:</b> B/0169/76/FUL	Construction of wall and pedestrian access	<b>DECISION:</b> GRA 06.04.1976
<b>REF:</b> B/0434/75/FUL	Construction of vehicular access and erection of gates and fences	<b>DECISION:</b> GRA 09.07.1975

<b>REF:</b> B/17/01012	Installation of insulated aluminium roller shutter	<b>DECISION:</b> GTD 20.06.2017
<b>REF:</b> BIE/14/01199	Alterations to an existing area Tel appt 12/08/14 AM	<b>DECISION:</b> PCO
<b>REF:</b> B/13/01190	Alterations to existing front car parking area. As amended by drawing no. 44982/C/01 Rev B received on 22/10/13 to show provision of parking bays for disabled people.	<b>DECISION:</b> GRA 20.11.2013
<b>REF:</b> B/13/01061	Erection of main reception extensions and alterations for Philips Avent factory.	<b>DECISION:</b> GRA 25.10.2013
<b>REF:</b> BIE/13/00941	Multiple Silo Facility.	<b>DECISION:</b> PCO
<b>REF:</b> BIE/13/01188	Extensions	<b>DECISION:</b> PCO
<b>REF:</b> B/13/01086	Application for a Certificate of Lawfulness for a Proposed Use or Development - Erection of suspended concrete platform to accommodate 8 No. storage silo's, erection of gantry and cladded screen walls. As amended by Drawing No. 44982/P/13 Rev A received on 5th December 2013 to show reduction in height of screen walls.	<b>DECISION:</b> GRA 17.12.2013
<b>REF:</b> BIE/13/00835	CALL BACK - 01/07/13 - Agent: Proposed glazed entrance lobby	<b>DECISION:</b> PCO
<b>REF:</b> B/12/00716	Crown lift 2 no. Silver Birch Trees to 4m above ground level and reduce 1 no Silver Birch Tree by 2m away from building covered by Tree Preservation Order BT 291/G1.	<b>DECISION:</b> GRA 13.07.2012
<b>REF:</b> BIE/12/00708	Proposed telecommunications installation.	<b>DECISION:</b> PCO
<b>REF:</b> BIE/12/01038	Re-development of site.	<b>DECISION:</b> PCO
<b>REF:</b> BIE/12/01032	24/07/2012 - Agent - Insertion of windows into factory, does this require planning permission.	<b>DECISION:</b> PCO
<b>REF:</b> B/12/00322	Erection of storage building (retention of).	<b>DECISION:</b> GRA 02.05.2012

<b>REF:</b> B/11/01590	Erection of storage building (retention of)	<b>DECISION:</b> GRA 07.02.2012
<b>REF:</b> BIE/11/01594	Tel Appt Tues 8th Nov: Erection of replacement (B8) commercial building.	<b>DECISION:</b> PCO
<b>REF:</b> B/07/02033	Construction of 4 No. coach parking bays. Alteration to existing vehicular access.	<b>DECISION:</b> GRA
<b>REF:</b> B/07/01800	Siting of temporary portacabin.	<b>DECISION:</b> GRA
<b>REF:</b> B/07/02040	Erection of rear canopy.	<b>DECISION:</b> GRA 13.02.2008
<b>REF:</b> B/07/01818	Erection of 3 No. CCTV poles; erection of fencing; erection of traffic barrier to main entrance.	<b>DECISION:</b> GRA
<b>REF:</b> B/06/01173	Erection of single-storey extension to accommodate plant room.	<b>DECISION:</b> REF
<b>REF:</b> B/06/01831	Erection of single-storey extension to accommodate plant room.	<b>DECISION:</b> GRA
<b>REF:</b> B//02/02138	Erection of extension to provide replacement canteen, staff welfare facilities and office space (as amplified by agents letter re fee dated 07/01/03).	<b>DECISION:</b> GRA 05.02.2003
<b>REF:</b> B//01/01121	Erection of extension to existing warehouse, canopy around perimeter of marshalling yard and 6 silos for storage of raw materials, resiting and enlargement of sprinkler tanks and construction of additional staff car parking spaces (as amplified/amended by agent's letter dated 1 September 2001 and enclosure and applicant's Email dated 4 September 2001 and enclosure)	<b>DECISION:</b> GRA
<b>REF:</b> B//00/01752	Insertion of glazed entrance lobby	<b>DECISION:</b> GRA 18.01.2001
<b>REF:</b> B//98/00519	Erection of factory building for Class B2 Industrial and Class B8 Storage use and construction of car park and two vehicular accesses (existing warehousing and miscellaneous outbuildings to be demolished) as amended by additional information received from the agent on the 22/05/98, and 03/06/98 revised plans	<b>DECISION:</b> GRA

received by LPA on 04/06/98 and additional information received from agent on 05/06/98 and as amplified by applicants letters dated 26/06/98 and 29/06/98 and attached enclosures and 02/07/98 and further amended by agents letter dated 13/07/98 and 03/09/98 and amended plans received on 14/07/98 and agents fax dated 09/07/98 (and enclosures) list of machinery to be installed inside the building (as detailed on enclosures received on 15/07/98) agents fax dated 22/07/98 and 06/08/98 - amended plans regarding provision of the car park received 04/09/98 and 13/10/98 accompanying agents letter dated 03/09/98, agents fax dated 05/10/98 and accompanying details (re. landscaping and fencing) and agents letters dated 05/10/98 and 08/10/98 and agents faxes dated 16/10/98, 19/10/98, 20/10/98, 22/10/98 and 26/10/98 including amended landscaping plan 588 SK105 Rev C and report from SRL dated 19/10/98 and enclosures

<b>REF:</b> B//94/00730	ERECTION OF SINGLE STOREY REAR EXTENSION FOR STORAGE OF MATERIALS	<b>DECISION:</b> GRA 02.08.1994
<b>REF:</b> B//95/01464	ERECTION OF A TOOLROOM OFFICE, INSERTION OF 2 WINDOWS TO FRONT GROUND FLOOR ELEVATION	<b>DECISION:</b> GRA 01.02.1996
<b>REF:</b> B//96/01073	ERECTION OF A SINGLE-STOREY EXTENSION TO PROVIDE SWITCHROOM SUBSTATION AND COVERED AREA	<b>DECISION:</b> GRA

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## **PART THREE – ASSESSMENT OF APPLICATION**

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### **1. The Site and Surroundings**

- 1.1. The site is located on the southern side of the A1092 (Lower Road), south of Glemsford. Since 1998 the 7.2ha site has been used for industrial (B2 Use Class) and storage (B8 Use Class) purposes. It is occupied by two industrial buildings of scale, up to a height of 12m, surrounded by hardstanding areas, internal vehicle manoeuvring areas and car parks. The site is currently vacant, following the overseas relocation of the Philips Avent production facility in late 2020.
- 1.2. North of the site, on the opposite side of Lower Road, are fields in arable use. The site is adjoined on its west, east and south boundaries by woodland. The site is elevated from the River Stour. There are two small groups of residential properties to the west and east, all fronting Lower Road.

- 1.3. There are two vehicle accesses to the site's northern boundary adjoining Lower Road. The site accommodates a 240 space car park. The site frontage is landscaped with mature trees, hedgerows and manicured grassed areas.
- 1.4. The application site lies in excess of 13km from the Dedham Vale Area of Outstanding Natural Beauty (AONB), which is located to the southeast. It is located within the Stour Valley Project Area which adjoins the AONB. A Special Landscape Area lies to the east, and Glemsford Pits Site of Special Scientific Interest (SSSI) and Foxearth Meadows Local Nature Reserve (LWS) is to the south. The latter is a 4.6ha floodplain wetland known for its conservation of dragonflies and damselflies. Kentwell Woods SSSI is 745m north of the site.
- 1.5. Nearby designated heritage assets include the Grade II listed 'Potash House' on Skates Hill 320m to the northwest, Grade II listed '1-3 Low Street' 650m to the west, the Grade II listed farmhouse and barn 600m to the south and the Glemsford Conservation Area 640m to the northwest.
- 1.6. The majority of the site is in Flood Zone 1. A very small part of the site is in Flood Zone 2 and 3.

## **2. The Proposal**

- 2.1. The application seeks full planning permission for the development of a chocolate factory. The proposal involves converting/re-purposing the existing buildings on site and erecting new buildings and additions. A two-storey (25.7m high) biomass boiler building, a single storey waste water treatment building, a gatehouse and weighbridges are proposed.
- 2.2. The existing western building (Building A) will be partly demolished and rebuilt. Maximum building height of Building A is 39.5m and the total additional floor area is 1656sqm. The existing eastern building (Building B) will be largely retained and remodelled with a higher addition incorporated toward its rear, to be used as a chocolate production building. Maximum building height of Building B is 19m and the total additional floor area is 294sqm.
- 2.3. The total additional industrial floor space is approximately 4000sqm. The buildings will be finished in 'Diffused Silver' vertical trapezoidal profiled cladding – refer photomontage below.
- 2.4. A total of 106 parking spaces (20% to be EV charging bays) will be provided - a net reduction of 134 car spaces. The 20 existing cycle parking spaces are retained. A widening of the western vehicular entrance to accommodate HGVs is proposed.
- 2.5. A total of 250 staff will be employed; staff will work on shifts with a maximum of 84 staff on-site at any one time.
- 2.6. No additional lighting schemes on the site are proposed, with the exception of the replacement of existing car park lighting columns, to be no higher than the existing columns and in a reduced area. No work is planned in or near the sole tree within the site affected by a Tree Preservation Order (to the northeast).
- 2.7. The areas that are proposed to be redeveloped are located wholly within Flood Zone 1.
- 2.8. In addition to the proposed plans, the application is supported by an extensive number of specialist-authored technical reports including:
  - Planning Statement;
  - Design and Access Statement;
  - Landscape and Visual Impact Assessment (plus addendum);

- Economic Impact Statement;
- Flood Risk Assessment;
- Drainage Strategy and SUDs Report;
- Ecology Assessment Report;
- Heritage Impact Assessment;
- Noise Report;
- Air Quality Report (plus addendum);
- Construction Environment Management Plan;
- Transport Assessment;
- Travel Plan.



### **3. Policy Context**

- 3.1. Paragraph 11 of the NPPF explains that there is a presumption in favour of sustainable development which comprises economic, social and environmental objectives. It indicates that where the development plan is absent, silent or policies which are most important for determining the application are out-of-date, planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole; or unless specific policies in the NPPF indicate that development should be restricted.
- 3.2. In view of advice in paragraph 11(d) of the NPPF, it is necessary to consider how consistent the most important policies in the development plan are with the NPPF, to assess what weight should be attached to them. Paragraph 219 (Annex 1) of the NPPF explains that due weight should be given to relevant policies according to their degree of consistency with the NPPF, the closer the policies in the plan to those in the NPPF, the greater the weight that may be given.
- 3.3. The development plan for the area comprises a combination of the Babergh Core Strategy 2014, the 'saved' policies of the Babergh Local Plan 2006 and the emerging Joint Local Plan. Outside of the development plan, the Dedham Vale AONB and Stour Valley Management Plan (2016-2021) is also a material consideration.

- 3.4. The most important policies in the Core Strategy for determining the application are Policy CS1, CS2, CS11, CS13 and CS15. The most important policies in the Local Plan for determining the application are Policy CN01, CN06, CN08, CR02, CR02, EM20, TP15 and TP16.
- 3.5. Taken in the round, those policies are considered to be up to date.
- 3.7. The emerging Joint Local Plan is currently at Regulation 19 pre-submission stage and therefore, in accordance with paragraph 48 of the NPPF, is afforded only limited weight in the decision-making process. It does not play a determinative role in this application.
- 3.9. Having determined that the tilted balance does not engage, it is left to determine the key issues and assess the proposal's performance against relevant policies in the context of those issues. The key issues are:
- a) The principle of expanding the industrial site for industrial purposes;
  - b) The effects of the proposed development on landscape character, including the AONB, Stour Valley and Special Landscape Area;
  - c) The effects of the proposed development on the setting of nearby designated and non-designated heritage assets and archaeology;
  - d) The effects of the proposed development on highway safety;
  - e) The effects of the proposed development on residential amenity and the tranquillity of the AONB and Stour Valley, including noise and light spill;
  - f) The effects of the proposed development on local biodiversity values, including the neighbouring Glemsford Pits Site of Special Scientific Interest (SSSI) and Foxearth Meadows Local Nature Reserve (LWS);
  - g) Flood risk, drainage and wastewater management.
- 3.10. These issues are assessed in turn below, in the context of the three dimensions of sustainable development, as set out at NPPF paragraph 8.

#### **4. The Principle of Development**

- 4.1. The site comprises well-established, expansive, employment land occupied by large scale industrial buildings. The NPPF advocates re-use of previously-developed land. Saved Policy EM20 permits proposals for the expansion/extension of existing employment sites provided residential, environmental amenity and highway safety matters are safeguarded. The supporting text to Policy EM20 sets out a 'strong presumption' in favour of permitting the expansion of an existing firm or other employer.
- 4.2. Policy CS2 applies because the site is in the countryside where development is permitted only in exceptional circumstances subject to a proven justifiable need. Assuming a positive assessment overall, where in such circumstances policy EM20 would be satisfied, officers consider that this would resolve any tension with the policy; the weight afforded to any conflict would be limited.
- 4.3. For these reasons there is no in-principle objection to the re-use, repurposing and expansion of the factory site assuming a positive assessment against all other key issues.

#### **5. Economic and Social Dimensions**

- 5.1. A strong competitive economy is a key tenet of the NPPF. Paragraph 81 is very clear in its direction regarding economic growth, stating that decisions should 'help create the conditions in which businesses can invest, expand and adapt'. It places 'significant weight' on supporting economic

growth and productivity 'taking into account both local business needs and wider opportunities for development'. Paragraph 84 states that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas. Policy CS3 mirrors these aspirations, supporting and encouraging economic growth and employment opportunities.

5.2 The benefits the scheme will bring to the regional economy are substantial, as outlined in the supporting Economic Impact Statement. In summary, the development is likely to generate the following positive economic impacts:

- Investment of £40M in the construction sector plus an additional £50M investment in specialist manufacturing equipment.
- A total inward investment of £90M to the UK (excluding the purchase of the site);
- An average of 145 FTE on-site gross jobs per annum over the 2.5 year construction period;
- 140 net additional FTE employment opportunities annually generated for workers in the East of England during construction, of which 90 will be locally captured by residents of Suffolk;
- 370 net additional FTE employment opportunities created for workers in the East of England area, inclusive of 195 additional jobs for residents of Suffolk;
- Total annual productivity contribution of circa £17.1M in GVA to the East of England economy, of which £13.9M will be locally concentrated in Suffolk.

5.3. The Economic Impact Statement concludes:

*'The GCB Cocoa development will not only assist in providing much-needed manufacturing job opportunities for residents of Glemsford and more widely across Suffolk and the East of England region, but will also support the Council's vision to attract new businesses to the area and grow the economy of Babergh. Put simply, the economic importance of this development to local businesses and providing employment opportunities for residents of the surrounding area cannot be overstated.'*

5.4 The development will substantially strengthen the local economy, in support of the competitive economy aspirations set out at Paragraph 81 of the NPPF and consistent with up-to-date Policy EM20. The scheme directly furthers Paragraph 84 of the NPPF and up-to-date Policy CS3, enabling sustainable growth and business expansion. Great weight is attached to this policy support.

## **6. Environmental Dimension**

### *Landscape Impact and the AONB*

- 6.1. The site is located in excess of 13km from the AONB. Lying directly between the site and the AONB are the settlements of Sudbury and Great Cornard. The site is however within the Stour Valley Project Area which abuts the AONB. The Stour Valley Project Area is afforded special consideration through policies contained in the Dedham Vale AONB and Stour Valley Management Plan (2016-2021) which, as noted by the AONB Officer, is a material planning consideration. The site is also in proximity of a Special Landscape Area, located to the east.
- 6.2. NPPF paragraph 177 states that planning permission should be refused for major development *within* an AONB and that criteria should apply if considering an exceptional circumstance to otherwise justify the major development. As noted above the site is not within the AONB, therefore the presumption against major development, and the criteria listed at paragraph 177, do not engage.

- 6.3. Paragraph 176 of the NPPF states that development within the setting of an AONB should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.
- 6.4. Policy CS15 requires development proposals to ensure adequate protection, enhancement, compensation and/or mitigation are given to distinctive local features which characterise the landscape and heritage assets of Babergh's built and natural environment within designated sites covered by statutory legislation, including AONBs. In particular proposals should protect and where possible enhance the landscape and heritage areas including habitats and features of landscape, historic, architectural, archaeological, biological, hydrological and geological interest. As noted above, this policy is attached lesser weight as it lacks the necessary balance in decision making as advocated for in the NPPF.
- 6.5. Saved Policy CR02 applies, requiring development proposals to be assessed in terms of their landscape impact. It requires regard to be had to Dedham Vale and Stour Valley Management Strategies and therefore the scheme's performance against the *Dedham Vale AONB and Stour Valley Management Plan 2016-2021* is an important consideration.
- 6.6. The AONB Officer observes that the site is located on the Stour valley bottom and that the much taller buildings proposed as part of the application are likely be visible over a significant distance in the valley. The Officer notes that by virtue of the extended building height the proposed buildings will break the skyline of the southern valley slopes, as recognised in the supporting Landscape and Visual Impact Assessment (LVIA). The AONB Officer considers that the scheme has the capacity to be visually dominant within the Stour Valley Project Area south of Glemsford.
- 6.7. Council's Landscape Consultant agrees with the LVIA, and in essence with the AONB Officer, noting that the surrounding landscape has a high sensitivity to change. Similar to the AONB Officer, the consultant is concerned with the height and mass of the taller buildings, concluding that they will appear very prominent in the landscape. The consultant considers that the scheme will have a medium to high adverse effect on the Stour Valley Project Area and the local landscape character.
- 6.8. In addition to height and mass, the cladding of the buildings are a concern of the AONB Officer, landscape consultant and heritage officer. None of these consultees are convinced that the reflective, metallic nature of the finishing material will be anything other than visually intrusive and unsuitable in the valued landscape.
- 6.9. The building height, at night on 40m, is undeniably extreme given the heights of neighbouring development, including even the relatively 'modest' 12m height of the industrial buildings on the site. The building height is borne out of operational need. It is the minimum height required to facilitate a gravity-based cocoa processing operation. A gravity-based system is the least energy consumptive method available. The applicant explains that a lower building height could be incorporated, however this would require a significantly less sustainable processing operation, with product circulated around an enlarged factory floor by pneumatic blown transfer lines. Not only would this require increased embodied energy and carbon usage, it would also generate greater waste product.
- 6.10. NPPF paragraph 154 states that new development should be planned for in ways that can help to reduce greenhouse gas emissions, such as through amongst other matters, its design. The same principle is applied by paragraph 157 and the expectation that new development should take account of building layout to minimise energy consumption. Policy CS13 reinforces these principles, requiring development to adopt a sustainable approach to energy use. It is clear that the substantial building height will have an adverse effect on the landscape that surrounds the site. The taller buildings, although set within an existing industrial site and positioned deep into the plot and therefore well back from the road, will nevertheless appear prominent from a multitude of viewpoints

(public and private) within the valley. In judging the overall character effect, one must have regard to the sustainability advantages brought about by the gravity-fed operation, and the level of support this enjoys from numerous policies at the national level. This forms part of the broader balancing exercise that must be undertaken, in addition to weighing up all other public benefits and disbenefits associated with the scheme.

- 6.11. The cladding is clearly a contentious element of the scheme for the landscape and heritage consultees. The reflective, metallic finish is not a finish consistent with that recommended in the *AONB Guidance on the selection and use of colour in development* document. It also does not align with the *2015 Joint Babergh Mid Suffolk Landscape Guidance* which states that materials on large scale buildings should be of a low-reflective finish.
- 6.12. The applicant's rationale for the proposed finish is that the diffused metallic finish enables the building to disappear into the skyline. The applicant contends that the proposed level of reflectivity allows, essentially through mirroring, the buildings to adopt the colours of their surroundings, including the vegetation. The effect is a softening of the building mass in the landscape. In other words, the reflective finish is a deliberate visual mitigating measure.
- 6.13. The materiality and colour finish is contemporary, striking and innovative. NPPF paragraph 130 states that developments should be visually attractive and sympathetic to local character and landscape setting, *while not preventing or discouraging appropriate innovation or change*. The AONB is 13km to the southeast and the harm to nearby heritage assets is deemed (in the main) low by the Heritage Officer. As already noted the development involves the re-purposing of an already heavily industrialised site, overtly utilitarian in its presentation. The proposed materiality is not unattractive; arguably it is a sleek visual offering. For these reasons, officers consider that there is scope to further the proposed innovative approach noting the express support offered by NPPF paragraph 130. Any landscape harm caused by the proposed materiality must be weighed in the planning balance.
- 6.14. Approval of the proposed diffused silver finish is offered on the proviso that a strict maintenance regime is implemented regarding the cleaning of the exterior of the buildings. It is clear that this is required in order for the reflective finish to retain its ability to reflect the surrounding landscape, maintaining the desired translucent appearance. A maintenance regime can be secured by planning condition.
- 6.15. The proposal includes a substantial reduction in the extent of the car parking area. This is a positive landscape change albeit not significant in its own right given the area lost is to the rear of the site. Nonetheless any reduction in hard surfacing and vehicle parking is considered to weigh favourably in landscape terms.

#### *Heritage Impact*

- 6.16. Following the submission of a Heritage Impact Assessment, the Heritage Officer has very carefully considered the impacts on all nearby designated heritage assets, of which there is a good number because of the scale of development, visible in the backdrop to them. They include the designated heritage assets comprising the Grade II listed 'Potash House' on Skates Hill, the Grade II listed '1-3 Low Street' to the west, the Grade II listed farmhouse and barn to the south, the Grade I listed Church of St Mary in Glemsford, the Glemsford Conservation Area, the Grade I listed Church of the Holy Trinity in Long Melford, the Long Melford Conservation Area, the Grade II\* listed Kentwell Hall and Registered Park and Garden and the Long Melford Conservation Area. Non-designated assets include Three Turns and the Barns at Lodge Farm.

- 6.17. The Heritage Officer has assessed the impacts on the settings of these assets and considers, for all but one of the designated assets (Potash House), that they would range from a very low level to a low level of less than substantial harm. For Potash House a low to medium level of less than substantial harm is identified. The non-designated assets attract a low to medium level of less than substantial harm. The Heritage Officer concludes that the proposal would therefore not meet the requirements of Local Plan Policies CN01, CN06 and CN08.
- 6.18. Paragraph 202 of the NPPF states that where a development proposal would lead to less than substantial heritage harm, as is the case here, the harm should be weighed against the public benefits of the proposal. For the avoidance of doubt, the statutory duties of the listed buildings Act require considerable importance and weight to be applied to any harm identified. Such harm would, in accordance with those duties, give rise to a presumption that planning permission should be refused. Such a presumption is not irrebuttable but the justification must be suitably compelling i.e. that the public benefits ought to be sufficiently weighty to outweigh the harm even where considerable importance has been attached to it. In this case officers do adjudge that the harms, whether taken individually by asset, or cumulatively together, are decisively outweighed by the considerable economic benefits posed by the development.

The less than substantial harm to the significance of the designated heritage assets as identified by the Heritage Officer must nevertheless be weighed again in any overall planning balance, and considered in the context of the environmental, social and economic benefits (and harms) that the scheme would bring about.

#### *Vehicle Access and Traffic*

- 6.19. Paragraph 110(b) and (d) of the NPPF requires development proposals to ensure that safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Saved Policy EM20 sets out a presumption of permission for the expansion/extension of existing employment uses where there is no material conflict with highway safety.
- 6.20. The two existing access points are to be retained, with the western access widened to accommodate HGVs, an arrangement sufficient for the allocated 40mph speed limit. The access changes do not raise highway safety concerns noting an absence of objection from the Highways Authority. The proposal ensures that safe and suitable access to the site is maintained.
- 6.21. The development will generate a significant amount of movement and therefore the application is supported by a traffic impact assessment, in accordance with NPPF paragraph 113. The use will generate 227 vehicle trips in the morning peak hour. The Highways Authority considers the local road network sufficient to accommodate the traffic generation without causing issues in respect to congestion, safety or parking. There will not be a 'severe' local network impact, the threshold set by the NPPF paragraph 111.
- 6.22. The Highways Authority other recommends conditions in order to manage highway safety and these are also supported.
- 6.23. For the above reasons the proposal would not materially conflict with highway safety, in accordance with saved Policy EM20.

#### *On-Site Vehicle and Cycle Parking*

- 6.24. Policy TP15 requires new development to provide on-site parking in accordance with standards adopted as Supplementary Planning Guidance. The on-site parking spaces will be reduced, from 240 spaces to 106 spaces. Based on the Suffolk Guidance for Parking rate, the use generates a requirement of 1,058 on-site car spaces. Clearly the proposal results in a significant statutory shortfall. The shortfall is however acceptable given there will be a maximum of 84 staff members on-site at any one time, plus a 25% capacity to accommodate shift changes and visitors. Given the level of staffing, and the size of the site, a 1,058 space parking lot would be unnecessary and unreasonable.
- 6.25. Electric vehicle charging bays (21 spaces) are proposed to be incorporated, giving positive effect to paragraph 112(e) of the NPPF which states that development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations (bay siting details can be secured by planning condition). The electric charging bays are an environmental benefit.
- 6.26. The 20 existing cycle spaces on the site will be relocated and retained. Based on the Suffolk Guidance for Parking rate, 212 on-site cycle spaces are required. Again there is a significant statutory shortfall. Again however this is deemed acceptable, because the existing number of cycle spaces is not changing and a substantially lesser number of staff will be working from the site. A 212 cycle space arrangement would not be practical or realistic.

#### *Travel Plan*

- 6.27. Policy TP16 requires a Travel Plan for developments employing more than 25 people which encourage, amongst other matters, reducing car usage and increasing use of public transport, walking and cycling. Paragraph 110(a) of the NPPF requires development proposals to ensure that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location.
- 6.28. In accordance with Policy TP16 and NPPF paragraph 113, a Travel Plan supports the application, outlining how the development seeks to become less car dependent over time, through the promotion of alternative, more sustainable, modes of transport. The Highways Authority recommends a condition to ensure the implementation of the Travel Plan, including amongst other matters the appointment of a Travel Plan Coordinator, annual Travel Plan monitoring commitment, marketing strategy targeting employees, employee travel pack and efforts to secure an employee shuttle bus. Given the scale of the use and number of employees proposed, these travel plan requirements are considered essential in order to reduce the reliance on vehicle trips, and the Travel Plan condition is supported. The Highways Authority also requests a Travel Plan Evaluation and Support Contribution to cover its costs of overseeing the implementation of the Travel Plan. The contribution can be secured by a s106 obligation.
- 6.29. Having the operation adhere to a sustainable Travel Plan is an environmental gain, a significant improvement in sustainability terms upon the previous industrial use that operated from the site. The outcome is compliant with Policy TP16. The application presents the opportunity to deliver a significantly less car dependent operation at the site. This aspect of the scheme, a significant environmental benefit, weighs positively in the planning balance.

#### *Residential Amenity*

- 6.31. As already noted, saved Policy EM20 states that the expansion/extension of an existing employment use will be permitted, provided there is no material conflict with residential amenity.

Paragraph 130 of the NPPF sets out a number of core planning principles as to underpin decision-taking, including, securing a high standard of amenity for all 'existing and future users'.

- 6.32. The nearest residential properties are located either side of the site, off Stour Close to the west and Stone Cottages to the east. The proposed built form is set well away from these properties. For this reason, the development will not present unacceptable visual bulk to neighbouring residents. The additional built form, even at the considerable heights proposed, will not cause any overshadowing or daylight/sunlight issues for residential neighbours, given the considerable separation distances to dwellings and private gardens.
- 6.33. The carpark nearest to the western residences is an existing arrangement, and in any event the extent of it will be reduced considerably. A smaller car park means less vehicle movements, less vehicle noise, less disturbance generally. These will be amenity positives for the western neighbours.
- 6.34. There will be an increase in HGV movements in the vicinity of the western dwellings given the western access is to be widened for these vehicles, however the access and the internal HGV access road are set well east of these dwellings, separated by the existing parking lot and established western side boundary landscape planting. Moreover, as noted below, acoustic side boundary fencing is proposed.
- 6.35. Subject to noise being appropriately managed (see further discussion below), a condition restricting factory operating hours is not deemed reasonable given: (a) the historic industrial use of the site; and (b) the less intensive use of the land (compared with the previous operation) in employment generating terms.
- 6.36. Conditions are recommended regarding the supporting Construction Management Plan - see further commentary below.
- 6.37. For the above reasons the proposal would not materially conflict with residential amenity, in accordance with up-to-date Policy EM20 and an outcome promoted by NPPF paragraph 130.

#### *Lighting*

- 6.38. NPPF paragraph 185(c) requires new development to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. Some local residents raise concerns regarding light pollution. This is an understandable concern given the industrial nature and scale of the development and the rural location. The applicant confirms that no new external lighting is proposed with the exception of the replacement of existing car park lighting columns. These will not be any higher than the existing columns and in a reduced area. The columns will be LED, downlighters with Dark Sky Compliance reducing light pollution and spill. The development will therefore reduce the existing light level, an environmental positive not only in general amenity terms, but also in wildlife and Sour Valley/AONB terms. The proposal accords with NPPF paragraph 185(c).

#### *Noise*

- 6.39. Paragraph 185 of the NPPF states that new development should avoid noise giving rise to significant adverse impacts on health and the quality of life. The supporting Noise Impact Assessment (NIA) has been reviewed by the Environmental Health Officer who notes a number of concerns, including omission of necessary information. These are summarised as relating to the assessment:

- Not taking account of any penalties for factors such as tonality, impulsivity, intermittency and other sound characteristics;
  - Not including details of acoustic specifications for building facades;
  - Not taking account of noise associated with delivery bay HGV activity;
  - Not specifying the western boundary acoustic fencing details;
  - Not taking account of noise associated with activity along the eastern access road or eastern façade of the chocolate building;
  - Not taking account of noise associated with external plant.
- 6.40. Whilst there are gaps in the supporting NIA, the Environmental Health Officer does not object outright to the scheme. Rather, the officer recommends that the gaps be addressed by planning conditions. The conditions are supported.
- 6.41. To be fair to the applicant, and the acoustic consultant, the complex nature and scale of the development is such that many of the details are not yet known, as operational design details have not yet been worked up. It is commonplace for developments of this ilk to not have all noise impacts known at the planning stage, and a conditional approach is justified in such an instance. Put another way, it would be an unreasonable impost on the applicant to require the provision of all of the noise assessment detail prior to determination. There is however sufficient detail to confirm that noise impacts on neighbouring residents can be appropriately mitigated with the necessary on-site attenuation measures. Officers are comfortable in deferring this control to planning conditions. Officers are confident that the proposal does not conflict with NPPF paragraph 185(a).
- 6.42. NPPF paragraph 185(b) requires development to limit adverse noise impacts and protect tranquil areas. Noise is also therefore a relevant matter in terms of its impact on the tranquillity of the AONB, a recognised special quality of the Stour Valley. The site is already heavily industrial. Having regard to the supporting NIA, and the details of the operation provided, officers do not consider that noise emissions generated from the development are going to be significantly greater than the previous industrial use. Officers are not convinced that a ground of refusal could be substantiated in respect to noise impacting the tranquillity of the Stour Valley or AONB.

#### *Flood Risk and Drainage*

- 6.43. Flood risk is an important consideration for the proposed scheme and paragraph 155 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, as well as confirming that where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
- 6.44. The majority of the site is in Flood Zone 1. The application is supported by a Flood Risk Assessment (FRA) and a Drainage Strategy which has been reviewed by the LLFA. The LLFA raises a holding objection, primarily concerned with the rate of surface water discharge and ensuring the surface water storage area is located outside the Flood Zone 3 portion of the site. It is the officer's opinion that these technical requirements are not likely to be insurmountable (Flood Zone 3 covers only an extremely small part of the site) but final views are awaited from the LLFA following further information being submitted. In accordance with the recommendation of this report, officers would seek authority to resolve any outstanding matters prior to a decision being taken.

#### *Wastewater Management*

- 6.46. As noted above the Environment Agency does not object to the scheme. Anglian Water notes that the Glemsford Water Recycling Centre has capacity to treat the wastewater flows from the proposed

development site and that it would take the necessary steps to ensure that there is sufficient treatment capacity. Anglian Water therefore does not object to the scheme on wastewater grounds. The proposal accords with Policy CS21 (Infrastructure).

### *Archaeology*

- 6.47. The County Archaeological Service (CAS) does not raise any concerns, observing that archaeological mitigation is not required. Based on this advice the absence of a desk-based assessment, as required by NPPF paragraph 194, is not a reason to withhold planning permission.

### *Biodiversity*

- 6.48. Policy CS15 seeks to safeguard biodiversity values. Regulation 9(5) of the *Conservation of Habitats and Species Regulations 2010 (Implemented 1st April 2010)* requires all 'competent authorities' (public bodies) to 'have regard to the Habitats Directive in the exercise of its functions.' For a Local Planning Authority to comply with regulation 9(5) it must 'engage' with the provisions of the Habitats Directive.
- 6.49. An Preliminary Ecological Appraisal and Preliminary Roost Assessment (including site survey undertaken on 10/12/20), Construction Environment Management Plan, a Drainage Strategy and SuDS Report, and an amended Air Quality Assessment supports the application, all of which have been reviewed by Natural England and the ecology consultant.
- 6.50. The PEA notes the site to be of likely low value for wildlife at a local level. It concludes that, provided impact avoidance and mitigation measures are implemented as recommended, the risk of impact to the nearby SSSI and protected species from the development could be reduced to negligible. It states further that with the biodiversity enhancements implemented as recommended, the site should achieve a net biodiversity gain, in line with the NPPF.
- 6.51. The Drainage Strategy and SuDS Report sets out that the existing pumping station and rising main will be utilised to discharge wastewater and trade effluent off-site and that surface water disposal will be via the existing gravity outfall discharging to the River Stour. Importantly, the outfall is located away from Glemsford Pits SSSI. The ecology consultant is satisfied with these drainage outcomes, observing that they will not impact the Glemsford Pits SSSI. Natural England agrees.
- 6.52. The ecology report findings are uncontested. There is opportunity for the development to deliver net biodiversity gains. The ecology consultant has recommended relatively standard conditions regarding the securing of mitigation measures which are supported.
- 6.53. The outstanding concern of both Natural England and the ecology consultant, relate to the impact on air quality, more specifically, the potential impact of dust pollution on the habitats of dragonfly and damselfly in the Glemsford Pits SSSI. Natural England requires further information, in addition to that provided in the addendum to the Air Quality Assessment submitted on 29/06/21, in order for it to determine the significance of the impacts on these habitats from air pollutants created through the construction and operation phases of the development. Natural England requires technical information including estimates of current pollution concentrations and deposition, contour maps, metdata for 3 to 5 years, and calculated rather than estimated PEC figures.

However, at this point in time despite attempts to overcome the issues raised, concerns remain in relation to the information submitted by the applicant where the extent of impact upon SSSI remains unknown. There may be no adverse impact at all but, equally, there is a possibility that there could

be. Likewise, should an adverse impact be identified there is no mitigation proposed for consideration at present.

Officers do not presently consider that the application is capable of lawful determination in the absence of a resolved position, one way or another. Hence, delegated authority is sought for officers to work through and resolve the residual issues with the applicant.

#### *Land Contamination*

6.54. Council's Environmental Protection Team does not raise an objection in respect to ground contamination.

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## **PART FOUR – CONCLUSION**

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### **7. Planning Balance and Conclusion**

At this point in time officers are unable to undertake an overarching planning balance, accounting for the development plan and other material considerations, because the complete impacts of the application proposal are not yet known.

The application is brought to Committee in exceptional circumstances where no recommendation for determination is available at present but in light of the commercial imperative, urgent views are sought from Committee where the most expedient treatment of the application would, in officers' opinion, be a resolution to delegate authority for the determination of it to the Chief Planning Officer.

The application development is highly likely to pose a number of serious harms in a variety of ways; not least, by virtue of its sheer mass and bulk, notably high levels of harm to the landscape and less than substantial (but not insignificant) harm to a range of designated (and non-designated) heritage assets. In respect of the latter, there must be a presumption that planning permission will be withheld.

The potential for harm to SSSI in the vicinity poses great risk and it is not yet clear whether there would be any adverse impact by virtue of emissions, or not. Natural England have concerns with the approach and methodology undertaken by the applicant and cannot presently be satisfied on the likely impacts and consequent effects. In accordance with the NPPF, development that would pose harm to a SSSI should not normally be permitted. It is also not yet clear whether the application development would be safe from flooding for its lifetime and would not increase flood risk elsewhere.

However, weighed against those serious likely known, and potential, harms would be the considerable economic benefits to flow from allowing development to proceed where the occupier is known and is in a position to deliver; a much-needed boost both to the local and broader economy, and local job creation. Members might consider those benefits to be overwhelmingly weighty; officers do not consider that such a view would be unreasonable in the circumstances, notwithstanding any breach of the development plan as a whole that might be present.

In light of the commercial imperative, officers therefore bring the item to Committee to present the application as it sits and seek Members' views on the proposed development and its appropriateness, bearing in mind the factual position as known. Officers wish to seek delegated authority to deal with the application in light of any comments recorded, where officers – in the spirit of policy CS1 – will work proactively with the applicant to find solutions which mean that the application can be approved where possible. In light of the technical issues that remain in play, and where there is no evidence at this point in

time to suggest that they cannot be capable of positive resolution, officers anticipate that the application might be acceptable weighing into account the likely harms and benefits.

In the event that, subject to resolution for delegated authority, officers find that it is not possible to resolve any outstanding issues in a satisfactory manner such that in their opinion planning permission can be granted, the application will be returned to Committee for further consideration.

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## **RECOMMENDATION**

- (1) That the Chief Planning Officer be authorised to determine the planning application, working pro-actively with the applicant to find solutions which mean that the application can be approved where possible (and securing any conditions and obligations as may be required if minded to grant planning permission).**
- (2) In the event that, in the opinion of the Chief Planning Officer, accounting for the direction of the development plan and other material considerations, it is not possible to resolve outstanding matters such that planning permission can be granted, the application be returned to Planning Committee for further consideration.**